FINANCE AND ADMINISTRATION COMMITTEE

Members present:

Mr MJ Crandon MP (Chair)
Mr R Gulley MP
Mr TS Mulherin MP
Mrs FK Ostapovitch MP
Mr EJ Sorensen MP
Mr MA Stewart MP

Staff present:

Ms D Jeffrey (Research Director)
Dr M Lilith (Principal Research Officer)
Ms M Freeman (Executive Assistant)

PUBLIC HEARING—INQUIRY INTO THE OPERATION OF THE QUEENSLAND WORKERS' COMPENSATION SCHEME

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 16 NOVEMBER 2012

Brisbane

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Committee met at 9.49 am

CUNNEEN, Dr Chris, Occupational Physician, Australian Medical Association

FAULKNER, Ms Tamlyn, Vice-President, Australian Rehabilitation Providers Association

GOODIER, Mrs Sam, Queensland Branch Manager, Australian Physiotherapy Association

McBRIDE, Ms Michelle, Private capacity

MATTHEWS, Dr Craig, President, Chiropractors Association of Australia, Queensland branch

OSBORNE, Ms Anna, Private capacity

SMITH, Ms Susan, Divisional Council Member, Occupational Therapy Australia, Queensland Branch

CHAIR: Good morning, ladies and gentlemen. I declare open this public hearing of the Finance and Administration Committee's inquiry into the operation of the Queensland workers compensation scheme. I am Michael Crandon, the chair of the committee and the member for Coomera. The other members of the committee here today are Mr Reg Gulley MP, the member for Murrumba; Mr Tim Mulherin MP, the member for Mackay; Mrs Freya Ostapovitch MP, the member for Stretton; Mr Ted Sorensen MP, the member for Hervey Bay; and Mr Mark Stewart MP, the member for Sunnybank. The members of the committee who are unavailable to attend the hearing today are Mr Curtis Pitt MP, the deputy chair and member for Mulgrave, and Mr Ian Kaye MP, the member for Greenslopes.

The purpose of this hearing is to receive information from stakeholders about the motion that was referred to the committee on 7 June 2012. The committee is familiar with the issues you have raised in your submissions and we thank you for those very detailed submissions. The purpose of today's hearing is to further explore aspects of the issues you have raised in submissions. Thank you for your attendance here today. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. You have been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with a transcript. Especially as we have such a large number of representatives here today, to further assist Hansard as we proceed I ask that you state your name each time before you speak. I also remind witnesses to push the button to turn your microphone on and then turn it off when you finish speaking.

I remind all those in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in proceedings. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. I also request that mobile phones be turned off or switched to silent mode and remind you that no calls are to be taken inside the hearing room. We are running this hearing as a round table forum to facilitate discussion. However, only members of the committee can put questions to witnesses. If you wish to raise issues for discussion, I ask you to direct your comments through me.

The committee has agreed to accept supplementary material subsequent to the hearings, should you feel that this would assist in the committee's deliberations. This material may include additional comments that you wish to add to your submissions and/or testimony or responses to issues that have been raised in the hearings. As previously advised, the committee will allow a maximum of one and a half minutes for each of you to make an opening statement if you wish to avail yourself of that opportunity. Ms Mahar is not here. If Ms Mahar is up in the gallery, we would ask you to come down into the chamber. Otherwise, we will move on to the Australian Rehabilitation Providers Association. Would you like to make an opening statement?

Ms Faulkner: Yes, please. I am Tamlyn Faulkner, the vice-president of ARPA, today filling in for Megan Shepherd who is the president. Our submission had four key messages that we believe will enhance the efficiencies of the Queensland workers compensation system, including the reduction of overall costs but also to maximise outcomes for injured workers. Our four key messages are: No. 1, that robust measures should be put in place to ensure that injured workers receive the best rehabilitation and return-to-work services possible in a timely manner—this includes more effective measures to identify at-

risk claims and promotion of the importance for early referral for injured workers; No. 2, the establishment of an advisory committee, with representation from relevant experts to focus on the implementation of standards for injury management in Queensland; No. 3, that we support the national consistency framework, including that durability is measured at 13 weeks; finally, that greater utilization of vocational rehabilitation services during a statutory claim period will directly impact on return to work and thus costs associated with common law.

CHAIR: Thank you very much. The Australian Physiotherapy Association?

Ms Goodier: Hello, my name is Sam Goodier. I am the Queensland branch manager of the Australian Physio Association. I am here to represent Cherie Hearn, the branch president, who cannot be here. The APA supports reforms to the current workers compensation scheme in Queensland, as long as any of the proposed reforms encourage early return to work and are appropriate for improving health outcomes. The APA acknowledges the value of making the scheme more sustainable in the long term, as long as measures implemented to reduce the costs of the scheme do not hinder early intervention, expedited return to work for injured employees or compromise improved health outcomes for injured workers.

The opportunity to comment on emerging policy issues that have the potential to impact on worker rehabilitation is deemed highly valuable by the Australian Physio Association, as the APA considers that consultation with key industry bodies that result in improved rehabilitation outcomes and greater return-to-work rates are likely to save costs to the scheme in the long term by encouraging workers to return to work earlier and to remain at work.

To facilitate desired outcomes of early and durable return to work and function, the APA submission recommends the support of early intervention by a physiotherapist through the provisions of evidence based treatments, early workplace assessments that would assist a worker to maximise function and return to work more quickly, a reduction in administration processes that limit access to primary treatment; improved access for injured workers with complex cases to titled and specialist physiotherapists, and the implementation of no further reductions to preapproved treatment sessions.

CHAIR: Thank you very much. You timed that before you came, didn't you? Michelle McBride, please?

Ms McBride: Good morning. I am speaking today because I work across all the workers compensation schemes in Australia. I have three key points that I would like to put forward about WorkCover Queensland. Point No. 1 is that WorkCover statutory claims work very well in this state compared to my experience in other states. However, it could be improved if, in relation to a workplace injury, the term 'the major significant contributing factor' was reintroduced to the definition of the workplace's responsibility towards the injury.

Point 2: common law allows the employers to mitigate their liability by having good safety standards and systems in place. This gives the employers an incentive to increase their safety. However, in Queensland there is a common law culture and I feel that it needs to be changed before the burden of the costs of common law in this state become overwhelming. The percentage of the WPI threshold needs to be increased from zero per cent before people can access common law. I find that, at a statutory level, this also impedes rehabilitation because people know that regardless of what their WPI is at the end of their claim, they can still seek common law. And once solicitors are involved, returning them to their full duties and preinjury hours makes it more difficult.

No. 3: from my experience in dealing with different workers compensation schemes and insurers across Australia, I am of the opinion that WorkCover Queensland provides the best service for injured workers and employers in this country. The team at WorkCover Queensland are professional, efficient, effective and they work closely with all the stakeholders involved to ensure that a positive outcome can be achieved for injured workers.

CHAIR: Thank you. If there is anything that you wanted to add, you are more than welcome to provide that to us. Occupational Therapy Australia, Queensland branch?

Ms Smith: Hello. My name is Sue Smith, representing Occupational Therapy Australia. Occupational therapy core business is to maximise function and minimise disability. Occupational therapists have worked in the field of injury prevention, injury management and return to work for many decades. Large cost savings are available to employers who implement active injury prevention and management for all their workers, regardless of any compensation status.

Occupational Therapy Australia has focused on the following system shortfalls: 1: not supporting flexible employer based injury management; 2: not recognising the importance of integrating workplace health and safety and injury prevention within the injury management system, 3: not providing a consistent approach to claims management, injury management and return-to-work intervention. Occupational therapy Australia supports: greater incentives to employers to develop active and early workplace based injury management and return to work, the integration of workplace health and safety with the Queensland workers compensation scheme, the adoption of the nationally consistent approval framework for workplace based rehabilitation providers and a greater requirement for case managers to undergo specific training and accreditation to ensure quality and consistent claims management and, fourthly, the need for

urgent planning to establish advisory standards for injury management in the Queensland workers compensation scheme and Occupational Therapy Australia members are prepared to be involved in this process.

CHAIR: Thank you. You timed yours, too. Anna Osborne?

Ms Osborne: Good morning. I am speaking on my own behalf this morning as an experienced person in the rehab field. I have been a psychologist and a rehab counsellor, and I now work with a very large firm around Australia.

So my observations really revolve around the fact that there is a dependency mentality associated with workers comp in Queensland, and in other states of course, and I see that as a major barrier. Because workers tend to feel that someone is looking after them and they have no part in their recovery, because early intervention schemes are not used in a lot of organisations, they also have a mentality that someone else is going to do it all and they do not have to. So my main focus is on (1) an incentive for workers to go back to work rather than the present scheme where it is 85 per cent or the award wage; (2) the early intervention scheme where workers can talk directly to a professional rather than to their employer; and (3) the common law system I think, as has been said before, is an incentive for people who perhaps are not the neediest in our system to go for common law payouts. I would like to see the scheme made a little bit more equitable for all workers.

CHAIR: I call the Chiropractors Association of Australia.

Dr Matthews: My name is Dr Craig Matthews. I am a chiropractor and currently the President of the Chiropractors Association of Australia (Queensland). It is with great pride that I represent the chiropractors in the state of Queensland. Currently the injured workers who request to see a chiropractor may not do so due to the restrictive nature of the medical referral. Chiropractic care when it comes to efficiency and return to work, as reported in the data from WorkCover and Q-Comp data, is not being fully utilised. This results in more costs for less effective treatment approaches. However, we are only allowed to access our own data to make comparisons. The chiropractic profession has offered to work with WorkCover to explore more effective musculoskeletal management, but to date nothing has happened on that front.

I have just taken some statistics from the annual reports from WorkCover and Q-Comp. The total chiropractic treatment cost for 2011 and 2012 was $265,981. But when we look at back-only payments, in 2012 it was $114.6 million. So we represent a very small portion of the actual market share.

CHAIR: Thank you very much. I call the Australian Medical Association of Queensland.

Dr Cunneen: I am Chris Cunneen, an occupational environmental physician here representing the Australian Medical Association of Queensland and its submission into this inquiry. The AMAQ is the state's peak medical advocacy body, representing over 5,600 medical practitioners, comprising GPs and medical specialists, many of whom provide medical management for injured Queensland workers. The AMAQ finds overall that the scheme's current operations are efficient and effectively provide rapid access to the most appropriate clinicians which allows timely and appropriate assessment and treatment for all Queensland injured workers.

The AMAQ would have serious concerns if this current scheme were altered in any way that would reduce access and early referral to both treating GPs and medical specialists. Such a move would invariably result in both a decline of rehab rates and the injured workers' return-to-work rates.

There are five other areas I would like to highlight: first, the development of medical specialist advisory networks via telemedicine and e-medicine modalities and a dedicated medical hotline either through WorkCover, self-insurers or Q-Comp; second, the development of an up-to-date state-wide medical education program relating to the Queensland workers comp scheme, as set out in section 330(2)(j) of the act; third, maintaining a total of injuries for PI assessments based on 1950s disability assessments, which is not timely these days; fourth, continued usage of AMA guidelines edition 4 for PI assessments whilst more recent editions—AMA 4 and 5—are now available and utilised in other states and territories; and, lastly, annual CPI indexation on medical fees by Q-Comp, as nil has occurred since 2010. On behalf of the AMAQ, I would like to thank the chair for the opportunity to contribute to this inquiry.

CHAIR: I call the member for Mackay.

Mr MULHERIN: This is just a general question and probably some of you have addressed it in your opening statements. What do you consider are the strengths and weaknesses? We have heard some who want to limit common law rights. Overall, no doubt you have knowledge of other jurisdictions and how their workers compensation schemes operate. So what do you think are the strengths and weaknesses of the Queensland scheme?

CHAIR: Who would like to start?

Ms Smith: I think the 'short tail' claims system in workers comp Queensland is a very much a strength.

CHAIR: That was short and sweet and snappy. Michelle, are you keen to go?

Ms McBride: I think the great improvement in the management of statutory claims in the last five to six years has been incredible, and my experience across the country is that they are run best in Queensland. You are right about the 'short tail' claims, yes. But also there is the way that WorkCover

Queensland are industry aligning expertise. So you have claims people who work in the determination area, claims management and common law who would be across an industry like hospitality or an industry like construction. So you have people working in specific areas that they know a little bit more about with experience.

I think the weaknesses are the zero per cent common law. I have had experiences of people going in to get a workers compensation claim accepted at the statutory level and they know, because they have experienced it before or because they talk to people, that once their statutory claim is accepted it does not matter what WPI they get given; at the end of the statutory claim they can still claim common law. You have people who are basically being given zero per cent WPI and a claim is put in for common law down the track for a couple of hundred thousand dollars. Quite often they are not going to get that. But, at the end of the day, once they put that common law claim in, you are losing at least $50,000 for somebody who has a zero per cent WPI.

Mr MULHERIN: In the Queensland system, there is no percentage on common law claims. An injured worker goes along and speaks to the solicitor and says, 'Well, it is going to cost you $50,000 to mount this case. Then there are professional witnesses who will be called if you succeed. Because of the extent of the injury, you might only get that.' So it self-regulates in that context. I see a situation where a 60-year-old labourer tears the ligaments around his ankle and has severe ligament damage. He may not be able to work again as a labourer at that age. I heard someone mention early intervention with vocational training in that situation. Surely that worker should have a right to a common law claim. If you have an assessment of 10 or 15 per cent, it may not reach that whole person impairment and then you would be taking away that person's right to seek common law claims. Of course with common law claims the judiciary also look at contributory negligence in determining the quantum. Would you like to comment on that?

Ms McBride: I do not disagree with you, and I think that anybody who is a genuinely assessed with a WPI of anything above five per cent or whatever they are entitled to the money. I just think that it needs to be a little more stringent. I do not want people who have genuine disabilities going into the future and are not able to return to their pre-injury position—and clearly somebody in their 60s still wants to work for another 10 years or whatever—disadvantaged. But I am seeing people with muscle strains to their lower back in their early 20s who are engaging solicitors as soon as their statutory claim has been accepted. We cannot get them back to their full duties for a muscle strain in their lower back because they have been told, 'You cannot be fully recovered and you cannot go back to your full job because that means we can get you more money down the track for loss of future earnings.'

New South Wales have just introduced this—and I hesitate to compliment New South Wales on their WorkCover system because I think we do ours much better. But they have introduced a system where up to 10 per cent WPI you are not entitled to any payout, between 11 and 15 per cent WPI you are entitled to a lump sum payment, and then after 15 per cent WPI you are entitled to access common law. I am not suggesting that we do that, but maybe having a layered system like they have in place could help.

Mr MULHERIN: Do you think that the legal profession advertising no win no fee has contributed to the situation you are saying with the 20-year-old with a back injury?

Ms McBride: Yes.

CHAIR: Michelle, could we just pass over to Tamlyn just to get some other views around the room?

Ms Faulkner: I just wanted to comment about solicitors getting involved really early on in a statutory claim. I think probably one of the reasons for that might be that in Queensland the statutory claim can close as soon as a medical condition is deemed stable and stationary, in comparison to other states where the statutory claim is only closed when a return-to-work outcome is achieved. Our concern is that, because the statutory claim can close before an outcome is achieved, while it lowers statutory claim durations and costs, it probably adds to the cost of common law claims because people probably get a bit of a gripe about it, as they do. Then overall their likelihood of going back to work once common law involvement has occurred is probably lower.

CHAIR: Are there any other comments?

Dr Cunneen: I think the strengths are that it is consistent. People do know about it. It has a short tail and I think the short tail is a strength as opposed to South Australia, where you can go to 65. In terms of closing the claim when the condition is stable and stationary, yes, some people get caught in that, but on the whole it is usually done by an IME; it is not done by the treating practitioner. The insurer has a role there, so basically there are swings and roundabouts.

Essentially, it is a fair process. Certainly when compared to other states and territories—and I am parochial like everyone else is here for Queensland, but I do know other states—they have some advantages but overall ours is a much more robust system. We are only talking about tinkering at the edges. That is how as I see it both as an individual and as an AMAQ rep.

The disadvantages are, I believe, that there is no education. People learn about it through experience or other people's experience, and that is a poor way of learning about it. I think that has been institutionalised through the decades. Lack of education really leads to ignorance. Maybe that is why people seek legal advice rather than medical advice or allied health advice sometimes.

The big issue, I believe, is rural and remote access. That is why we mentioned telemedicine. For representatives not from South-East Queensland, getting access to timely assessment and particularly management or assessment by treating specialists as opposed to treating GPs can be problematic. That is why we have to look at other alternatives. Given the tyranny of distance in Queensland, like WA, we have to look at options.

The other thing is that for complex or difficult cases—and some of those can be identified, as Michelle was saying, early on—I think we need another mechanism rather than continuing them and ultimately getting to a stage of stable and stationary and then going for common law. I believe that common law is a fact of life. We have to deal with it and there is a cost. But it is a shame that the money that is spent on common law is not spent, as I was saying to Mr Mulherin, at an earlier stage when the person has some fitness for work—maybe not to return to what they were doing but at least to look at alternative employment. I think we need a stronger push on vocational retraining. That may be at the cost of common law, but I do not think that is a bad thing because it is all about getting people back to some form of work, some form of engagement with society, because work is an activity of daily living.

CHAIR: Thanks, Chris.

Dr Matthews: I just wanted to comment on why people go to common law. No-one has been able to tell chiropractors why people are making common law claims. We would like to see patient satisfaction surveys of why they go to common law. If we know why they going to common law, then we can do something about it.

CHAIR: I call the member for Hervey Bay to ask a question.

Mr SORENSEN: Many submissions have highlighted employers who have implemented safe work environments or initiatives. Should those initiatives be rewarded? Could you provide an example of these sorts of initiatives and the way in which they could be measured? Should Workplace Health and Safety Queensland give a weighting and calculate those premiums for following years? Could you give us some good examples of how we could do that better?

Ms Faulkner: I can think of a couple of examples in my experience where employers have been given incentives for helping people back to work, whether it is new employer services or even same employer services. Even encouraging employers to get someone back to work as soon as possible with something as simple as a certificate that says, 'Thank you. You got this person back to work,' is generally enough—and it is low cost—to let them know that you are recognising that value. I know in some other jurisdictions under some other legislation employers are sometimes given some sort of funding and compensation for wages for taking on a new employee with an injury. Once that employee has sustained employment for three months the employer is given, say, 80 per cent of that employee's wages back as a way to keep that person on, I guess, and to thank them for taking that person on.

Ms Smith: As a representative of our association I have actually put forward to WorkCover Queensland in a stakeholders forum quite a number of initiatives that they could offer employers and industry in general to help them to embed safe work practices, injury prevention, injury management and managing their workers. As a private practitioner, for about 20 years I have been working with employers who engage the services of an experienced provider—when I say 'experienced provider' I do not mean just a person who has done a three-day rehab and return-to-work course but someone who is trained at a tertiary level—to actually help them implement safe and effective early return to work.

I said in our statement that we were talking about a worker who has any injury, so it does not matter whether it is compensation or whether it is sport or an at-home injury. The organisation has the same injury management process. So what happens is that the person is back at work often before the claim is actually even accepted. There are some very large employers who have been doing that for a very long time and, effectively, it definitely more than pays the wages of the providers that they actually employ. I have been involved in doing that for around 20 years. One of the incentives is to actually have well-trained people that the employer can access. Those employers have the ability to reduce their premiums but also maybe have other acknowledgements within safety and within the compensation system.

Ms Osborne: I actually worked at Workplace Health and Safety Queensland for a while as well. What I have seen working at Spotless in mining sites, for instance, is that they have introduced physios and OTs on-site and they have reduced injuries enormously by having warm-ups and by talking to people before they start work about being safe. So even though it is not a direct impact on premium, it is an indirect one because we have a lot less claims.

As far as I can see, the only side that is missing is early intervention for mental health or psychological issues. At the moment, some companies offer very good schemes; other companies offer nothing. A large part of injuries is psychological. As far as I can see from a lot of research, people who are on these schemes tend to take a lot more time to recover. There is research to show that, even after operations or surgery, people recover less quickly if their thinking is workers comp. So I think probably a little bit more attention needs to be paid to the psychological side and rewarding companies that offer access to psych services along with, of course, the physical services.

Dr Cunneen: I think ultimately it comes down to workplace culture. If that organisation, from the top down as well as from the bottom up, engages in a proactive environment, whether it is work related or non-work related, that makes a huge difference. Examples that come to mind are Medibank Health Solutions

and Apple. There are not that many, actually. I visit some of the LNG sites. Look at Bechtel on Curtis Island. They have three sites, but there is one in particular, APLNG, where they do prework warm-ups. And they tell their employees, 'Any issues, come along and have a chat.' So basically it is a proactive environment. It is not sort of nurturing or mothering; it actually does not put people at distance. It rather engages them. That really has more of a long-term effect. It lowers the premium ultimately, which is what the business is looking at. That is over the last three years of experience, as you know better than I would. At the end of the day it does have a financial carrot, but it also means the workers feel good and they are proactive and they address issues earlier rather than being negative and taking longer. So basically I believe there is heaps of scope for that. But that is really industry, the employers and the employees moving forward. That is really a mental shift, I suspect, for a lot of people.

Mr STEWART: Comments from previous hearings raised the issue of doctor shopping—my question is mainly directed to Chris, but I am happy for other comments—where injured workers will search for medical practitioners sympathetic to the cause and the lodgement of the claim. In these cases the workplaces where the injuries have occurred are not taken into consideration when assessing the injury. Could you provide an explanation of the requirements of a medical practitioner when assessing a WorkCover claim?

Dr Cunneen: Let's face it, this is a democracy and you cannot force people to go to a particular doc and they can shop around. That of course raises other issues and means people have another agenda. The hard part is getting them to engage in, 'What is the diagnosis? How do we manage it and move forwards?' It means there are usually other issues. How do you get around it? That is really education at the workplace. I suspect it would start with both the individual employer as opposed to that particular group of employers and, dare I say it, even government and parliament. The thing is, basically, it is a societal thing. In order to address it, we have to address it at multiple levels.

From a medical perspective, definitely the proactive employers, if they have problems, will, in a non-threatening manner, try to engage that person, because there are other certain areas they can engage that person if they are seeing a particular doc. It is a democracy: we can pick whoever we want, within reason. Let's face it, the workers who want a certificate for a certain period of time pretty much can get what they want. That is not very common but it does happen, unfortunately, to the detriment of the patient and the doctor and society.

You also have situations where you can get an IME, an independent medical assessor, who is not necessarily a hired gun—some people would see it as that—but also can give independent advice to both the employer and the employee, and, dare I say it, even the insurer. The insurer quite often does that as well. In my role I do that for the employer and try to engage the employee and talk about the negative effects of not working, because work is an activity of daily living and it is part of being in society. Some people have injuries that render them unable to work, but most people in this society can find suitable duties or some availability to work that may not be in the job for which they were trained and they may need retraining. I think that is the other challenge: vocational retraining identified early and being inputted rather than late, when the claim is closed some years down the track.

Mr STEWART: So is there any requirement of a medical practitioner when assessing a WorkCover claim at all?

Dr Cunneen: You mean the treating GP?

Mr STEWART: Yes.

Dr Cunneen: They are meant to apply the best practice. The Hippocratic oath is not agreed to these days as graduating med students, but certainly in my day it was. It is all to do with what is in the best interests of the individual and society, and that includes the employer. At the end of the day, it is about timely diagnosis, timely management and trying to get that person to engage. We cannot stop people from doctor shopping, but I do think we can be more proactive in, earlier on, recognising the symptom and trying to do something about it so they get better management. In this society currently in Queensland that sometimes means getting an independent opinion—not to be punitive but to try and give some guidance—and then using that person, be it with WorkCover or one of the 25 self-insurers or the employer, to engage the treating GP.

The other issue I was speaking about is education of stakeholders. There is no education formally at this point in time—I have a daughter who is a second-year at the Royal—apart from what they learn in the ED from other docs and what they learn in orthopaedic or in neurosurgical terms. We can do better than that.

Mrs OSTAPOVITCH: Dr Cunneen, I would like to just follow on from Mark's question. When we are talking about people using their own doctors, there is obviously a possibility that those doctors would favour their existing clients. There are suggestions that injury certificates could be issued by independent practitioners who are not advocates for their clients. What are the advantages and disadvantages of on-referring existing clients to other independent practitioners?

Dr Cunneen: Thank you for the question. I believe you would really have to put a benchmark. In other countries, not so much in Australia and New Zealand, basically there is a relationship between the treating GP and the injured worker. Normally it is one of their patients but I think the statistics show that in 25 per cent of cases it is not; it is just someone who is opportunistic by locality or time. The thing is,

basically, it is 52 per cent of medical expenses only, I think, in the 2011-12 data, and most of them are back to work in five to six days. It is really about 25 per cent that generate the cost physically, and it is the psych claims which are quite expensive as regards what is a diagnosis and whether it pertains to work and then how to treat it. So that is why the oc. physicians, to which I belong, and even the AMA have recommended that it would not need to be applied to all but maybe at a time interval of three or six weeks down the track—that that would be an appropriate time for the ones that may not have enough medical direction to get independent assessments and then feed that back both to the treating medical practitioner and the insurer for feedback. In some cases it could be the tyranny of distance—they are in Longreach or somewhere rural and remote and need access to allied health professionals or rehab providers—or it could mean that they need earlier referral to another level of medical specialist.

Mrs OSTAPOVITCH: Along the same lines, do you have any comments about whether there is any advantage in forcing an employer's doctor to see the injured worker instead of their own medical practitioner?

Dr Cunneen: I believe the current system works pretty well overall. The yellow flags that they call the psychosocial indicators for musculoskeletal problems particularly—they would apply to non-musculoskeletal issues as well—are really around—if the wheels are going to go off the cart and you are going to end up with a chronic problem or a problem that is not going to be addressed in a timely fashion, it is between the three- and six-week mark. The vast majority of people—and certainly statistics at this point in time within the scheme show this—return to work within five to seven days. Certainly once the claim has been accepted—that can be the sticking point, from the time of injury to when the claim is put in.

Mr GULLEY: My question is to APA and/or ARPA. Submissions highlighted the need to facilitate early and durable return to work. However, we have heard from other hearings that some employers, particularly those in specific skilled industries or small employers, have difficulties in finding alternative duties. Can you outline how workers in these scenarios could be rehabilitated?

Mrs Goodier: Included in our submission is information about the skill set that physiotherapists have for not only implementing return-to-work duties but also assessing a workplace. We have a sector within the physiotherapy world which deals with occupational health. So we have musculoskeletal physiotherapists that see workers compensation people, but we also have OHPA physiotherapists that specialise and are very capable of doing prescreening tests and assessing workplaces. Our submission outlines that not everybody knows that that is available and access to it is pretty much up to our physiotherapists making sure that the insurers know that they exist and that they are able to do that type of thing. A number of the items within our submission highlight the academic capabilities of physiotherapists to be able to get an injured worker back into the workplace earlier but also to prevent it from happening if they were accessible to workplaces before it.

Ms Faulkner: I just wanted to comment on that and add to that as well because there is such a clear relationship between claim cost and referral to a rehabilitation provider. A lot of our members of the association are finding that referral to a rehabilitation provider and a specialist is only happening towards the end of a statutory claim, so unfortunately what happens is that employers cannot identify alternate duties so their idea is, 'Well, we don't have a role for you,' so that person loses that position with that employer and then they are referred to a vocational rehabilitation specialist to help them find a new job which is a lot harder than if they were supported earlier on to work with that employer to identify possible alternate duties and possible alternative roles.

Ms Smith: This is a huge gap in the service at this point in time in the workers compensation system in Queensland. We get to a stage where we have a worker who is ready for work and who is willing to be at work, we have a doctor who is signing them off and we have assessed their capacity as to what they can do and then we have no workplace. The only option that is available at this point in time—and it is only through WorkCover Queensland; it is not through the self-insurance bodies—is something called a host employment system. This is very much just a little bit of a bandaid. It is very limited. Sometimes workers will get a job out of it, if you are able to actually screen them and have the opportunity to place them with a suitable employer who is looking for an employee. But the gap is that we do not have enough vocational placement recruitment agencies, and this is again something that we have been putting within the stakeholder forums. Our association has been putting to WorkCover that this is a gap that needs to be filled, because as a provider we cannot engage job placement organisations because the Commonwealth system pays most of those very well and they are not interested in the hourly rate that we might be able to get through the insurer, which is not very competitive at all. So that is a huge gap and we need some input in there, or otherwise we cannot get these people back to work.

Mr MULHERIN: Dr Matthews, before I ask my question, do you want to comment on what the member for Murrumba had put to the panel?

Dr Matthews: Can you just remind me what that was?

Mr MULHERIN: It was in relation to return-to-work issues.

Mr GULLEY: I will give a specific example. Say you have an earthmoving business of, say, 20 to 40 employees. Clearly that is guys sitting on bobcats et cetera. Someone with an injury comes back to work but he is not ready to go back on to a bobcat for instance. How do we get those people back into the workforce? That is the genesis of the question, because often their former employer does not have something specific for them.

Dr Matthews: From the chiropractor's point of view, we also have skills to educate the injured worker in terms of aggravating factors and things like that, but we are very much governed by their treating doctor and what they recommend they can and cannot do. Something that WorkCover is really sort of working towards is focusing on what the actual injured worker can do and not so much what the injured worker cannot do. Even though we have skills in talking to the injured person about what other jobs might be available, we can certainly liaise with any case manager that is associated but we are pretty much guided by what their treating GP advises as well.

CHAIR: Tamlyn, I think you had something to add.

Ms Faulkner: I just thought of something important that I did not say before. In terms of early intervention, it is not just about referring to that rehabilitation provider early on; it is about the person who is making those decisions being educated to perform some sort of screen to identify at-risk claims and also for that person to have a good knowledge of how important early referral is, whether that is through some sort of accreditation process or further training. If you wanted more specifics regarding the example you gave for the bobcat driver for the earthmoving company, in an ideal circumstance he would be referred to a rehabilitation provider right at the beginning. A work site assessment would be done that incorporated all parties, because everyone needs to work together—and alternative duties could probably be identified, whether it was data entry or putting quotes together or something like that. Even if that is not available in the long term, he is doing something productive and feeling good about himself, doing some work hardening, increasing his fitness and while that is happening hopefully that will get him back to being able to get back on the bobcat.

Mr MULHERIN: Ms McBride, you made an earlier comment about things have improved in the last six years with WorkCover and how they manage that early return to work and the interventions. How do they compare with self-insurers and what improvements could be made?

Ms McBride: It is interesting that you ask that question because I come from a self-insurance background. I have worked for self-insurers and when I first went across to WorkCover Queensland it was a shift that did not feel comfortable.

Mr MULHERIN: Cultural shift.

Ms McBride: Not a very good one. But I have found that the improvement has been phenomenal and I think that if I went back to working for self-insurance now, as far as claims management and claims determination, I would not find a lot of difference. I work for a large employer across Australia and I found that WorkCover Queensland allowed us to have quite a good input into being involved in the return to work and the management of claims for our injured workers. I find them very engaging with all stakeholders as far as physios, getting work site assessments done, the employer being involved, the injured worker being involved and anybody else. I do not think that that was there as prominently as before, but it is now.

Mr MULHERIN: So you have a seen seismic shift in culture?

Ms McBride: Yes, and just the attitude with the people that you come across there. I have found that it is very cooperative. They are wanting to help. They actually want to get a result for the injured worker. I just think that I am very lucky. Compared to what I see in other states, it works so well here.

Mr MULHERIN: How important are those workplace assessments?

Ms McBride: I think they are very important. We engage them as soon as claims start. We engage them regarding what state or what property we have our injuries in. Particularly if you have an injury that sort of seems like it is going to be a significant injury initially and you know that they are going to have surgery or you know that, because of the injury they have had, they will definitely be off work for a week or so, that gives you time to engage an external provider to do a work site assessment so you can get them back. I think it is very important for injured workers to get back into their workplace.

Mr MULHERIN: Dr Cunneen, you are champing at the bit to go again.

Dr Cunneen: Thank you, Mr Mulherin, and I will promise to be brief. Yes, Mr Chairman, I know it is feasible. I can talk under water, but anyway. I think the concept of Return to work assist that Q-Comp has that started probably seven or eight years ago—because I used to work as the medical adviser at Q-COMP, so I have some insight into how the system worked and does hopefully—is basically that that system applies at the end of a claim once the claim has almost been closed or they are unable to return to their previous employment. Really, the challenge I would say—and I suspect everyone here would agree—is to bring that forward to the earlier part of the claim. So it is all very well doing it for the 1,200 or 1,500 who are not going to return to their previous employment by virtue of their lack of education or their skill mix or just physically or psychologically not being up to return to their previous employment, but that is at the end of the claim. Really, if we are going to be proactive, we need to apply that across other areas of the claim. The Return to work assist concept that Q-Comp runs—the regulator—should really be implemented, if best practice is to apply, earlier in the claim, and that is really what Michelle and other people are flagging here. I have a daughter who is a second-year resident at the Royal and when someone is admitted, regardless of what the injury is, you plan their discharge. You do not plan it that day or the following day depending upon the injuries, but you have to think about the whole process and where to from here. The challenge is to apply that sort of logic to the claim or the injury or the illness the person has and think about what is in their best interests at the start rather than just pure medical or allied health management at the start. Certainly, I think having Return to work assist—because that is what we are talking about; getting

back to work—at the end of the claim is good, but I believe the challenge is to put it at the start of the claim, particularly those that go for more than three weeks.

CHAIR: I want to follow on from that if I can because you are involved with organisations that are involved with patients on an ongoing basis and rehab basis. There have been suggestions that the legal profession unduly influence an injured worker's participation in return-to-work schemes or programs. How would you respond to that criticism? I will start with Anna and then I would like to go across-the-board if we could, and as succinct as you can.

Ms Osborne: I believe it plays a huge role. I have many claimants who have been told that they are not to go back to work because it will prejudice their common law outcome and I just am stunned that solicitors would want people to stay off work in order for that. So it is definitely something I hear a lot.

Ms McBride: I think I made that accusation earlier as well. For somebody who has solicitor engagement early in their stat claim, I have not had the experience of them actually returning to full pre-injury duties, regardless of their injury.

Ms Smith: I think once a person is seeing a solicitor, that is what we hear as a provider and it is almost like a threat—'I'll speak to my solicitor.' I really think that no legal action should be taken until the stat claim is over and then we know what is happening and they know what is happening, because it interferes too much in the whole process.

Dr Matthews: I have only come across one instance where someone has been quite frustrated in getting information about a longstanding injury and they talked about going back to a solicitor because that seemed to be their only option and being able to talk to them. We got them some other options, so I do not see a lot of impact in terms of participating in return to work.

Dr Cunneen: It is an issue. It needs to be addressed. It costs society. It is learned helplessness and really it is there at the start. There is a thing called yellow flags that was put out by the ACC in New Zealand in 1997 and in various formations throughout Australia since then, and you can identify it at the start. The thing is it needs to be raised. Some people are reluctant to move forward, but at the end of the day it is seeing them early on and trying to make positive interventions at the start rather than six months down the track.

Mrs Goodier: I think in our case the best work is done before it actually reaches that stage of getting into common law. We are talking about injured workers who are susceptible to a low self-esteem and psychological problems as well, so they are easily influenced by somebody that they trust. So early on it is their health practitioner and the allied health people that they are seeing and even their WorkCover people, and as it goes on and they are getting more vulnerable because they cannot see themselves getting well they are more easily influenced by people in the legal profession.

Ms Faulkner: Yes, I definitely agree with everything that has been said before. Just adding to that, I think we have providers in general who find that once a lawyer is involved suddenly the goal of your return to work from the worker's point of view changes from, 'Hey, I want to get back to work,' to how much money they are going to be paid out. I have unfortunately been in a situation where I have been assisting with a suitable duties plan and this person is micro seconds off getting back to full-time hours and pre-injury duties and solicitors get involved and all of a sudden symptoms present that were not presented before.

Mr STEWART: Sam, some people have mentioned that people with psychological claims are unfairly treated by WorkCover. Do you have any comments in relation to that?

Mrs Goodier: I think if you asked our physiotherapists who were treating injured workers they would say that part of the rehabilitation of any injured worker is actually taking into consideration their psychological status. So even though physiotherapists are not necessarily employed or taken on to deal with the psyche of a patient, it just comes within the treatment. As I said, I think most physiotherapists dealing with an injured worker would tell you that part of their rehabilitation process is dealing with the way that they are thinking about getting back to work and their injury and their rehabilitation. It is a very big part of what physiotherapists do.

CHAIR: We are pretty much out of time, but the member for Mackay just has one final question.

Mr MULHERIN: Ms McBride, you stated in your opening address or in your submission that the whole-of-person impairment threshold for common law claims should be from zero per cent to 15 per cent. However, in different hearings people have stated that impairment does not necessarily equate to the same level of disability. Would you like to comment on that, because they were saying that the American Medical Association table for impairment does not equate to the type of worker, the occupational calling and age? Rather, it is a whole range of factors and that is why we should not have a legislated advantage before you can have a civil claim.

Ms McBride: I do not disagree with what has been put forward before. I do think that there is definitely a discrepancy and I can tell you of a few stories in different states where I have seen really genuinely impaired people be offered a pittance and it breaks your heart because you know that they deserve more money at the end of the day and then on the flip side you get the reverse. I do not think it is

perfect. I do not think any of it is perfect, but I think that it can be done a little bit better to maybe fit the broader spectrum.

CHAIR: The time allocated for this session has expired. If members require any further information, we will contact you. As I advised at the beginning of the hearing, the committee has agreed to accept supplementary material subsequent to the hearing should you feel that this would assist in the committee's deliberations. We ask that any additional information be provided by Friday, 23 November 2012. Thank you for your attendance today. The committee appreciates your assistance. The committee will be hearing from a further group of stakeholders commencing at 11 am and you are welcome to observe these proceedings from the public gallery. Thank you.

Proceedings suspended from 10.49 am to 11.04 am

BLUNDELL, Mr Thady, Committee Advisor, Asbestos Related Disease Support Society Queensland Inc.

COLBERT, Mrs Helen, President, Asbestos Related Disease Support Society Queensland Inc.

COLBERT, Mr Raymond, Secretary, Asbestos Related Disease Support Society Queensland Inc.

COOK, Dr Margaret, Member, Human Factors and Ergonomics Society of Australia

CROTTY, Ms Jo, Education and Awareness Manager, Danger Sun Overhead

DADDS, Mr Dennis, Director, Recruitment & Consulting Services Association

HAYCROFT, Mr Ben, Director, Workplace Health and Safety, Haycroft Workplace Solutions

JAMES, Ms Leeha

KERKHOF, Mr Will, CEO, Melanoma Patients Australia

LONG, Ms Emma, Senior Rehabilitation Consultant, Advanced Personnel Management

MOLONEY, Mr Wendel

RYAN, Mr Nick, CEO, Leading Age Services Australia Queensland

RYAN, Mr Sean, Advisor, Melanoma Patients Australia

SHEARSMITH, Mrs Sharon, People Manager, St Vincent de Paul Society

CHAIR: Good morning, ladies and gentlemen. I declare this public hearing of the Finance and Administration Committee's inquiry into the operation of the Queensland workers compensation scheme open. I am Michael Crandon, the chair of the committee and the member for Coomera. The other members of the committee here today are Mr Reg Gulley, MP, member for Murrumba; Mr Tim Mulherin, MP, member for Mackay; Mrs Freya Ostapovitch, MP, member for Stretton; Mr Ted Sorensen, MP, member for Hervey Bay; and Mr Mark Stewart, MP, member for Sunnybank. The members of the committee who are unavailable to attend the hearing today are Mr Curtis Pitt, MP, deputy chair, member for Mulgrave, and Mr Ian Kaye, MP, member for Greenslopes.

The purpose of this hearing is to receive information from stakeholders about the motion which was referred to the committee on 7 June 2012. The committee is familiar with the issues you have raised in your submissions and we thank you for those very detailed submissions. The purpose of today's hearing is to further explore aspects of the issues you have raised in submissions. Thank you for your attendance here today.

The hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. You have been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript. Especially because we have such a large number of representatives here today, to further assist Hansard as we proceed, could I also ask you to state your name each time before you speak. I also remind witnesses to push the button to turn on your microphone and to turn it off after you have finished.

I remind all of those in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard I remind members of the public that under the standing orders the public may be admitted to, or excluded from, the hearing at the discretion of the committee. I also request that mobile phones be turned off or switched to silent mode. I remind you that no calls are to be taken inside the hearing room.

We are running this hearing as a round table forum to facilitate discussion. However, only members of the committee can put questions to witnesses. If you wish to raise issues for discussion I ask you to direct your comments through me. The committee has agreed to accept supplementary material subsequent to the hearing should you feel this would assist the committee's deliberations. This material may include additional comments that you wish to add to your submission and/or testimony or responses to issues that have been raised at the hearing.

As previously advised, the committee will allow a maximum of 1½ minutes for each of you to make an opening statement if you wish to avail yourself of that opportunity. In order to start proceedings, I call the Human Factors and Ergonomics Society of Australia.

Dr Cook: Thank you for inviting me. I represent the Human Factors and Ergonomics Society of Australia. I have prepared a little thing because I am an academic. So I do not want to have a reputation for talking too long. I will read my statement.

The key point we wish to make to the inquiry is that it is our belief that, for the scheme to be viable into the future, there has to be a greater focus on the prevention of injury along with the scheme's current commitment to injury management. This focus on prevention is particularly relevant in the area of musculoskeletal disorders, which currently represent around half of all workers compensation claims. The high proportion of multiple claims from a single worker indicates that little is being achieved in reducing the actual injury risks within the workplace. Ergonomist and human factors professionals are the primary professional group with the skills and knowledge to redesign work that accurately reflects the capabilities and limitations of all workers, thus, significantly reducing workers' exposure to musculoskeletal hazards and subsequent injury. The Human Factors and Ergonomics Society of Australia represents certified professional ergonomists practising within Queensland.

The current scheme has no provision for an ergonomist to be engaged to provide advice to the employer on preventive strategies associated with work related injuries. We believe the ergonomist has a significant role to play in eliminating workplace risks to injured workers, thus avoiding aggravation and future claims. In addition, we believe that ergonomists can work with poor performing organisations to create safer working environments, thus improving their claims history.

In summary, we strongly contend that investment in prevention is the key to creating a viable workers compensation scheme. We believe that ergonomists are the professionals best able to provide this service.

Mrs Shearsmith: Essentially, our key points are that we would seek a fairer assessment of what should be the employee and the employer responsibility in that injury process and also the return to work process, WorkCover being more proactive in assisting employers to manage those claims and a focus on the employee capacity as opposed to their incapacity, which involves the training of the medical profession to achieve those things. Also there are the time processes involved in the assessment and processing of the claims. We are seeing a lot of claims being backdated for significant periods without actual consultation with the employer for their views on what occurred in great detail at the time. Again, with the IME process, we do not see that as a truly independent process because we are seeing the employee's viewpoint being considered as opposed to getting the employer involved in that consultation process. Another point is looking at what is the actual significant factor attributing to the injury as opposed to work being one of the factors. Finally, as WorkCover is the insurer, we would like to see some of the money we are paying in premiums fed back through to us in the form of feedback of what we did well, what we did not and what training and resources we can put in to prevent the claim from happening in the first place.

Mr Haycroft: We have tabled our written submission, but I would like to make the point that we have seen no improvement in the past reforms from 2010 in relation to common law claims and costs. The inquiry should consider the potential cost savings for employers by increasing the work related impairment—WRI—percentage up from zero per cent, as it is at present on common law claims, to a 15 per cent WRI, which is what is in place in WA. We believe this would significantly bring down the costs of the WorkCover burden on society.

Ms Crotty: I lost my husband, Rohan, in 2009 to melanoma. He was 43 years of age. I became a widow at the age of 38 and our four young boys, then aged five, four, two and one, lost their dad. Rohan was a carpenter/plasterer by trade who, for many years, was exposed to the harsh elements of the Queensland sun. He was not issued with safe work wear to protect him, nor was there any education programs taken to the workplace to educate him on the awareness of the dangers of working in our Queensland sun.

Skin disease is real. It is a work related injury that affects a lot of outdoor workers in Queensland. DSO's aim is ongoing education on the prevention, awareness and early diagnosis of skin cancer. This education is of critical importance to reduce skin disease from workplace exposure. The damage for most workers from the sixties to today has already been done. We have the opportunity now to change workplace practices and protect the next generation of outdoor workers from the harsh elements of our Queensland sun. Since its beginnings, DSO has educated 10,000 outdoor workers and has had a play in early diagnosis of melanoma and skin disease of these workers.

I would like to close in stating that government needs to support outdoor workers who have built this great state at the expense of their skin, even their lives.

Mr Kerkhof: I would like to thank the committee for inviting me here today to address you on behalf of Melanoma Patients Australia. MPA is a patient driven, not-for-profit organisation that offers a support network and information to help Queenslanders diagnosed with melanoma and other serious forms of skin cancers in Queensland.

Melanoma is a serious disease that often develops many decades after sun exposure, similar to asbestos disease. We know of many members who inform us that most of their sun exposure occurred as a result of workplace sun exposure. Many outdoor workers have spent eight hours per day, five days a

week over 48 weeks per year in the scorching Queensland sun performing their work duties. Unlike today, when sun protection measures like, for instance, Danger Sun Overhead are in place and there is a real awareness of the dangers of sun exposure, many workers in Queensland have already sustained permanent damage to their skin. We have seen individuals who have lost their eyes, ears, nose and their lives from solar diseases. We attached to our submission just a few letters from members to demonstrate the terrible impact solar disease has on Queensland workers and their families. Sadly, one of those members, Cyril, recently died.

These people need access to workers compensation benefits for their work related solar disease. While there has been an increase in solar claims, these claims are still reported as being rare. The WorkCover scheme adequately deals with solar claims and there is no need to change that system. I invited Sean Ryan from Turner Freeman Lawyers here today to address any legal questions you may have. He is a person who has helped many of our members with advice and support.

CHAIR: Thank you. I call on the Asbestos Related Disease Support Society.

Mrs Colbert: I would like to thank the Finance and Administration Committee for giving me the opportunity to address you this morning. The Queensland workers compensation system has had an excellent track record of compensating those with asbestos disease. The society and other stakeholders have worked with WorkCover Queensland to ensure the benefits are paid in a timely and efficient fashion and the society's submission is that benefits should stay as they are.

Those with asbestos disease form a unique category of injured workers. They were exposed to a deadly substance through no fault of their own, usually over many years, with minimal, if any, precautions being taken. Whilst individual payments to those with asbestos disease in Queensland can be substantial, this reflects the serious nature of the disease. Claim numbers are relatively stable and total payments form a small percentage of WorkCover's total workers compensation payments.

An additional point I would like to make to the committee is that WorkCover has a right to recover from manufacturers of asbestos products a contribution to the amount that it pays to workers with asbestos disease. WorkCover often recovers a significant proportion of the amount that it pays to injured workers for asbestos disease such as mesothelioma. This significantly reduces the asbestos disease burden on the fund.

Again, I would like to thank the committee for the opportunity to address it. Our legal adviser and I are able to answer any questions that you may have.

CHAIR: Thank you very much. Just on that point, I will note for the record that I am acquainted with Thady Blundell in that he handled a case on behalf of my father in relation to an asbestos related disease. I call on Leading Aged Services Australia.

Mr N Ryan: Thank you very much. Thanks to the committee for the chance to speak this morning. Leading Age Services Australia is the peak body representing providers in residential aged care, retirement living and community care. Our members are particularly concerned about the rise in premiums for WorkCover workers compensation. Whilst we note that the legislation, as it stands, provides for a minimum requirement of 2,000 FTEs, we understand that there are a range of other challenges in order to look to establishing an industry based self-funded workers compensation scheme.

Our industry has its share of claims and we are certainly aware of the workplace health and safety legislation and the requirements around employers. We would seek the opportunity to establish a scheme that would meet and exceed minimum standards. In an industry that is heavily regulated by the Commonwealth, especially residential aged care, we think that a compliance mindset often exists in workplace health and safety.

I note that in our industry there are three providers who had a prior existing self-funded scheme which meets minimum requirements. This has resulted in significantly reduced premiums. We would seek the committee's endorsement for looking at not just a reduction in the 2,000 FTEs but look at enabling responsible industries to conduct a self-funded scheme.

CHAIR: Thank you. I call on the Recruitment and Consulting Services Association.

Mr Dadds: Thank you very much for the opportunity to address the committee. The RCSA makes the following major points out of our submission for consideration. We would like to see the employers wages and premiums that we declare each year linked to the client's WorkCover industry classification as was the case before 2009. We believe this is a fundamental for a number of reasons.

First of all, it ensures the industry rates for all employers accurately reflect the true cost of claims. At the moment they do not because the on hire wages and claim costs do not get fed into the numbers. The ABS data sets that feed into the Safe Work Australia comparative performance monitoring report on workers compensation are also flawed as a result. Workplace Health and Safety Queensland do not get accurate data as well because the figures are not sitting in the right industry classification. This would also bring Queensland into line with other jurisdictions. South Australia just recently went that way.

We would like to see the introduction of flexible insurance arrangements, including the reduction in the threshold for self-insurers to 200 FTEs and even the possibility of more than one claims agent as we have in other states. We would like to see the introduction of principles indemnity for on hire claims arising from nature and conditions of employment claims.

CHAIR: Thank you. I call on Mr Wendel Moloney.

Mr Moloney: I was an apprentice in my final year of my training when in 2007 I was working 30 metres in the air on a power pole in windy, rainy and freezing conditions for an extended period of time with very little weather protection. I became fatigued and cold. This combined with the strenuous task and I was injured. I went on workers compensation. I had surgery and five weeks off before returning to light duties. I have a work related impairment of 7½ per cent. It might sound trivial, but when it is your right arm and hand and your trade revolves around your ability to climb power poles this is devastating. My apprenticeship was cancelled. I did not get to follow the trade I wanted and I did not get to earn what I could have.

My employer recorded my injury as an illness and falsified their records in order not to have a lost time injury on their books. My manager received a bonus that year due to not having any lost time injuries. I received some compensation through a common law claim which does not fully compensate for future losses but did help with medical expenses and gave me time to find another job, even though it paid less.

I hear talk of thresholds and restrictions on common law access for workers. There already is a threshold. It is called the law of negligence and it is regulated by our courts. If no negligence is established, no damages are awarded. If there is an issue around greedy profiteering lawyers then instead of punishing injured workers on their behalf government should restrict the ability of law firms to advertise so aggressively. To remove an injured worker's access to fair compensation when injured because of their employer's negligence is to discriminate against workers in general. A patient injured through a doctor's neglect can seek fair and just compensation as can the passenger in a car injured by a driver who runs a red light. Why should an injured worker be treated any differently?

CHAIR: Thank you. We will move to questions. I will call on the member for Sunnybank to commence the questioning.

Mr STEWART: First of all, I have a generic question. I would be interested to know what the strengths and weaknesses of the existing system are? Are there any industry specific concerns that you would like addressed by the committee?

CHAIR: Is there anyone who wants to start off?

Mr Moloney: I would like to comment on the fact that prevention is not really looked at. Nothing changed in my workforce. I come from a GOC. You can probably guess which one given I was talking about power poles—one of two. Nothing has changed. They still have young apprentices of 17, 18 or 19 and adult apprentices doing exactly the same task with no change. They focused on the LTI—the lost time injury—which is directly related to the KPIs of managers all the way up the line. In turn that is related to their remuneration. As long as that is the case and there is no real oversight and a manager looks at and judges what an injury is, there is never going to be prevention. It is all about minimising the effect on their bottom line and ultimately their pay packet.

CHAIR: Thank you.

Ms Crotty: I would also like to share what I have witnessed out there in the industry. There are major contractors who do not take the workplace health and safety regulation with conviction. They say they that they will give out long shelves shirts but they will not mandate that they stay rolled down. They will let people roll them up. They will even give shorts out for those working in an outdoor industry. I think prevention is not being taken on fully enough. Perhaps this is a measure that could be considered.

Mr Blundell: In terms of the system of compensating people with asbestos disease, there is a special department in WorkCover that works extremely effectively in compensating people. In that respect the system works extremely well, in our view. In terms of prevention, a lot is being done in that area. There is a lot of legislation in force now to stop asbestos exposure in the workplace.

Mr Dadds: As a national workers compensation manager I have the opportunity to compare jurisdictions fairly well. It is fair to say that I have more common law claims in Queensland than in the rest of Australia combined. That says something. There is probably a whole range of reasons for that—and there are really. The opportunity for common law claims is a burden and I do not think it needs to be.

Mr S Ryan: Just following on from the comments made by Thady Blundell on the legislation, I would like to commend the legislation that has been brought into force for late and onset diseases. There are specific provisions that deal adequately with sinister forms of disease like melanoma and mesothelioma and other late and onset conditions which are very specialised and very unique. They work well.

Mrs Shearsmith: One of the things we see in the current model which we would consider to be a strength is the swap, a few years ago, to industry based alignment in terms of case management. In terms of prevention and lessons learnt, I think there can be some strengths in that. The difficulty we as an organisation have faced with that being spread across Queensland is our case manager is located in one particular area so there is not the opportunity for interaction, particularly in the Brisbane area where the bulk of our claims are. We would like to see a balance between the two.

CHAIR: Did we cover the industry specific concerns that anybody would like to see addressed by the committee?

Mr Dadds: One of the things that our industry deals with is recovery and hold harmless clauses. It is endemic in most contracting areas. In Victoria section 138(4A) actually makes the hold harmless clauses null and void in the recovery opportunities for the regulator. We would like to see that brought in. We think it is important.

CHAIR: I call the member for Stretton.

Mrs OSTAPOVITCH: This is for anyone who would like to contribute. Hopefully you know what section 5 of the Workers Compensation and Rehabilitation Act says. Do you consider that the existing schemes meets those objectives as set out in section 5 of the act? If not, why not?

Mr Blundell: Section 5 sets out the aims of WorkCover schemes. In terms of compensating those with asbestos disease, I think yes it does meet the aims—the way in which workers with asbestos disease in this state are compensated. There is a fairly specialised process in place where we deal with a distinct group of claims assessors at WorkCover. Claims are dealt with in a very timely manner and little paperwork or technicality is involved. The payouts are at a level that is commensurate with other states. In that sense, the compensation system works extremely well for those with asbestos disease in this state.

It can be a technical area with people exposed in many different jurisdictions. The significant contributing factor test, which applies to asbestos disease claims, does simplify that process. People who are being diagnosed with asbestos disease now were exposed many years ago. They were already exposed. So in terms of the act of preventing exposure, that is something that is being dealt with in the workforce today—something that the society is doing and unions and government—and that is working well.

CHAIR: Thank you very much. Member for Murrumba?

Mr GULLEY: Thank you, chairman. In talking about the definition of injury, it has been suggested that a change in the definition of injury from 'the' significant contributing factor to 'a' significant contributing factor has inappropriately expanded the opportunity to attribute unrelated injuries to a workplace. Would anybody like to comment on that?

CHAIR: Anybody? We will start with Sharon and then move back to Sean. Thank you.

Mrs Shearsmith: One of the things we have seen is particularly the way that that is applied to psychological injuries. We gave an example in the submission, but that particular example is still unresolved. So particularly with psychological, people have a lot of factors that impact on their overall wellbeing. One particular incident in the workplace that they may be able to deal with on one day they might not on the other, because of all the other things that they are going on in their life. We are seeing WorkCover assessors really struggle with complying with the strictness that they used to previously be able to apply.

Mr S Ryan: In terms of 'a' significant contributing factor test set for solar claims, I think it has worked very well. My experience based on the ground with these types of claims is that it is only those who have suffered very chronic damage to their skins and who have fairly gross solar disease or very significant melanoma disease that their claims are accepted. We are talking about decades of sun exposure. It is not an injury where an office worker spends most of his life in an office and has recreational sun exposure and then lodges a claim. I just do not see those types of cases. As Will mentioned, chaps who have lost their ears, noses, eyes and chaps who have 12 months to live from terrible melanoma disease with very chronic damage to the sun, these workers have to provide statements to WorkCover, very detailed statements, where they must disclose all their sun exposure, both recreational and employment based. That exposure is then weighed up by an expert dermatologist in terms of calculating whether it has made a significant contribution and there are checks and balances in place to ensure that it is the workplace sun exposure that is the dominant cause in order for that test to be satisfied. So I would say that the test does work well and it is fairly strictly applied.

CHAIR: We will go to Ben and then Thady, thank you.

Mr Haycroft: We have noticed some common law claims coming through recently where a specific event is not mentioned in the incident notice of claim. The legal fraternity has taken to an over time injury. So it has basically broadened the scope for them to be able to claim a person having an injury over any time of their engagement at the workplace. So it does make it very difficult to manage and then defend on a negligence point of view, because you may have all the systems in place to minimise your risk for the worker but there might be that one time that that person goes outside the bounds of it. Because WorkCover is a no-blame situation, there is that one time that gives them that trigger to mount a common law claim and on a zero per cent WRI. So it makes it very difficult from a business point of view.

CHAIR: Thank you. Thady?

Mr Blundell: Thank you. It might be thought that the test is somewhat irrelevant for asbestos claims, because asbestos disease is only caused by asbestos exposure, but where it comes into play is where a person has exposure in multiple jurisdictions. A person might work in New South Wales for a period and time, they might work in Queensland, they might work in Victoria and if we did not have the 'a' significant contributing factor, which generally is applied Australia-wide in asbestos claims, workers run the risk of missing out. They might have equal exposure in four different jurisdictions. If it is 'the' major contributing factor, none of them would satisfy that test. It is not as if one jurisdiction would be penalised,

because in all of the workers compensation systems there is a right of recovery, usually from negligent third parties—namely, asbestos manufacturers or employers in other states. So there is always a spreading of the burden at the end of the day. But the test for 'a' significant contributing factor is very important in asbestos disease claims. Thank you.

Mr MULHERIN: Probably Thady and Sean might be able to answer this. Say if a worker has worked in the building industry, or the electricity industry where you have particularly outdoor workers and they have been exposed to sun damage leading to a melanoma and then you have an employee who, when diagnosed, the compensation is with the current employer, how do you address the equity issue that has been an industry issue over a long period of time that has contributed to the health condition of that employee when it comes to premiums for the employer?

Mr Blundell: I can answer the question from an asbestos perspective—or try to answer it, at least. Sean might be able to answer it from a skin cancer perspective. In terms of calculation of premiums, I must say that is not really my expertise, because we tend to look after the injured person and recover compensation for them. How WorkCover would go about then allocating the liability in terms of the increased premiums, I am not sure. I do know that among self-insurers and WorkCover the insurer last-on risk would compensate for the lot. So if the person worked, for instance, for a WorkCover insured employer and then went to a self-insurer and had exposure with the self-insurer and that was the last exposure, the self-insurer would be on risk for the total burden. At the end of the day, it may be answered by swings and roundabouts. A person may be with one employer, one industry, in one instance, but then in the next instance they are with another employer. So that may be how it is dealt with.

Mr S Ryan: I just do not think I can add too much. Thady has covered that.

CHAIR: You think it has been covered? Thank you very much. Another one that comes to mind, Thady—and it is probably more relevant because it, in fact, happened in our household and I will make that disclosure—is there any potential for a claim through the workers compensation process for a family member who perhaps has been washing the overalls of the worker and ends up with mesothelioma or another asbestos related disease?

Mr Blundell: The answer to that is no—not through the workers compensation process. The ways in which people are exposed to asbestos are endless—in employment, outside of employment, home renovations; you name it. But if someone is exposed from the clothes of another person—their work clothes or through home renovations, not in an employed setting—the remedy is not through the workers compensation scheme; it would be against the manufacturer of the product, or through some other avenue, but not through the workers compensation scheme in that setting.

CHAIR: Thank you. Member for Stretton, did you have a supplementary question?

Mrs OSTAPOVITCH: No, I was just thinking that James Hardie is basically the one who pays out in asbestos claims, because there is no way of knowing where the damage has come from. So it would not really be related to a particular workplace.

Mr Blundell: Not in the circumstance that the chairman mentioned. In those circumstances, yes, James Hardie is often implicated, but you have to identify that the exposure came from products manufactured by James Hardie or another manufacturer. You have to identify someone at fault. I think Wendel mentioned that at the end of the day the test in common law claims is negligence and you have to show that a party is negligent in allowing someone to be exposed to asbestos. That requires identification of the products. So James Hardie is not always liable. If their products are involved, then they could be liable.

CHAIR: Okay. Member for Hervey Bay?

Mr SORENSEN: I want to ask a question of the representative from St Vincent de Paul. In your submission you stated that there is a need for more appropriate controls over the performance by the injured worker in the work rehabilitation process. Could you explain what you mean by appropriate controls?

Mrs Shearsmith: Thank you. I think part of it is the more active case management between WorkCover—and the employer obviously has a role in that—but a more coordinated case management process. We often see that there will be a specialist over here and there will be a GP over here but they are not necessarily talking together. Then you might add in a physiotherapist and a psychologist. There is this whole matrix of people, but everyone is not seeing the same material. There is then the opportunity for some—and I will say only for some; we have had a few people who have taken advantage of the loopholes in the WorkCover system of late, but then we have had plenty of legitimate claims and we have backed them up 100 per cent—people who are not as legitimate to say their version of the facts and there is no independent or coordinated assessment to say, 'Hold on, that does not make sense, because you told over here a different story.' We have had one employee who is no longer in the region but who is incapable of work. We have absolutely no ability to return that person back to the workplace, because they do not even live in the town. But that person will continue to receive benefits.

CHAIR: Right. We have those sorts of issues with pieceworkers on farms and so forth—cane farmers and what have you. It comes to the end of the season and they are injured. How can you rehabilitate them? Did anyone else want to make a comment in relation to that? Did any of the question or answer prompt anything from anyone? We will go on to the member for Murrumba.

Mr GULLEY: Thank you, chair. I would like to explore the return-to-work programs again. What is the experience of the participants today in respect of return-to0work programs? What are the successes or weaknesses?

Mr Moloney: As someone who went through that extensively, it would have been close to probably six months before I got operated on from when I got hurt. Then it was probably a whole process of 2½ years. Once again—and I know that I am harping on about it—it is LTIs. They measure an LTI in a day—lost time injuries—in day, a shift, not in an hour off or half an hour off, or whatnot. That is all that matters to them. They will come in. I have had cases where the safety officer is going to the doctor with you, waiting outside and telling the doctor even before you even go in they know what is wrong with you—'We have suitable duties for them.' The doctor has not even had a look at you and does not know what is wrong with you, but the employer is there saying, 'We have jobs for them.' They get you back in there and it is literally just sitting in the smoko room all day, every day. For a lot of them, it is not about meaningful return-to-work policies, or work; it is all about making sure that their KPIs and their LTIs are free. This is through a GOC company. I cannot talk about the rest of the industry. Even when they do find you work, for someone who was a tradesman or trade orientated, for an hour a week you might be able to offside the mail lady, or the mail officer or do a little bit of filing, which being trade orientated you are bound to stuff up, anyway.

CHAIR: Thank you. Does anyone else want to make a comment in that regard?

Mr Dadds: Thank you. Our industry has probably one of the hardest roads to hoe when it comes to the return to work of injured workers, because, first of all, we do not control the workplace where our people work. So we really are dependent on our clients to provide those suitable duties. When a large proportion of your employees are manual handling, manipulation workers, where the work quite often is reasonably hard it is difficult to find some of our clients to do that. So it does become problematic. Again, one of the problems we find is that we have very little opportunity to engage with treating GPs to let them know the work that is available so that we can work through with them. We provide online or computer based training for some of our people to help them upskill should they not be able to go back to their normal work. We also use it as an opportunity for them to not break that nexus between work and themselves—that they do not sit at home waiting for employment. But it is problematic for our industry particularly.

CHAIR: Just while we are with you, Dennis, you have raised a few issues in your submission that we would like further clarification on. For example, you outlined that the hold harmless clauses in labour hire contracts should be prohibited. Could you please explain what the clause entails and whether it is provided for in other jurisdictions?

Mr Dadds: Generally, on the hold harmless issue, we call it an indemnity—whatever you like—for the lawyers here. Often in our contracts with our clients, they will ask for indemnity clauses to be inserted into our contracts, so that if one of our employees is injured and they are found to be negligent, they then actually are looking to us to indemnify them against the costs of that claim. That is it in a nutshell. Our company, as a principle, will not sign those things, but some of our competitors do or some of our industry members do, maybe out of ignorance. Maybe they want to take the risk. I mentioned Victoria. They actually inserted that clause into their act so that when WorkSafe Victoria recovers costs against our clients, the hold harmless clause is nulled, so they can actually get it from them.

CHAIR: Thank you. I think we have a couple of follow-up questions. Member for Murrumba?

Mr MULHERIN: Thank you, Chair. I have a follow-up question for Wendel. You gave your own personal example. Can you make any recommendations for the committee on how to resolve some of those scenarios, and also other participants from the floor, as well?

Mr Moloney: First of all, recognising that the industry I am in or was in is fairly high risk, highly strenuous and there are not a lot of real light duties. Do not get me wrong, but first of all you start looking at how the managers manage their business. How they are deemed by the end of the year or their performance. Take away LTIs out of KPIs. Obviously, it is important to know LTIs, what is going on, but take it away from their remuneration. If there is any type of discrepancy in what is actually getting reported in work sites, in an industry section, and what is actually getting made or claims being made under common law, if there is a discrepancy, I put it to you that it is not the fact that the injuries are not really happening and that we have unscrupulous people or solicitors or whatnot pushing those people to make claims. It is in the middle. It is the disconnect in the middle, where the managers and the people in charge of that section do not want to do the paperwork or something is at risk or it looks like it is going be them personally at risk of it being their fault. Failing that, have some sort of oversight over it. I do not know exactly how you do that, it is not my area of expertise, but that would be the first one I would look at.

CHAIR: Would anyone else like to add to that? Thank you. The member for Mackay?

Mr MULHERIN: My question is to Mr Nick Ryan of Leading Age Services Australia. Mr Ryan, you are advocating the use of self-insurers for your organisation. What are the current barriers in Queensland to your organisation's members being able to access self-insurance?

Mr Nick Ryan: Thank you, Mr Mulherin, for that question. As we are aware, under the scheme as it exists at the moment the minimum FTEs of 2,000 acts as a barrier generally for industry groups or groups that might like to arrange self-insurance. In our case, we could probably arrange the 2,000 FTEs. That would not be a barrier. But as we are aware, the culture and the way that the act has been applied for

some years acts as a barrier for new self-insurance schemes. We have heard in some industry groups that even where they have sought to explore it, Q-COMP is so cautious about allowing for new self-funded workers compensation schemes and, likewise, the strong advocacy for the WorkCover scheme as being national best, et cetera, et cetera, acts as a disincentive. What we would look for is not just a reduction of the 2,000 FTEs, because we are aware that in other jurisdictions they have either zero FTEs or 500 FTEs or 200 FTEs. It is more a point that, if an industry group can show that it wants to not just comply with minimum workplace health and safety requirements but also set a higher bar and meet them, manage their own risk, and move to a best-practice approach rather than a compliance approach, because some general scheme over there will manage it on our behalf and will whinge about increased premiums, there should be an incentive and an opportunity—not even an incentive, but an opportunity for schemes such as the one that we would like to run for an industry to set and meet high standards and to manage their own risk.

We wouldn't look for a relaxation of legislation around minimum standards under any circumstances, but we do wish that, because the law does require much more specific responsibilities under corporate governance and under management for workplace health and safety, if they are already managing the risk why don't they manage the risk around workers compensation? For an industry group such as ours, if we were to go down that path we would make doubly sure that any employer within the scheme really upped the ante on taking responsibility for prevention, for return to work, for rehabilitation, so those who carry the legal risk should then have the opportunity to carry the financial risk and do it on the front foot rather than within a compliance frame.

Mr MULHERIN: What do you think are the restrictions? On the one hand you are saying that your ultimate aim is best practice, that you would meet all the minimum requirements that would be set out by the regulator.

Mr N. Ryan: Yes.

Mr MULHERIN: But what is your barrier? If you say you can meet the minimum requirements of the regulator, that you want to be at best practice, what is the barrier within the framework or the gate that you have to go through? Can you explain that, please?

Mr N. Ryan: With respect, I guess the flip side to that question is, how many new industry schemes or self-insurance schemes have been introduced into the state of Queensland since the prior amendments?

CHAIR: That is right. Nick, are you alluding, perhaps, to the barrier being a lack of interest by Q-COMP in taking on more self-insurers? Is what that what you are saying?

Mr N. Ryan: We have not made specific application, because the advice that we had received and the conversations we have had with other industries was under the current—it was not just the legislation, but under the administration, there is little point pursuing that. We have not particularly pursued that at this time, but we have welcomed this committee's review of the legislation to give us a chance to say, 'We are interested in exploring that; we would have to do due further diligence, but we are interested in exploring that.' We would look for guidance in the committee's report to parliament to say that we are very comfortable about self-insurance within industry groups or similar emerging where they meet minimum requirements, especially where they seek to do more than the minimum.

CHAIR: Thank you. Member for Mackay?

Mr MULHERIN: Mr Ryan, your industry would have a lot of part-time employees; would that be correct?

Mr N. Ryan: Correct.

Mr MULHERIN: Calculations for self-insurance currently stands at 2,000 full-time equivalents or more. Do you think that the definition of 'full-time equivalent' needs to be changed to reflect the change in the workforce, with the part-time aged workforce, so that it would address some of those barriers?

Mr N. Ryan: I cannot specifically comment. I am aware that in some jurisdictions it is a head count—as I am advised—and FTEs in Queensland. It is not a central plank in our case, because for us the question is more about, is this an environment or a jurisdiction that is amenable to such an arrangement? We already have three employers conduct the ACES scheme within our industry and they have done so quite successfully with a significant reduction in premiums and stronger return-to-work rehabilitation and workplace health and safety record. We do find an example, but I do not have any specific requests around the FTE. Again, we could notionally reach the 2,000 FTEs, whether it is head count or FTE. We are quite comfortable. It is more a question of, does Queensland wish to pursue a regime where self-insurance, with all the minimum requirements met or improved, is that where the parliament would seek to go?

CHAIR: Thank you. Did anyone else want to make some comment in that regard, on that particular area? No. We will move to the member for Sunnybank and then to the member for Stretton.

Mr STEWART: Thank you, Chair. The committee has heard evidence regarding the breadth of the WorkCover industry classifications. Would anyone care to comment on this, as well as offer any possible solutions for this? Classifications essentially being classifying certain jobs as one particular industry, in relation to calculating premiums?

Mr Dadds: We are across many industries and most of our members are basically in just about every industry. We are comfortable with the current classification scheme. It is the current ANZSIC scheme that has been in place since 2006. We would not want to see any change. We are quite happy to declare wages in the industry of our clients. We do not want to see it go. I assume what you are saying is that the suggestion has been that it goes back to an occupational based classification; is that what you are talking about? No, we think that that is wrong. We are going in the right direction now.

CHAIR: Would anyone else want to make comment there? No. Member for Stretton, thank you.

Mrs OSTAPOVITCH: This is a question to Haycroft Workplace Solutions. Bearing in mind your previous comment, I do have a question. You have outlined in your submission that there has been no improvements from the reforms implemented in 2010. Your suggestion is that a permanent impairment threshold should be introduced for the common law claims process. However, others in different hearings have stated that impairment does not necessarily equate to the same level of disability. Would you care to comment on that argument and would others care to comment as well?

Mr Haycroft: We have noticed, in our dealings with common law claims, that we have no problem when there is an injury and someone has a fairly significant impairment. The frustration, at the moment, is if someone has a zero per cent impairment and they can still take that claim to a common law aspect. An injured worker goes through the statutory phase and they return to work, then suddenly they do not feel that they have been remunerated well enough and they can still go and start a common law claim on this thing. At the moment, there is two, three, four—I do not know how many around, but it seems to be clogging up that aspect of the common law system. If you have been through an independent doctor and then through a MAT and they have both said zero, why are you still able to then go and ask for a common law negligence claim? That is the main reason why. I suppose it is a frustration from our side of the business and we are seeing it with our clients in the industries. The structure that they have over in WA—and I think it is very similar in Victoria—is that it is a 15 per cent impairment before you can have that triggered to do a common law claim. Obviously, 15 per cent is quite a lot, but at least it is a starting point.

CHAIR: It looks like Wendel has a comment to make.

Mr Moloney: As someone who has had exactly half of 15 per cent, I think 15 per cent is insidious. It is an over all body. Once again, all my injury was to my right hand. The rest of me is fine, but it is 7.5 per cent of my body, globally. It was devastating. I cannot climb poles, I cannot turn screwdrivers, I cannot grip anything for short periods or long periods, I cannot even really write for that long. For someone in a trade that totally revolves around using their hands, it was, once again, devastating.

CHAIR: Thank you. Would anyone else like to make an observation in relation to that one? Yes, Dennis?

Mr Dadds: I think that the question of impairment versus ability is something that gets lost most of the time in most of the common law claims that I have seen. I can appreciate Wendel has a very specific injury and it directly impacted on his ability to do his trades job. We get many injuries where we are talking about musculoskeletal injuries, low grade strains, and guys—I have a couple of them now—are healthier than I am and they are built like mallee bulls because they spend a lot of time in the gym, you can see that, but they still have an incapacity to work and that is one of the problems we have. It is not about what the impairment level is, it is whether or not they find themselves incapable of coming to work.

CHAIR: Some people are less willing, if you like, than perhaps Wendel is. It is a psychological thing.

Mr Dadds: Absolutely.

CHAIR: We are getting close to the end. Member for Hervey Bay has a supplementary question, I think.

Mr SORENSEN: One part that comes up pretty often is journey claims. There are many submissions that have asked for journey claims to be amended as employers cannot be responsible for actions outside the workplace. However, workers in regional and rural areas may be disadvantaged as there is less reliance on public transport infrastructure and generally greater distances have to be travelled. What are the arguments for and against the provision of journey claims and could you suggest any limitation or restrictions on journey claims, especially for the two aged-care representatives?

Mrs Shearsmith: Overall we do not have a strong objection against journey claims being included. At present they are considered separate to our premium calculation because there is an acknowledgement that we do not have control over those things. There is an impact on the organisation in terms of going through a rehabilitation and suitable duty process which does take resources, but we consider that as part of our overall responsibility as an employer. Though when we do have journey claims, particularly in some of the regional areas with employees driving long distances, one of my first questions, if there is a pattern or appears to be a pattern, is, right, what are the circumstances, is there a connection, what are the shift patterns, to see whether we are contributing to the fact an accident has occurred where there is a fault component of the employee. I think there is still a role for an employer to consider about how work is structured, particularly on the end-of-journey claims.

CHAIR: Before you come on Murrumba, there was someone else wanting to make a comment.

Mr Colbert: I would like to make a comment on the journey claims, in particular, for employees whose work revolves around driving for their work, i.e. firies, ambos, police and nurses who drive and work late hours and night shifts. Those people do not have a choice. They cannot get public transport to and

from work. Nine times out of 10 these days people are employed for their expertise not how close they live to the job. If we do not cover them when they are travelling to and from work and they get busted up, a lot of times it could reflect back to the job. I know of some ambos who are working 14, 16 hour days and they are hopping in a car and driving home. Should he be covered? Of course he should be covered. Thank you.

CHAIR: Good point, Raymond. Thank you very much for that. Anybody else?

Mr S Ryan: I had one last point. I might ask for the committee's indulgence here to address section 5. It was a point which I thought may have come up, but it has not yet.

CHAIR: Before you go with that, I think there was someone else wanted to go down the journey claims road—no pun intended. We will just finish with that. We have a supplementary from the member for Murrumba and then we will come on to your rounding things off.

Mr Dadds: Just on the journey claims, it is interesting to note that in New South Wales they eliminated journey claims except for certain workers, and they included emergency workers, police and ambulance type people, maybe because of the nature of their work. I think the problem I see with some journey claims, particularly court cases, is the fact that the direct journey definition has actually been watered down over the years. Sometimes you could find some quite extraneous journeys that have been included under the jurisdiction and that is probably the biggest comment I would like to make about journey claims.

CHAIR: Wendel wants to make a comment. We are running out of time. In fact, we are over time so we will go to Wendel. We did address the question of section 5 of the act very early on—do you consider the existing scheme meets the objectives as set out in section 5 of the act. I would appreciate it though, Sean, if you could write to us with your response to that. I will come to that in a moment. Wendel first and then quickly on to the member for Murrumba. Sorry, we are out of time, Sean.

Mr Moloney: With things like coal, gold and iron ore and all of that having the unfortunate tendency of being situated so far away from the major centres, you have got fly-in fly-out, drive-in drive-out instances becoming more and more common. The journey claim is part of prevention as much fatigue and what not. Finally, they would not be on the road at that time travelling that path if they were not going to work. It is the only reason they are on the road.

CHAIR: That is a very good point. That has been made before.

Mr GULLEY: My question is specifically for St Vincent de Paul. Your workforce is partly paid and partly volunteer. Can you explain an injury for a volunteer and how all that works?

CHAIR: Could you do that in less than one minute, please?

Ms Shearsmith: I will try to be quick. Our volunteers are covered under a separate insurance scheme outside of the WorkCover approach, but we still try to rehabilitate them under similar methods.

CHAIR: You did it. That is fantastic.

Mr S Ryan: Can I make two final quick points in terms of the impairment level?

CHAIR: Okay, Sean, two very quick final points.

Mr S Ryan: Aimed at asbestos disease permanent impairment levels are very difficult. Asbestos disease is a late onset injury. Impairment levels move over a long period of time. They cause pain which is not easily measured on the impairment level scheme. The second point is that there was mention about a hearing loss type scheme for skin cancer claims. Like asbestos disease, it would be unworkable because these are late onset injuries. Workers do not have these injuries 12 months after retirement.

CHAIR: Thank you. The time for the public hearing has expired. If members require any further information we will contact you. As I advised at the beginning of the hearing, the committee has agreed to accept supplementary material subsequent to the hearing should you feel that this would assist in the committee's deliberations. We ask that any additional information be provided by Friday, 23 November 2012. Thank you for your attendance today. The committee appreciates your assistance and I declare the hearing closed. Is it the wish of the committee that the evidence given here before it be authorised for publication pursuant to section 50(2)(a) of the Parliament of Queensland Act 2001? So authorised. Thank you.

Committee adjourned at 12.08 pm.