T R A N S C R I P T

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

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

Melbourne – Thursday 14 December 2023

MEMBERS

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

PARTICIPATING MEMBERS

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

WITNESSES

Chris Kennedy, Assistant Secretary, Police Association Victoria; and

Danny Hill, Secretary *(via videoconference)*, Victorian Ambulance Union.

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

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

Before we begin, I will just get committee members to introduce themselves, starting within the room and then on the screen, with Ms Broad kicking off.

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

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

Bev McARTHUR: Bev McArthur, Western Victoria Region.

Evan MULHOLLAND: Evan Mulholland, Northern Metro.

David DAVIS: David Davis.

The CHAIR: Georgie Purcell, Northern Victoria Region.

Tom McINTOSH: Tom McIntosh, Eastern Victoria Region.

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

Katherine COPSEY: Katherine Copsey, Southern Metro Region.

Sonja TERPSTRA: Sonja Terpstra, North-Eastern Metro.

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

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

For the Hansard record, can you both please state your full names and the organisation you are appearing on behalf of. We will start within the room.

Chris KENNEDY: Chris Kennedy. I am the Assistant Secretary of the Police Association Victoria.

Danny HILL: Danny Hill, General Secretary of the Victorian Ambulance Union.

The CHAIR: Thanks. We now welcome your opening comments but ask that they are kept to around 15 minutes collectively to ensure that we have plenty of time for questions and discussion.

Chris KENNEDY: I am not sure that I can talk for 15 minutes and have my voice sustain it at this stage, but I will do my best along the way.

The CHAIR: Well, thanks for being here.

Chris KENNEDY: I will say at the outset we do not actually support this legislation, and I will go into why we do not support the legislation. Police make up approximately 0.5 per cent of the workforce in Victoria, and they represent 12 per cent of the total claims against the workers compensation system. Fifty per cent of claims made by police are for mental health injuries compared to 15 per cent across the entire scheme.

David DAVIS: What number was that?

Chris KENNEDY: Fifty per cent of claims by police are mental health claims compared to 15 per cent across the broader scheme. We will say in terms of the legislation: we do note the attempt to carve out a series of traumatic events and have them remain as compensable injuries, but we believe that that is a flawed model along the way. We have had concerns for a very long time, which we have expressed publicly at parliamentary inquiries and to the Ombudsman, about the various carve-outs for mental health injuries.

In part it goes like this: a police officer is exposed to trauma at some point in their career, which is possibly the point of injury. As a result of that injury, their behaviour declines, their performance declines at work and eventually someone pulls them up and says, 'You're not right.' That might be because they are subject to performance counselling or a disciplinary inquiry in the case of police et cetera. The current carve-out in section 40 is the basis for rejecting the claim at that time. What that does, effectively, in the case of police is actually delay police accessing treatment and send a very negative message to that member that their circumstances are not believed by their employer, which turns what would be a potentially treatable PTSD injury into a chronic PTSD injury because of lack of treatment and hampers any capacity for that member to return to work because the relationship with Victoria Police is broken along the way. So we actually have low rates of return to work as a result of traumatic injuries.

I will acknowledge the efforts that have been made by the current government – the funding through BlueHub – but treatment or diagnosis time frames for BlueHub remain at around eight weeks to see a clinician. I will say that is substantially better than the delays that other workers would face in getting treatment or assessment in respect to a psychiatric or mental health injury out there. I know some of you represent regional areas, and I think the time delays in regional areas are significant. So we do have concerns. We do not believe that the carve-out for traumatic injuries will work because of the existing section 40 provisions along the way.

The other concern we have with the carve-out of traumatic injuries is we do not think the legislation is properly framed to deal with exposure to vicarious trauma. In a policing context, a person working at a sexual offences and child abuse investigation unit may view tens of thousands of horrific child abuse images, and the legislation in fact may not catch them because they have not been involved in a traumatic incident along the way. They are the downstream viewers of that traumatic material. So we think even that carve-out that has been attempted in the legislation fails.

We are also concerned about the exclusion now of stress and overwork injuries. It comes back to the earlier point that I raised: a member may have had an injury in the past. When they go eventually to see a doctor, what they would report to the doctor is 'It's all got too much for me; I've got too much work' et cetera. That is not their injury. So they get a certificate of capacity that says, 'Depressive illness caused as a result of stress or burnout'. The claim is rejected. Some months later they will see a clinician at BlueHub, who will start to unpack what is going on with that particular member and diagnose them with PTSD, but in the same way as the management action matters, this comes too late. The relationship is broken along the way.

The last thing before I take any questions or give Danny Hill an opportunity, I guess, is the issue about falling off the cliff at 130 weeks, and how a whole-person injury is dealt with under the scheme. By example, a police officer who suffers a physical injury – so, for example, severe back injury, may involve multiple surgeries, may reach 20 per cent whole-person impairment – is very, very unlikely to ever work for Victoria Police again. It tends to be a physical job. The overwhelming majority of positions are operational and frontline. So, one, they have not hit the 20 per cent whole-person impairment level, but they are not going to work for Victoria Police along the way. As a consequence of injury and the fact that they know their employment with Victoria Police is going to cease, they develop a psychiatric or mental injury as a consequence. It could be quite severe. As a sequela injury it is not included in the calculation of the whole-person impairment. So you have a police officer now with 20 per cent physical injury and 15, 20 per cent mental health injury – no capacity to work at all,

certainly no capacity to work with their employer – and their weekly payments would be cut off. Now, I can say my members tend to be well skilled and have acquired a vast array of knowledge and skills along the way, and so they may have some recourse either through the superannuation scheme that exists for police or transferable skills. But if you translate that example across to the broader workforce, many people will not have those transferable skills out there either along the way.

So that is a quick summary. I am trying to keep myself to 5 minutes, Chair, on why we do not support the legislation in its current form.

The CHAIR: Thank you so much. And I should have said at the start – I know members have been doing this throughout this process – I know Danny very, very well, which is also why I am not going to call him Mr Hill, because it feels weird to me. Go ahead, Danny.

Danny HILL: Thanks, Georgie. From an ambulance perspective, we too do not support this in its current form. We have currently got 650 ambulance operational staff that are off on WorkCover. Just to give a bit of a history of injuries within ambulance over the past I suppose 10 years, back in 2012, for every 100 staff, 8.4 would put in claims, and that was fairly consistent through 2012, 13, 14, 15. In 2016 we had some quite significant changes to manual handling practice. We got power lift stretchers. There were improvements to ambulance design and equipment design, and we brought that number down to 5.3 and later 3.8 through, say, 2016, 17, 18, 19. Throughout that time the amount of claims per 100 staff was quite low. It was a pretty good achievement. We have started to see that creep up again, though, and right now today it is up to 10.8. It is the highest it has been since 2011.

Now, what I am aware of is that almost in commensurate decrease to manual handling injuries, we have seen an increase in mental health injuries, and right now, similar to Victoria Police, we have between 45 and 50 per cent of the staff that are off at any one time on WorkCover with a mental health injury. Now, for many of those claims I think the obvious thing that you leap to is that our members have seen trauma, they suffer PTSD, and there are a variety of experiences for our members when they make a claim for a mental health claim related to PTSD. If a person goes to a traumatic incident – you know, a road trauma that is a grotesque scene – and they put in a claim the next day, those claims are normally fairly consistently accepted. But the more common trajectory for many of our members is that they see many of these cases over many, many years, and it might be 10 years of seeing this type of trauma before they start to notice an issue. The issue typically is not noticed by them, it is noticed by their employer, and this is where I am quite uncomfortable with the Bill in its current form and this sort of neat separation between trauma and stress, burnout and workload pressures, because typically it is when people are dealing with the stress that comes from workload or burnout that the demons start to emerge in relation to their original PTSD trauma. So there is a pattern there. There is a common trajectory that someone has very serious PTSD that has only become evident after they have dealt with issues relating to stress and burnout and trauma. This neat separation in the real world does not work; it does not really exist.

We have had many examples similar to what Chris has just said, where often it is a performance management issue that really brings these matters to the forefront, and we see a lot of those claims rejected based on reasonable management action – what is deemed by the insurer, assessed by the insurer, to be reasonable management action. So I have huge concern about trying to capture this in the stress and burnout component, limiting an exclusion where it is not the usual or typical workload activities for that workplace. WorkSafe Victoria have just issued a provisional improvement notice on the Ballarat state emergency control centre in relation to burnout workload and the pressures that they deal with in their job. If you ask any of them, nothing has changed recently for them. That has been their typical workload for many, many years. As I understand it, it would be the insurer who would then assess whether those workload pressures are typical or whether they are not. Now, when you have dealt with insurers with regard to rejected claims, that would be alarming for us if that was left with the insurer to make that decision.

We are also quite concerned about – I will leave it there with the concerns. I will probably come back to that shortly. But one thing I am happy to see is talk around Return to Work Victoria, but there is no detail on that. With so many of the claims that we deal with there are multiple attempts to return the person to work. There are multiple attempts to bring that person back to the workplace, but they fail. We have a lot of failed return to work. In the case of PTSD, some research that was done – I believe this research might have been done by the police association some years ago – showed that if a person does not return to work within 12 weeks after a post-traumatic stress disorder claim, chances are they do not make a return to work at all.

So we have a lot of challenges in finding in emergency services a good set of alternative duties, work that they can perform, to bring them back into the workplace and sort of taper their return to work in such a way that allows them to come back in. I am waiting for the detail on that. There is no detail on that, as I can see it, and I think until we can see some of that detail, it is hard to look at this as a package and say it is one that is better for workers.

I will park that there. Thank you, and I am happy to take any questions.

The CHAIR: Thanks very much, both. We will go through questions. We have got about 4 minutes each, members. I will start, and this is to both of you. I might get Danny to commence. You touched on that it was difficult for your members to return to work when injured, and there are a lot of failed attempts. Can you explain some of the barriers that they face and how well the ambulance service and the police service deal with the return of injured workers?

Danny HILL: Certainly. From an ambulance perspective, really if you think of the work of an ambulance paramedic out there on the road, there is not a lot that can be done to actually limit the work that they are exposed to, to limit the things that they see. There is a lot of chance involved. You are really at the mercy of the situation. What we try to get for many of our members are alternative duties where they can come back into the workplace, they can reintegrate with their employer and with their colleagues and they start to build that collegiate return to the workplace before they go out and are exposed to the trauma. If someone has been off for a year, there is quite a lot of work that they have to do to catch up clinically. They have to relearn their guidelines. They have to practise their skills. Sometimes there might be a requirement for them to sit a various number of assessments, and when you are coming out of a period of dealing with massive mental health concerns – depression, anxiety and all the things that come with it – that is a real challenge. You are almost asking them to go back to the person they were when they were first doing their university degree and reapply to come back and relearn all those things. So we find that really challenging in getting them the support that they need – the targeted support they need – to reintegrate into the workplace, to get the clinical support that they need and to find alternative duties that allow them to still be of value in the workplace. In Ambulance Victoria they reach a certain point – and again, with many of our PTSD claims that person can be off for two years: at the 78-week mark, if they are not returning, they are stood down from their alternative duties, sent home and are not given any further alternative duties at all. Now, that might be at the point where they were close to coming back to work, but it is a hard barrier if you do not make a return to work by that time. There is no work for you; there are no duties for you. They sit at home, and that is really not a good atmosphere for them to heal. So alternative duties will be a real part of it.

This Return to Work Victoria – we will be one of the first banging on their door with a long list of things we want them to do, but until we can see it, it is hard to have much faith that it is going to have much impact.

The CHAIR: Thank you.

Chris KENNEDY: I think our members' experience is very similar to Danny's. The overwhelming majority of police work is done at the front line, responding to emergencies and crises. The capacity for alternative duties is very, very limited in policing and the police stations are a hungry beast that consumes people, so even if you are able to find somewhere to accommodate someone temporarily, the stations are desperate to have them back in order to staff. So if you rush people, they feel under pressure to get back. Policing is very much a team sport; they feel like they are letting their colleagues down, so they press themselves, so then you have the relapse. I think once you have failed the return to work once, the chances of a second attempt at a return to work are very remote.

The CHAIR: Thank you. Just very, very quickly, can you tell me a bit about the efforts that are made for preventative care and initial treatment to stop your members ending up on WorkCover and prevent it in the first place?

Danny HILL: I would say sporadic. I would say that when it works well, it works well, but it fails often. Just this week I spoke to one of our members – and I apologise if I say anything that people find a bit disturbing – who had been to a pedestrian who had been hit by a train. There was a requirement to get the passengers off the train. Our member was tasked with – again, forgive me – at multiple points along the railroad track covering up the evidence of this person who had been killed. Obviously, that is an awful thing to deal with, a terrible

thing to have to deal with. He has not received any call from Ambulance Victoria to check if he is okay. Normally there would be a peer support outreach that would reach out to them pretty quickly and then follow up, but we see things fall through the cracks quite often. There are efforts that work well, and where you get people the right care early, that does, down the track, lead to an improved return to work. But there are a lot that fall through the cracks, and when they do, they are not likely to make the return to work that they otherwise could have had.

The CHAIR: Thank you.

Chris KENNEDY: I think the experience in policing is slightly different, and that is that exposure to trauma is normalised in policing – it is their job. They see the worst possible situations on a regular basis, so the assessment about whether there should be any wellbeing or peer support intervention is seen through the prism of 'That wasn't such a bad road fatality'. I know that sounds terrible, but the exposure to trauma is normalised in policing, and you are relying on a supervisor to say somehow that that was out of the norm and therefore 'I will contact police welfare services or indeed the police association's welfare services to intervene'. You do not see the majority ever being referred, unfortunately.

The CHAIR: Thank you. That is my time up, so I will go to Ms Terpstra.

Sonja TERPSTRA: Thanks, Chair. I just want to say to both of you, Danny and Chris, thank you for the work that you do on behalf of all Victorians and also thank you for the really important work that you do in representing our frontline first responders and workers in the work that they do. I think in both the sectors that you work in exposure to traumatic events is obvious. But I am wondering if you can unpack for me a bit more the sorts of mental injury claims that you might see being reported in terms of things that might be related to trauma associated with having to turn out to events where someone is injured or killed versus things that might just happen through interactions with colleagues that could be managed better, whether that is bullying, harassment or poor communication. Are you seeing an increase in all of those areas or is it one more than the other? I note Danny was saying that the claims per 100 staff during 2016 and 2019 actually fell but now it is back up to 10.8 per cent. Can you just unpack some of the things that you are seeing in terms of the trends for some of those mental injury claims? First, Danny, we might start with you and then go to Chris.

Danny HILL: I really find it difficult to separate the two because they are always so interlaced. Do not forget, if we take paramedics, for example, if you have got a paramedic who puts in a complaint, after 10 years in the job, of bullying or unreasonable workload or burnout, even if they are in a job where they are away from trauma – away from visible trauma; they might be in the control room – it might have already put them through 10 years of seeing that on-road trauma. So the trigger might be much later on and might be characterised quite neatly as burnout from what they are dealing with in that scenario, but we have already put them through a career of that trauma that has already done the damage. It is a bit like asbestos in that way – it is the gradual accumulative effect. So I really struggle with trying to put them into neat categories of stress, burnout or trauma because they are so interlaced. Often what we see, particularly with PTSD – as Chris said, emergency workers are, I suppose, prepared and trained to see that trauma and are ready to deal with that trauma, but they have a degree of resilience if they are getting the right care and the right support. But what breaks that resilience might be the factors that we are talking about in burnout, unreasonable workload and bullying. I know someone who I started in the job with went to some very traumatic work – a remarkable paramedic, did very, very well – but it was a bullying matter that brought out the post-traumatic stress injury from five to 10 years earlier. So I find it really hard to sort of separate and characterise the two in a different way.

Chris KENNEDY: Yes. I sound like I am reading from the same hymnbook as Danny here.

The CHAIR: That is why we put you on together.

Bev McARTHUR: A unity ticket.

Chris KENNEDY: A unity ticket. I think that is right. It is difficult to say whether the behaviour by the alleged perpetrator is in fact caused by the trauma or the way the behaviour is received by the injured worker is in fact caused by the trauma. It is intertwined and it starts a long way back, as I said in my opening comments, and then it manifests itself because something else has happened. But the injury is a trauma-related injury.

Sonja TERPSTRA: So would the clear message from both of you be that restricting access for people to claim, say, stress and burnout – because as you were saying there could be a trauma, an incident that is from years ago that has triggered these sorts of things. Is the clear message from both of you that what is proposed in the Bill is restricting that access to new claimants, and that would not be something that would be feasible or appropriate?

Chris KENNEDY: I agree. I do not think it will work in the end, and it will do more harm to the injured worker in the process.

Danny HILL: It will do harm. We have people who have had claims rejected already under the current scheme, where they might have had decades of trauma that they have been exposed to. Again, the trigger factor might have been that they were being performance-managed, but they were being performance-managed because they were turning up late to work. They were turning up late to work because they might have been self-medicating with alcohol to deal with their PTSD. So they lodge a WorkCover claim, the claim is rejected based on reasonable management action because they were performance-managing that person at the time. We see that in our private sector in particular, where I would say there are some quite ruthless investigators that the insurers send out. That is under the current scheme. I think a lot of what is already quite harmful would actually enliven and embolden some of that hurt.

Sonja TERPSTRA: Thank you. Chair, do I have any time? No, I am out of time.

The CHAIR: Sorry, out of time.

Sonja TERPSTRA: That is okay. No worries.

The CHAIR: We will come back to you if we get to it. Mr Mulholland.

Evan MULHOLLAND: Thank you. My first question is to Chris. The head of your association has said that Victoria Police has stretched police, expecting them to work unpaid overtime and sacrifice time with their families and friends on weekends and public holidays, and yet when it comes time to give a little back to members for their sacrifices Victoria Police turns around and says no. And I know that is being thrashed out in a separate industrial dispute to address this, but is it fair to say that workforce gaps in our police force are contributing to stress, overwork and burnout that may be driving mental injury claims?

Chris KENNEDY: I think I will come back to what I said before. The exposure to trauma happened in the past – I do not make it trivial, but does anyone remember the game of KerPlunk, the marbles in the tube with the straws and you pull out the straws and eventually the marbles fall? Well, the member has been injured, and what is happening is that because of shortages it is affecting the rosters, so the rosters mean they are less able to participate in social engagements. They are the ones that are then saying to their partners, 'You know how I said I would be there on Christmas Day for lunch – well, I can't because my roster's just changed.' So it dismantles their family life in that process. So eventually the supports that would enable them to keep an even keel and stay at work start to disappear, and then, like the game of KerPlunk, the marbles fall to the bottom of the tube at that point. Does that –

Evan MULHOLLAND: That kind of covers it. This is probably to both of you. Are there any changes at all that you would make that would see your opposition to the Bill turn towards support?

Chris KENNEDY: Not in respect of the legislation. The police association think there are things that can be done. So, for example, you have now seen in respect of Comcare, presumptive PTSD – Western Australia have committed to it, Queensland have legislated it and Tasmania have legislated it. We believe that that would go part of the way, because that means they do not get the initial rejection, so you do not sever the relationship with the employer along the way.

I know it is beyond the scope of this committee, but we would say when the original Emergency Services Superannuation Scheme was set up, which seems like a long time ago, if you read *Hansard*, they talk about, you know, '30 years of exposure to trauma is enough.' It is not a consequence of anything that Victoria has done, but the inability of police to retire at 55 and access their superannuation is having an impact, and you can see that that cohort that are staying in the police force longer are the ones that are getting injured. At about age 55 you are starting to see the tip up in mental health injuries for police along the way. I believe there is stuff

that could be done in that space. And the other part is moving on the psychosocial injury regulations in terms of the positive obligation – I know it exists now – to address those issues in the workplace.

Evan MULHOLLAND: I will put the same question to Danny as well.

Danny HILL: Was that for the second question?

Evan MULHOLLAND: Yes, just for the second question about if there is anything that would turn your opposition into support in regard to any changes.

Danny HILL: I just cannot see how we could support the exclusion around stress and burnout and workload because it is something that is so prominent in our injured members. I just do not see how we could ever do that. I completely support a bigger emphasis on return to work; I think there is a lot that can be done here. I think that in the case of the ambulance service – without knowing what form this is going to take – tighter regulation and tighter requirements around complying with minimum standards for return to work I think would go a long way. But for the other part of it, with section 40 – as Chris said, again, these are people that are already injured now. They might just be coping okay. They might just be coping okay for a period and the injury that may see them never return to work might be prompted by something like their workload or their pressures that they are dealing with, burnout, things like that, so no is the answer to that.

Evan MULHOLLAND: Thank you.

The CHAIR: Thanks, Mr Mulholland. Ms Copsey.

Katherine COPSEY: Thank you. I am wondering if we can talk about the difficulty in diagnosis. I mean, we have talked about the particular circumstances of your workforces and how things can manifest much later down the track, but are you finding that currently it is difficult for people to regularly meet the diagnosis criteria? Do we need more rapid intervention and provision of support? If you can you talk to that in just the normal case.

Chris KENNEDY: Well, I agree with you – we do need more rapid intervention in these cases. The delays in seeking a psychiatric assessment to get a diagnosis and the delays in getting treatment are significant. As I said in the opening, credit to the current government in respect to the funding for BlueHub. For my members the average wait time is eight weeks; it is significantly longer than that in the general community. But our members are getting there, and the risk is that the injury is already chronic by the time that they get to the assessment. When they first see a GP because they have ceased work, they say, 'Oh, I'm overworked, it's all got too much,' et cetera, and they get a diagnosis of some ill-defined stress injury along the way. That is not getting them appropriate treatment. The GP will then refer them to a psychiatrist, so we get the delays in seeing a specialist along the way. So the time line to actually get effective treatment is quite lengthy.

Katherine COPSEY: So the GP is eight weeks, and then it is the referral?

Chris KENNEDY: No, for my members it is eight weeks in BlueHub to see a clinician, someone who is qualified, which I think is significantly better than you are seeing elsewhere in the community.

Katherine COPSEY: Yes. Same question for you, Danny, if I may.

Danny HILL: Look, there can be delays for us accessing. Ambulance Victoria have quite a good – it is called VACU – Victorian ambulance counselling unit, and paramedics do have good access to those things and are encouraged to take steps for preventative care. But again there are two scenarios here. There is one that would normally work reasonably well, which is where there is an initial exposure to a trauma and then in the days and weeks after that a person is dealing with some mental health concerns; they get in quite quickly and typically they will get help a little bit faster. The challenge is in getting the people who probably do not recognise themselves that they have these injuries – their workmates might notice, their employer might notice and occasionally might make, from time to time, a fairly poor attempt to try to assist that person. But more often they do not make that attempt, and it becomes evident in sometimes a disciplinary matter or a performance management matter. It might be that the person comes to work completely angry one day and yells at their boss and eventually someone twigs and says, 'Maybe there's something not okay with that person. We need to get them into the care that they need.' It is that part of it I think we need to get better at. The person

who is prepared to go and see the clinician themselves that day is more likely to get a better outcome, but there are many, many people who do not; there are many, many people who do not self-report. There is still stigma in many parts of the emergency services community. Sometimes people will know they need a break, they will know they need time off, but they put in a claim for a physical injury as opposed to a mental health injury. So they might get the time away from work, but they do not actually get the appropriate treatment that they necessarily need.

Katherine COPSEY: Just a quick follow-up one, if I may.

The CHAIR: Just really quickly, yes.

Katherine COPSEY: Thank you for touching on that and the work that has gone in to destigmatising mental health and talking about it in the workplace. Do you think that there is a risk that the approach in this Bill, separating out mental injury, is going to undo some of that work?

Danny HILL: I do, in particular in the way it talks about burnout and mental injury as a result of burnout and stress – effectively it being not worthy of the sort of response you would get for a trauma. Again, the mind does not work in neat parameters, if you know what I mean, so I think it does lead to a negative stigma.

Chris KENNEDY: I agree with Danny's comments there. The separation out of mental injuries from physical injuries is a parameter we have never accepted along the way.

Katherine COPSEY: Thank you.

The CHAIR: Thank you. Mr Galea.

Michael GALEA: Thank you, Chair, and thank you both very much, and particular thanks to your members for the work that they do to keep us safe and well. It sounds trite, but really there is a huge amount that we are indebted to you for. I would like to start perhaps with you, Mr Kennedy. You mentioned that 50 per cent of your members' WorkCover cases are mental health related. Is that sworn members?

Chris KENNEDY: Yes.

Michael GALEA: Or is that civilian officers as well?

Chris KENNEDY: No. We only represent the sworn members.

Michael GALEA: You only represent sworn members. Thank you, yes. You have mentioned a few times BlueHub, the program. Can you tell me how that came about and how it works differently from other support programs the members would otherwise be accessing?

Chris KENNEDY: It was the result of lobbying by the police association in respect to treatment for PTSD, about making sure that there was a specialist clinic and trained clinicians that could deal with PTSD, to try to take some of the chance that you would see a clinician that both had the expertise to do it and that you could see them in a timely way. As I said, it is a credit to the government that they have funded it over the next four years, so it serves both the provision of enabling our members to see a clinician, it also provides a school of excellence to educate clinicians and make sure the treatment modes that they are using are appropriate to their injuries and are up to date. I think it is a very, very good program.

Michael GALEA: Thank you, and you did mention the eight-week wait time, which obviously is significantly better than what other people have to deal with but is still obviously cold comfort to people going through it who have to wait. How has that trend evolved over time? Has that got worse or better?

Chris KENNEDY: It has significantly reduced from the start, because obviously there was a delay in start-up, in finding clinicians and signing up clinicians to work with Phoenix and BlueHub in that regard. It has quite significantly reduced. I think early on I saw figures that it was around 13 weeks, down to eight. The target is four.

Michael GALEA: So still some way to go but in the right direction at least?

Chris KENNEDY: Yes.

Michael GALEA: That is good to hear. If I could expand this out to both of you, and I think Mr Hill in particular you mentioned in your opening statement that Return to Work Victoria, you would still like to see a bit more of the detail around that. I might ask you first, Mr Hill. What specific functions or things would you like to see in this new Return to Work Victoria agency?

Danny HILL: Look, WorkSafe at the moment have a small – I believe it is called now the return to work inspectorate. From time we have tried to get them involved in assessing a person's return to work – whether the employer is being compliant, if the employer is approaching it in the most appropriate way – but I do not believe there is any actual standard in the same way that you might have the Occupational Health and Safety Regulations that set particular standards. I do not think you really see that in the same sort of way. It has been fairly toothless, I think, so far, but I really like the idea, and I think it would be great, but I think it has really got to effectively almost work with the ability to come in and assess a person's return to work, whether the employer is making reasonable allowances to allow that person to have their best chance at return to work. For PTSD typically they have only got one go. They have got one good go to come back, and then there is enormous bitterness after that if they do not make the return to work. So it could be things like staffing arrangements on an ambulance, maybe running the third person on an ambulance, maybe working a roster that did not involve night shifts, maybe instead of working in Werribee, where I work, you might go out to an area that might be slightly quieter and allow you to have a little bit more downtime. Not many branches have that these days but, you know, get into a workload that more allows you to come back in a supported way while you are getting the treatment that you need and that treatment continues, because so much of this comes back to their confidence, building their confidence in returning to work. Most paramedics will tell you when you go on leave and you come back from leave you feel like you are a baby ambo again, having to relearn everything. When you are dealing with that on top of what you have been dealing with with your mental health injury, it is really hard, and you can see why people fail in return to work. So I think it is about setting some very clear parameters and assessing whether the employer is doing all that they can to make reasonable allowances for an appropriate return to work in conjunction with good medical advice and advice from psychologists.

The CHAIR: Thanks, Mr Galea. Mrs McArthur.

Bev McARTHUR: Thank you, Chair. We will start with Mr Kennedy. You painted a pretty dire picture of your employer, and that seems to be the case in many of these public sector entities. In the private sector if some of these workplace injuries occurred, I am sure they would be up for industrial manslaughter or a variation of it. Is the government not doing their job or the secretary of the department who is responsible for your workers not actually looking after you in the way they should be to ensure that your work is operated in the safest possible way and with support post an injury?

Tom McINTOSH: Mrs McArthur, is that in relation to the Bill?

Bev McARTHUR: Yes, absolutely, just as much as Mr Galea's question was.

Chris KENNEDY: Well, with respect, I actually think the question is much more complicated than that, and it goes to my earlier issues, but –

Tom McINTOSH: Perhaps we can get a question in relation to the Bill.

The CHAIR: Yes, I –

Bev McArthur interjected.

The CHAIR: Order! Can I just have some order. Can I please just ask for Mrs McArthur to ask her question in relation to the Bill that we are considering, not so broadly.

Bev McARTHUR: Well, the Bill we are considering deals with an escalation in the fees that people are going to have to pay for WorkCover. Now, every statistic that we have been given today and previously indicates that in the public sector the incidence of injury is far greater than in the private sector, yet the private sector is also going to be picking up the cost for the escalation in WorkCover premiums. What I am asking is:

how has it got to a situation where the employer is actually not doing their job in relation to the care of workers post an injury? We are talking about preventative care.

Chris KENNEDY: I am cognisant of the issue that you are drawing on there. I will revert back to my answer that it is important to understand the industry that my members are involved in. It is not an industry where you can simply say, 'Oh, don't go to the job – that one looks messy.' So that is the problem. You talked about the difficulties of return to work. In regional Victoria stations are smaller. There is not a capacity to shelter them from it, so it is about doing the best they can in terms of looking after them. I do think there is a role for the psychosocial regs. I think there is a role for reform to legislation on how you deal with PTSD injuries out there. But I do not think it is a case of saying, 'Well, police can't go.'

Bev McARTHUR: No, no, no, nobody is suggesting that. We are suggesting: is your employer doing all that is possible to make sure that your workers are the best looked after they possibly can be?

Tom McINTOSH: And what part of the Bill are you –

Bev McARTHUR: It is about workplace safety. Come on, Mr McIntosh, you are not the Chair.

The CHAIR: I will allow the question, but if the witness does not feel comfortable answering it, we can move on or he can take it on notice.

Chris KENNEDY: Could they do more? Yes. Do they do a lot? Yes.

Bev McARTHUR: But they could do more. That is very good. Should these –

The CHAIR: Mrs McArthur, I want to warn you you have got 1 minute with the time that has been taken up.

Bev McARTHUR: Would it be a better system if the public sector area of WorkCover was carved out from the private sector?

Chris KENNEDY: I am not sure I am qualified to give that answer off the cuff.

Danny HILL: I think I could probably offer something.

Bev McARTHUR: Yes. Thank you, Danny.

Danny HILL: Because we represent members who are both private sector and also, as you will recall, parts of ambulance were privatised – not the emergency component – you will see a difference between the bits that were privatised and the bits that were not privatised based on the work that they are allocated to go to. But I can promise you we deal with the same insurers. I think many of our private sector companies, the insurance companies, are the same that the Victoria Police members will deal with. So they are going to be the ones assessing whether workload pressures or whether job demands are reasonable or typical. We are going to be dealing with the exact same thing. I guess what I would say back to that, to be very simplistic, is: 'Don't injure our people and we don't have a problem.' But both sides, public and private sector, are injuring their staff, and in particular I think we are going to see this play out where we are talking about claims in relation to burnout, stress and [Zoom dropout]. Neither of them handle those protections well. There is a hell of a lot more that both should be doing and, as Chris said, you cannot protect a paramedic against the patient. That is just never going to occur; those are the scenarios that they are always going to go to. But we can find ways to improve how their workload is balanced, the operational demands and the workload demands are balanced, against the supports that are in place. I think often that is weighted more in favour of the work that they are required to do rather than the support.

The CHAIR: Wonderful. Thank you. We are going to go slightly over time. Are both of you okay to stay on a few minutes after 3 pm?

Chris KENNEDY: Yes, I do think it is an important issue.

The CHAIR: Thank you. Mr Ettershank.

David ETTERSHANK: Thank you, Chair. Firstly, thank you both for your evidence today and more particularly for the service that your members provide to the state. It is extraordinary.

I think it is great that we have got your evidence at the tail end of this inquiry because I think as the tip of the spear you epitomise this issue of both mental and physical injury which the Bill virtually seeks to separate; in fact it actually does for those over two years. We have also heard both VCCI and Trades Hall use various metaphors that run along the line of a dog's breakfast for this Bill. In that context I guess I would ask both of you: what would you like to see happen with this Bill by way of process as opposed to individual amendments?

Chris KENNEDY: There is a question for the Parliament. But I would say in its current form I do not think it does what government might intend it to do. In fact I think it injures my members further; it sets up a system to injure them further. I think they need to go back and consult with the impacted unions and employers about how to move forward on this issue. I do not accept the comments that the scheme is in crisis. My members are significantly over- represented in the scheme. We think there are ways forward that could improve the experience for my members and how they are dealt with, and whether that reduces the cost of the scheme would be seen over time. But I do not think this legislation is doing anything. I think it is a kneejerk reaction, quite frankly, to the issues that they perceive with the scheme. As both Danny and I have said, our members probably slip through anyway. The reality is the predominant injuries in my members are mental injuries and they are caused by trauma, so the Bill is not actually doing anything to reduce those costs in policing other than perhaps cutting them off from payments at 130 weeks, which has consequences – shifting costs elsewhere in the community or further injuring police, quite frankly.

David ETTERSHANK: Thank you. Mr Hill.

Danny HILL: Yes, I would agree with that completely – to reinvest a significant amount of time in consultation. I am a former paramedic and certainly not a mental health clinician, but there are really good mental health experts out there that have given the unions a lot of guidance in what we should be advocating for in relation to improvements to support services, improvements to regulation. It has probably driven a lot of the work we have been trying to do in relation to presumptive legislation. We are quite lucky in Victoria that we have a number of really good PTSD clinics, one at the Austin Hospital and one at the Melbourne hospital, that were set up by experts in post-trauma injury, not just post-traumatic stress disorder but post-trauma injury, and understand very well these nuances in between this trajectory that we have both spoken about. There is a lot in that. There is a science behind that. That is some of the expertise that really needs to be brought into this discussion to look at what the practical effect will be for many of our members if these changes come into effect.

David ETTERSHANK: Thank you. No further questions.

The CHAIR: Thank you, Mr Ettershank. Mr McIntosh.

Tom McINTOSH: Thanks for attending today. I know it is complicated and I know you said that with return to work there are lots of difficulties, but are there any practical examples you can give of what would assist the return-to-work process? Chris.

Chris KENNEDY: Early acceptance of claims and early treatments are the path to maximising your opportunity of returning an injured police officer to work. As I said in my openings, the initial rejection creates a problem – it damages the relationship between the police officer and Victoria Police, or their employer – and it is from there that things really go wrong.

Tom McINTOSH: Yes.

Danny HILL: I echo that completely. It is the early acceptance of the claim, it is the early initiation of treatment and it is, as best as can possibly be done under medical advice, the ongoing connection to the workplace with alternative duties and a tapered, medically advised return to work. Currently it is very much done in a way of 'Look, are you coming back to work or are you not?' and people start to feel pressure to return, often before they are ready. They might be okay to return to the workplace, but they are not ready to go back out and respond, potentially alone, to a life-threatening situation and deliver the care that they are required to give. So the more you can keep that connection and keep them in the workplace for as long as we can, the better it will be. I think too often members have suffered because there has been a desire to get them out of

those positions to make way for the next person who needs to come in on alternative duties. It is in those processes once the claims are made that we really can make an impact.

Tom McINTOSH: Okay. Thank you, both.

The CHAIR: Thanks, Mr McIntosh. Mr Davis.

David DAVIS: A couple of points to Mr Kennedy in particular. Does the association have detailed statistics on your members and age groups and so forth that are comprised of these various cohorts who are impacted by the scheme?

Chris KENNEDY: I certainly could not give them to you off the top of my head, Mr Davis.

David DAVIS: No, no, that would be fine. I am just asking.

Chris KENNEDY: To see what could be extracted – I am not sure. The difficulties are if a claim was accepted off the bat because a member –

David DAVIS: Not identified of course.

Chris KENNEDY: No. But if a member attended a very specific incident and suffered an injury and the claim was accepted, then we would not see that in a statistical way.

David DAVIS: Yes. You do not collate them from your members or get a report from them?

Chris KENNEDY: There are problems with reporting from the insurance agents and how they record issues. This goes to the issue where a member presents and it is originally recorded as anxiety and depression and subsequently, when in treatment, it is revealed as a trauma injury. The statistics are very difficult to extract. I could have a look to see what we have, and if I think I have any, I am happy to provide them to the Chair.

David DAVIS: We would be very happy. Is that sort of information provided to the employer, to VicPol, do you know?

Chris KENNEDY: They would have the same problem with the statistical information that is gathered by the insurance agent.

David DAVIS: Yes. They must be able to give them detailed info, though, you would think. It would be a big part of managing claims into the future, you would think.

Chris KENNEDY: It is. But my understanding is that once a claim is coded as being depression and anxiety disorder, it remains in the system as depression and anxiety disorder even though there is a subsequent diagnosis and treatment modality adopted.

David DAVIS: All right. And just to the issue of retirement, it seems a number of police are lost in the years towards their retirement. There seems to be a propensity – they have been in the service a long time and there probably is an accumulated impact. Am I right?

Chris KENNEDY: I think that is the case. As I said earlier, when the superannuation scheme was set up, people said 30 years of policing was enough and you should be able to go. I think they were right.

David DAVIS: Whereas the federal super rules now have a different focus. Are there some changes that could be made there that would help? Is there some sort of sabbatical or some other arrangement that might keep senior police, who have got a lot of experience, in the force?

Chris KENNEDY: I can think about that. There are opportunities for leave without pay for police, but that is leave without pay. There are barriers to police undertaking other employment anyway. They remain sworn officers of the Crown in that process and subject to the disciplinary processes, prescriptions on the nature of the employment they can undertake et cetera, so it does become a difficult model in the context of policing.

David DAVIS: But there are no ways that you are aware of, there are no models or schemes that have been tried, to provide in a supportive way options for senior police like that to get a rest?

Chris KENNEDY: No models that I am aware of other than this idea of leave without pay for a period.

David DAVIS: Could there be? Is that something your association would look at?

Chris KENNEDY: Certainly we negotiated in previous enterprise agreements – and it is in the current one, but that is up for renegotiation – a deferred salary model where a member can bank a portion of their salary to take a break. You operate on a four-fifths scheme, so you take four-fifths of your salary and in the fifth year you are on four-fifths of your salary.

David DAVIS: Maybe take some long service or something like that, if you have got a year or so.

Chris KENNEDY: Yes. So there are models.

David DAVIS: You might come back refreshed and renewed.

The CHAIR: Thanks, Mr Davis. Your time is up. Mrs Broad, one question from you, if that is okay.

Gaelle BROAD: Thank you very much, both of you, for appearing today. The government itself has said the WorkCover system is broken. We know there have been deficits of over $4 billion over the last few years. Over a billion dollars of taxpayers money has gone in to prop it up. The government seems to be using increased premiums as a big way of trying to make the system sustainable, and I think everyone around this table wants to see a sustainable system, because if it falls over we are all going to suffer. I am just interested because there are premiums. You can also look at the efficiency of the end-to-end processing. Both of you, do you have any feedback or insights into the experience of your members of the actual end-to-end processing of WorkCover? I know from speaking with a constituent in a regional area they had up to 20 caseworkers over two years – a very inefficient process, lots of paperwork – and they found it very stressful. I am just interested: what has been your experience? If they turn something down, where do they go help after that? If you could give us some feedback.

Chris KENNEDY: It is a very complex question, I think. There is high turnover of staff in the agents. Gallagher Bassett is the agent for Victoria Police. It has high turnover of staff, so finding experienced case managers is difficult. So the experience that your constituent raised with you of multiple case managers over and over again I think is the experience that my members have had with the workers compensation system as well. I do not know that that is directed to whether you can achieve a return to work or whatever, but it adds to the stress of members. It is the simple things like reimbursements for medication or medical and like expenses. There are problems in the systems and there are delays in the systems that impact on the mental health of people who are in there as well, so whether there are efficiencies to be derived out of that – I think smarter people than me who know more about it would have to look at that, to be fair.

Gaelle BROAD: Yes, that is fair.

Chris KENNEDY: From our perspective we do not accept that the workers compensation system is broken, and I do not accept that it is in crisis, as I said earlier. Nor do I think that these amendments alter the experience of the scheme in respect of my members, because eventually they will be diagnosed with PTSD. That is the most prevalent injury out there for my members, because of the nature of the work they do. So they will find their way into the schemes. All it will have done is injured them further along the way.

Gaelle BROAD: Mr Hill, I am interested in your comments as well to the experience of this constituent. They had surgery. It took two years for the medication claims to be approved for that, and it took multiple attempts, so a very frustrating process. What has been the experience of your members?

Danny HILL: I think we have had very similar feedback. We have certainly had many people say that the claims process was more stressful than the original injury, and I certainly know of several members who might have had a claim – again, noting that these are people who might have been in the job for some time and obviously dealing with a career of exposure to trauma and mental stresses. But they may have had a back injury, and they have put in a claim for a back injury. In the process that they have had to go through when dealing with their employer, in dealing with the insurer, often with the investigators, who can be quite pushy at times, they have actually had a secondary mental health trauma off the back of the physical trauma. So we certainly do see that play out. But I would say that the bigger proportion of complaints that we get would be with the employers in relation to return to work. I have probably been a broken record on that, but I really see

that that is probably where we can make a lot of improvement, and hopefully it is both for the benefit and sustainability of the scheme. If you get people back earlier, you get them off WorkCover payments earlier, they are back in the workplace and they are more likely to make a sustainable return to work. That is really where we get the most amount of our complaints and probably where we are most likely to see the most benefit, so I am looking forward to the detail of that.

The CHAIR: We are going to need to cap it there because our next witnesses are waiting for us, but thank you very much, Danny and Chris, for coming along today and appearing, especially at such short notice and right before the holiday break. We have really, really appreciated your input today.

Witnesses withdrew.