

TRANSCRIPT

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

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

Melbourne – Tuesday 12 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

Tim Piper, Head, Victoria, Australian Industry Group; and

Jack Carmody, Lead OH&S Policy Adviser, Victorian Congress of Employer Associations.

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.

To begin, I will get committee members to introduce themselves, starting down this end with Mr Galea.

Michael GALEA: Thank you, Chair. Michael Galea, South-Eastern Metropolitan Region.

David ETTERS HANK: David Ettershank, Western Metropolitan Region.

John BERGER: John Berger, Southern Metro.

Sonja TERPSTRA: Sonja Terpstra, North-Eastern Metro.

Tom McINTOSH: Tom McIntosh, Eastern Victoria Region.

The CHAIR: Georgie Purcell, Northern Victoria.

David DAVIS: David Davis.

Evan MULHOLLAND: Evan Mulholland, Northern Metropolitan.

Bev McARTHUR: Bev McArthur, Western Victoria Region.

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

The CHAIR: And on the screen.

Sarah MANSFIELD: Sarah Mansfield, Western Victoria Region.

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

For the Hansard record, could you both please state your names and the organisation you are appearing on behalf of.

Tim PIPER: My name is Tim Piper. I am the Victorian Head of the Australian Industry Group. If I might be able to introduce Jack before he does, I actually asked Jack about 10 minutes ago to join me today. I did not realise that I was going to be here by myself, so Jack has not come armed. But if there is any assistance that I might need, I might ask Jack to do it rather than Jack giving evidence.

The CHAIR: Beautiful. Good on you, Jack. That is last-minute. We now welcome your opening comments but ask that they are kept to around a maximum of 10 minutes to ensure that we have plenty of time for questions.

Tim PIPER: Thank you. Jack, would you like to introduce yourself first?

Jack CARMODY: Yes. Jack Carmody, I am the Lead OH&S Policy Adviser for the Victorian Congress of Employer Associations.

The CHAIR: Great.

Tim PIPER: Thank you, Chair. Thank you for the opportunity to speak to you today and for us to offer the views of the Australian Industry Group. Ai Group represents thousands of businesses around the state, and that especially includes, for the purposes of this discussion, manufacturers, from the very largest in the state to many small family businesses. As a national organisation, we provide businesses around the country with advice on industrial relations, workers compensation, occupational health and safety support and customised advice, as well as information on a broad range of other matters such as training, trade and environmental issues. We have an apprentice group training organisation, where we employ around 500 apprentices around the country who are, in turn, deployed into many businesses around Australia. In Victoria we have more than 120 employees, although I must say you would not know it at times when you look at our office. But we are employing and paying them, and they do a terrific job for employers.

We also have a workplace information hotline, which is manned by about 20 people giving direct legal and other advice, mainly on industrial relations activities, occupational health and safety and workers compensation. Many of those 20 people are lawyers, some of whom have been working for decades, others are young lawyers who are learning their trade. We employ across the country more than 40 lawyers, who provide a broad range of advice to members, particularly on industrial relations as I mentioned before, support for enterprise bargaining and help to understand new legislation. As you would appreciate, at the moment that is a particularly fraught issue for us.

The Bill that we are discussing today is one that has created much discussion within our organisation. We were pleased to be involved with the talks earlier this year involving the state government and other representative groups, and I did hear Luke Hilakari's comments about those discussions earlier. However, it was far from being a review. We were met pretty much with a *fait accompli*. The system, we were told, was bust and we were told that premiums had to increase and changes had to be made. That was simply the message that we got from day one. We did not have much interaction with regard to the legislation or the Bill or what might be proposed, but we were involved with it and were able to offer some points of view.

You will hear over the next couple of days views on potential changes to the definition of 'mental injury' obviously, the mental injury provisions and the circumstances in which benefits are paid for those injuries, and changes to the impairment threshold for mental injuries. Ai Group is generally supportive of those changes, as it is vital that reductions are made to the costs for employers and that the WorkSafe scheme is not overlaid with costs.

Victorian businesses are currently dealing with significant extra business costs, and you all would know about them; I do not need to go into chapter and verse on those. But the one that seems to be most prominent for virtually all is the cost of WorkSafe and the premium increase that they have all been forced to pay. The significant increase that applied this year of an average of 42 per cent caused huge consternation at all levels, and consequently businesses will be looking to the government and to this review to ensure that premiums themselves are kept to a minimum. I had many members call me that had 75 per cent increases, and that was through a range of issues, not all based on the premium increases themselves. But when you have increases at that level, obviously people are saying, 'How can I continue to employ as many people as I want to? There are additional costs that I am looking at.' It is a very significant impost on businesses.

I am on the occupational health and safety ministerial committee and on the WAC, which is the WorkCover Advisory Committee, which are both ministerially appointed committees. I have been for in excess of 20 years on both of those, and I have never seen the level of concern with the scheme at such a high, nor have I previously been so concerned that the cost of the scheme is simply getting out of order. That is over 20 years

that I have been involved with both of those committees, and that has been the continuous basis for both of them.

The Victorian scheme has generally been well administered over the period of time that I have been aware of it, and costs for Victorian businesses have been kept to a reasonable level. At an average of 1.27 per cent of payroll for more than a decade, it was at an acceptable level, but we now find ourselves having to pay considerably more. The additional costs are because the system is being asked to deal with issues which were never intended to be a part of the scheme. Physical injuries are obvious. Even though there are often recidivists and fraudsters and we know that, they are in the few, but of course that does happen. But there is nothing obvious with mental injuries. Now and in addition the scheme has been required to deal with new types of claims being made against it, which have caused significant additional costs.

There is one amendment we would like to see to the Bill, coupled with a number of agreements that we think the government should make and be held to in order to maintain and secure the scheme. As part of this Bill there needs to be a new return-to-work system developed. I did not have the opportunity to hear the beginning of Luke Hilakari's comments, but I assume from what he was saying at the end that he was also considering a return-to-work system. I have not spoken to Luke about that, but there is every chance that we will be on a similar page. But that system must engage both employers and employees and give representatives of both the opportunity to encourage return to work. This is particularly so in the mental health area. Whilst we know that surveys suggest employers feel they are able to deal with mental health injuries at work, anecdotal evidence suggests that once a health injury occurs many employers have little understanding as to what they should do for workers and how to support them and are worried in fact about exacerbating anything.

A return-to-work system which enabled employers to speak to trusted and confidential advice lines would be an important addition to helping get employees back to work. We know that employers are more likely to trust an employer organisation than they will a regulator – it is obvious – and we believe that a return-to-work service undertaken in conjunction with WorkSafe would be an important development in returning our return-to-work position across the state. At AI Group we have the capability to support WorkSafe and employers, which in turn assists employees. Through our current helpline during COVID, for example, the number of calls to our helpline increased dramatically. We would ramp up and do something similar with WorkSafe.

As you would be aware, six out of 10 workers who reach 104 weeks of being injured and who have a health injury never return to work. We have to help employers and employees not to get to that stage because being at work is the best form of help we can give them, and that is about improving mental health in general of course.

In addition to the return to work included in the legislation, we would like to see the following. First of all, we believe the government should commit to an independent review of WorkSafe, particularly with an aim to reduce its cost to employers and to try to improve its efficiencies. Employers know that we need a WorkSafe system. It is important as a safeguard to employees, and it is a regulation which employers need, but it can always be improved, and we need to be considering how that can be done. However, I must also add that we would be very much against a split of WorkSafe between workers compensation and occupational health and safety. Having the two dealt with by the same body is an imperative and something that I know overseas organisations that I have spoken to are very jealous of, so we should not remove that great advantage that we have.

I was fortunate to be a part of the Maxwell review conducted by eminent Supreme Court judge Chris Maxwell on the OH&S system in Victoria in the early 2000s. We were not entirely happy with the review, but that is what happens with reviews. But what we got from Maxwell was a review which recommended changes that both sides of the table could live with, and it was suggested by a very creative mind. Our workers compensation system requires an equally inquiring, agile and, very importantly, independent mind. I must say that the Bracks government, when they were doing this, made sure that people were independent who were going to be discussing and reviewing this. We think that that could provide some important recommendations to government.

The second issue is we believe the government should commit to a cap on WorkSafe premiums for an extended period of, say, three years. Employers need confidence that the system is going to be administered properly and efficiently. WorkSafe needs to be left with no doubt that they need to work within their current constraints. The government also needs to know that they cannot impose more requirements on WorkSafe than are currently

there. I think that is one of the reasons why some of our costs have increased, because they continually have additional imposts imposed on them. Having a cap on premiums would be a strong discipline that needs to be taken on by WorkSafe in its administrative activities.

The third point is that the WorkSafe figures that I have seen show that around 18 per cent of all claims on WorkSafe are mental health claims, which costs just a little bit less than 50 per cent of all claims that are made on the scheme. This cannot be allowed to continue as we know at the moment it is just becoming increasingly costly and a difficult burden to bear. We also note that the mental health injuries are often not caused at work. More often than not these mental health concerns emanate from elsewhere in the person's general life and may become more obvious in the workplace. It is our no-fault system, which was originally designed to deal with physical injuries, that enables workers to claim mental health injuries – which may or may not have been caused at work – but those claims are always being accepted. Many employers believe that this is inequitable and a transfer of responsibility by the state.

There needs to be considerably more consideration given as to how these injuries occur. Employers cannot continue to foot the bill of what essentially are community-based injuries. Whilst these injuries may need to be funded by the state, it is unreasonable for them to be expected to be funded by employers who may have had little or no impact on the injury itself but are dealing with the total consequences once people arrive at work and make a claim. A no-fault system might not be unreasonable for physical injuries where you can more easily determine whether the injury was caused at work, but it is simply impossible with mental health injuries. Employers should not be bearing the costs of what are sometimes essentially community injuries.

I thank you for the opportunity to speak with you. This matter, I think, should only be the beginning of discussions that we have with WorkSafe about workers compensation and about OH&S matters. We are happy to work with Trades Hall, government and whoever we need to ensure that this system is maintained but is also one that employers can actually afford. Thank you.

The CHAIR: Thanks, Mr Piper. We will move on to questions. Members have around 4 minutes each. I will start. Can you please explain a little bit more about what you mean by 'community-based injuries', and what do you have to do to substantiate that that is the case?

Tim PIPER: Yes. We have mental health injuries in the community now. We know that; it is happening right across the board. But it is not happening just at work; it is happening because people are recognising mental health injuries occur elsewhere. What seems to happen is that these are taken at work, and very often those mental health injuries are blamed on what is happening in the workplace, whereas they might not actually be created in the workplace. So employers are bearing the brunt of it because the claim is made on WorkSafe, which has been shown to be happening, but in many circumstances employers are not exacerbating it; employers are just providing the opportunity for people to work. So I think we need to consider that what is being done at WorkSafe now is they are asking WorkSafe to deal with a whole range of issues that they were never asked to deal with before and that we did not recognise before. Mental health injuries, I am sure, have been with us forever, but we are now recognising them as being an issue. They are not necessarily being created at work.

The CHAIR: Yes. Just as a segue to that: obviously this Bill impacts the ability to claim for stress and burnout, which is a common workplace injury and will impact many workers, by the sounds of it. Do you think that employers could be doing more to prevent these injuries happening in the first place?

Tim PIPER: Chair, we could always be doing more, from all sides of it. Absolutely. Employers are not perfect at all. Many would not know what they have to do. Many smaller employers would not have any idea, and they do not want to take a risk.

The CHAIR: Mr Hilakari spoke about his ideas for what we could do for prevention. Do you have any view on that as an organisation?

Tim PIPER: It is interesting: when we talk to Trades Hall, 95 per cent of the time we agree on many things, and there are just a few occasions when we do not – and just a few occasions that we hear about. But there are ways and means where it can be done. We should be helping employers to understand earlier on what they should or should not be doing – recognising signs, educating them, training them and giving them an opportunity to call some experts without feeling like there is already going to be a claim against them and

feeling that they are being judged immediately as well. Also, once a claim is made, employers need to know what action they can feel comfortable in undertaking – you know, ‘Can I talk to the employee? Will I just make it worse?’ All these things can be helped for employers, and that will in turn help employees.

The CHAIR: Great. Thank you. Mr Berger.

John BERGER: Thank you, Chair. Thank you for your presentation and appearance here this afternoon. Just in terms of the scheme, do you think it is important for a WorkSafe scheme to be fiscally sustainable?

Tim PIPER: I do. For an extended period of time, during which I have been involved anyway, it has been fiscally sustainable, and probably over the last 10 years we might have seen some slight increases that would have helped that fiscal sustainability. But that fiscal sustainability has changed, or the need for it has changed, with the number of claims that we are now getting and the extended range of those claims. Physical injuries were the main issue. We had recidivists in that case, but it was not bad. But now somebody comes to work with a mental injury, and you really cannot see it, obviously. It is very hard to judge whether you have been involved with it or whether it has come from some other place, and that I think is the thing that is the primary issue that is blowing out the costs.

John BERGER: Do your members support the reforms to WorkCover, the changes?

Tim PIPER: We support the reforms that have been introduced. We would like them to go further, and I have expressed a few changes that would like to see. But we believe that there needs to be a compromise here, and this is perhaps the starting compromise.

John BERGER: Can you express to the committee some of those compromises that are in your mind at the moment?

Tim PIPER: Unfortunately, our economy is always about compromise. We would love to support every person in the community to the greatest extent, but we know we cannot do that. Our economy does not enable us to do that, so we have a cap on literally everything as to the level of support. This is another one where we have to make a compromise and continue to support this as best we can, but it is as best we can. We need to have a strong economy in order to be able to support WorkSafe issues. Employers are very conscious of that. They are supportive of WorkSafe, but at the same time they still need to be in existence. When the premiums increased by 42 per cent, many of you would have heard the interaction on the radio about it especially, and I had many calls from employers severely worried about what they were going to do, whether it was going to mean that they had to let employees go, whether it meant that their business was in strife. But really it was a beacon about the increasing costs in Victoria.

John BERGER: Thanks, Chair.

The CHAIR: Great. Thanks, Mr Berger. Mr Mulholland.

Evan MULHOLLAND: Thank you so much for your evidence here today. Following on from that discussion: Victorian businesses were slugged with a 42 per cent premium increase in May of this year. Do you think the Victorian government should have acted sooner to stop premium increases?

Tim PIPER: In retrospect perhaps so, because then we would not have had the large amounts of money having to be put into WorkSafe. But at the same time employers would not have liked increases however you have it. I think gradual increases would have made the change less severe than it was. We do know over a period of time that the claims had been increasing, and perhaps we should have given rise to that to react to that at an earlier stage.

Evan MULHOLLAND: Just on the actual Bill, in your mind what flaws in the scheme does the Bill fail to address?

Tim PIPER: I think we were looking for – and what we expected to find was – a return-to-work system that was considerably improved and that engaged employers and potentially employees. I do not know the level of engagement that Trades Hall and unions have intimately, but I do not think that they are involved as much as they would like to be. I know from the employer side of things we are not as involved as we could be. And I think we have something to add – I know we have something to add. That is why we sit on ministerial

committees and provide assistance. So I do believe that if we had a return-to-work system that enabled early intervention, that enabled earlier education and advice to be given to employers, then that has to be a start. And it would not be an expensive start, but it would mean that there would be a support mechanism for both sides of the table, employers and employees, and I think that we seem to be missing that. Over the years employers have sought advice, but they tend not to ask the regulators for it because they feel they will be judged. They would not do that if they were coming elsewhere.

Evan MULHOLLAND: Would you see any value of a legislated advisory body with broader representation from employer groups?

Tim PIPER: I could see some advantage to it being legislated, because that provides you with certainty and therefore perhaps provides you with more influence, and that would be helpful. In other states you do have, as I understand it, OH&S and workers compensation committees that are made up of employers, employees and other independents, and that is probably something that can be given consideration to. But the main issue is actually the influence – knowing that what we are saying is being listened to, rather than just being disregarded.

Evan MULHOLLAND: Excellent. Thanks.

The CHAIR: Great. Thanks, Mr Mulholland. Dr Mansfield, you are up on the screen.

Sarah MANSFIELD: Yes, thank you. Thanks for appearing today. I just want to start by clarifying a couple of the comments that you provided in your opening statement. Just to touch on one that Ms Purcell raised, I was wondering if you had any evidence to support the comments you made about mental injuries being predominantly community-based injuries. Do you have any evidence that supports that?

Tim PIPER: I do not have any particular evidence that I can offer to you, and I would like to have the opportunity to provide that. We have not been given a great deal of time. I must say my technical OH&S person is on long service leave at the moment, so –

The CHAIR: You are welcome to take it on notice and provide it to the committee staff.

Sarah MANSFIELD: That is fine, yes.

Tim PIPER: We would like to. But at the same time, I do have over a long period of time, Doctor, anecdotal evidence, if you like, and discussions from members who say that these mental injuries are not just created by them; they are being brought into the workplace.

Sarah MANSFIELD: Okay. And the other thing you mentioned is that there is nothing obvious with mental injuries compared to physical injuries. I guess from my perspective, having dealt with both sorts of injuries clinically, I would be curious just to understand a bit more how you have come to that position.

Tim PIPER: I do not know what you are a doctor of, but you are probably better versed in this than I am.

David ETTERS HANK: Medicine.

Tim PIPER: Medicine, there you go. You are about 10 steps ahead of me. But the point is, though, that employers are not GPs or medically trained either, so they are not going to be able to see a mental injury or perceive a mental injury easily or quickly. However, if you have got a broken leg, they can see it. These types of things are something that they have been much more comfortable in accepting. A mental injury is significantly beyond that, and sometimes hard for us all to pick up.

Sarah MANSFIELD: And what more support do you think employers might need to be able to better understand that and recognise it?

Tim PIPER: Support from GPs would be helpful. I think that GPs have an important role to play here. It is a very difficult one for them, though, because they are very busy and they have to move people through, just like any of us have to in a business. Support from psychologists and psychiatrists would also be useful, so intervention at an earlier stage when people have mental health injuries. And then the other one that I mentioned earlier is support that might be given directly to employers at the earliest of stages, knowing that they have the advice available to them, and from people who understand the issues, rather than being left in

limbo. Whilst we might get calls from our members about it, there are thousands of companies out there that should be members but are not, and they are left with a bit of uncertainty. If we can help all employers to develop that certainty, I think that would be positive for them and for employees.

Sarah MANSFIELD: What more support do you think is needed for employers in terms of prevention of mental injury in workplaces?

Tim PIPER: I am not really versed to tell you what that might be, but obviously there must be certain steps that they can take, whether that is earlier training that they get, earlier education programs that they get, being able to recognise signs of mental injury at an earlier stage like we have tried to do with bullying – those sorts of things. There invariably will be steps that we can take that we are not looking at at the moment, that will not be expensive and that will not be intrusive but enable employers to recognise where action might be needed as a preventative issue rather than acting after they see and know it is happening. But it will be for the people who are experts in the area I think to make that decision, and the two ministerial committees that I sit on have those experts that can provide assistance.

The CHAIR: Thanks, Dr Mansfield. That is all we have got time for, so we will move on to Mr McIntosh.

Tom McINTOSH: Thanks both for being here today. Mr Berger asked about your members' support for the Bill, and you spoke to that. Mr Mulholland raised some potential hypothetical situations about premiums and whatnot. I am just wondering if you could expand a bit more. It was a difficult one for you to answer, so perhaps another way for you to address it is premium stability. I wonder if you could talk about that and, for your members, how important that is.

Tim PIPER: I have been part of the system where premiums were going down. That goes back well over probably 15 years, and obviously we were supportive of that. That stability was important for small businesses because they knew where they were standing, it was important for larger businesses because they could recognise what they could and could not do and I think it was also important for the message that we could give to businesses outside of Victoria that were considering investing here. You do have a WorkSafe system that looks after employees, but you also have the stability at a reasonable level of cost. You also know that there is a risk element added, so if you are in a sector with a high-risk area, then you have to take additional measures to look after your employees and make sure that you have as few injuries as possible. The stability over a longer period was wonderful for employers, but then we all of a sudden got to not a cliff but a ramp up just so significant that employers reacted to it and then started looking at other states and trying to determine whether other states were any better. It is one of the puzzles that employers put together when they are looking at investing in the state.

Tom McINTOSH: What do you think these reforms do, looking forward, for that premium stability, to extend on what you are saying?

Tim PIPER: I think there is an opportunity for the government now to speak with crossbenchers, to speak with the opposition, to try and make sure there is a cap on premiums ongoing if this legislation is enabled, with some potential changes, which would provide some more certainty to employers. I think it also sends a message that we need to make sure we constrain spending from the administration of WorkSafe and to make sure that they know that this is all they are going to have for a few years. Now, the cap does not need to be zero, but it just needs to be at a level that we can appreciate and accept.

Tom McINTOSH: Okay, and would you think these reforms make significant premium increases in the future less likely?

Tim PIPER: I would hope so. We are being led to believe that that is likely to be the case, and that is what we certainly would expect. There will be a reaction from employers at any increase. There will be a severe reaction from employers at a major increase, and the government will not want to see that sort of reaction again from employers. We have had one. We really do not want to get another that is as significant as that. Believe me, there are two things that employers worry about at literally all levels: it is, WorkSafe and it is payroll tax, and they are both within this government's ambit.

The CHAIR: We have to move on.

Tom McINTOSH: Thanks, Chair.

The CHAIR: Thanks, Mr McIntosh. Mr Davis.

David DAVIS: Thank you, Mr Piper, for your evidence today, and also to Jack. I am just going to try and summarise what I take to be your recommendations here because I want to get to the pointy end of this. One is that there is an independent review of WorkSafe, and I take it that that has to be an independent one, not a government patsy or something like that. That is the first one.

Tim PIPER: I agree. It needs to be independent.

David DAVIS: And we need to make sure that there is consultation with employers before someone is appointed.

Tim PIPER: Yes. We would prefer to see that, yes.

David DAVIS: The second thing I wanted to pick up is: you are saying that OH&S should not be split off from WorkSafe, so it needs to be retained as an integrated unit.

Tim PIPER: I do. I believe that both systems can and do work in conjunction with each other, and you do not have a whack-the-mole system where something happens in one area and you see the impact on another. If they are together, they can appreciate it before they take action.

David DAVIS: I am trying to get through these quickly – the third one is that WorkSafe premiums should be capped, given the 42 per cent increase. They should be capped and the scheme should be made sustainable after that.

Tim PIPER: Yes.

David DAVIS: The fourth one is that there should be no additional requirements added beyond what is in the Bill. Is that what you are saying?

Tim PIPER: Yes.

David DAVIS: Yes. And –

Tim PIPER: No, sorry: no additional requirements on WorkSafe to make major changes that will cost the system more.

David DAVIS: Okay. And the Return to Work matter that is alluded to on the government website but has no framework, should that be in the Bill with some sort of tripartite oversight of it?

Tim PIPER: If it is in the Bill, it creates certainty, and I think that that is useful. If it is not going to be in the Bill, the government needs to confirm that they guarantee it will all go ahead irrespective of whether it is legislated or not.

David DAVIS: And then the early intervention question that I put to a number of witnesses earlier: is it the employers' view that, where a claim has occurred, the early intervention of support on a range of levels can help both manage the claim and manage the cost?

Tim PIPER: That is the advice we are given: the earlier the intervention, the more likely you are to clear the matter and the less likely people are to be on a long-term injury list.

David DAVIS: And finally, just going back to you being informed about the terrible position that WorkSafe has got itself into: the government knew – we know, we now have the Finity report from 2020; were you provided that information at the time or near to that time?

Tim PIPER: I do not know whether we were provided with that information at the time, but I certainly have known for a couple of years that the system was in difficulty.

David DAVIS: Dire straits.

Tim PIPER: So at the meetings that we went to, there was a recognition that something was going to have to give.

The CHAIR: Thanks, Mr Davis. Mr Ettershank.

David ETTERS HANK: Thank you, Chair. Thank you for your presentation today. I understand entirely what you are saying about the 42 per cent being a pretty shocking impact on your members. Can I ask, in terms of looking at the rates in Victoria as a national body, how do they compare nationally to other states, the premiums?

Tim PIPER: It is very difficult to compare. To start off, Victoria has done a pretty good job over the years in keeping premiums at a lower level. Now they have ramped up considerably, but it is hard to compare what we do with other states. Queensland has a different arrangement, and if you wanted to compare, Queensland is probably lower but also they are not as generous. New South Wales has a higher amount, I think – South Australia certainly has. But even though we have got systems that tend to play the same role, they are quite different in what they offer. So I think that sometimes comparing us with other states and certainly comparing us with what is happening overseas are fraught because you are not comparing like with like.

David ETTERS HANK: Yes. It is pretty hard to know where you stand, though, if you do not look around and look for comparators I would have thought.

Tim PIPER: I think we need to look at comparators, but we need to be looking at individual sectors of each system to know whether it is working or not. Will we take a Queensland system that is not as generous towards employees – and I think they have a lower percentage – or do we go to those that are more expensive for employers? I think if we look at what Victoria has done – and we have been a leader in this area over the last couple of decades anyway – we should continue to try and lead.

David ETTERS HANK: Okay. Changing the subject a little bit, I am really troubled by your concept that you cannot see mental illness or damage. Take one of your members – a security guard, gets severely bashed at work, suffers physical injury and suffers PTSD. Are you saying that the physical injury should be compensatable but the mental injury should not be?

Tim PIPER: No, I am not, no. I mean, that is taking it to an extreme. I think what I am talking about is a mental injury – not where somebody has been bashed. We see the ambos and the nurses and the police go through extreme areas, and we understand that that causes anguish.

David ETTERS HANK: Yes. I have given you an example, though, specifically from your base – like, a security guard in a shop or a hotel.

Tim PIPER: No, not at all. It is where we are coming to work and – I will give you an example. You have asked me off the cuff, if you like. But where somebody is feeling extreme anguish at home, it might be for whatever reason, and they bring it into the office – because you cannot leave it at home; that is what you do – and the employer does not necessarily notice. The person might not want to be talking about it.

David ETTERS HANK: That is really not what I am talking about, though, is it?

Tim PIPER: No, but that is what I am talking about.

David ETTERS HANK: I understand the point you are making about it not necessarily being sourced in the workplace. But perhaps we will just flip this onto another point that links directly to this. If we accept that scenario of the security guard in a private sector setting having both a physical and mental injury, if we were looking at the total damage to that person, do you think it is appropriate that this Bill would say, ‘For the purposes of eligibility you cannot include the physical and mental injury concurrently, they have to be treated separately and go above that 20 per cent threshold’?

Tim PIPER: I understand the question that you are asking. To be quite honest, I would need to get further advice on that. My OH&S expert is not with us at the moment, so the implications of that I would have to look at a bit more seriously.

David ETTERS HANK: If you could take that on notice, that would be great.

The CHAIR: Yes. We are at time now, but you can take it on notice. The committee staff will reach out. Thank you. Ms Terpstra.

Sonja TERPSTRA: Thanks, Chair. Thank you both for coming in and giving your presentation and opening remarks. I just want to go to your comments, Mr Piper. You were saying about how you have been in the scheme for a while, and obviously you represent employers in the manufacturing sector as well, so it is quite different perhaps to some of the things that we have been talking about like teaching, nursing and policing, particularly in regard to mental injuries. I was interested when you were saying you have been in the scheme and maybe about 15 years ago there was a situation where premiums were actually going down. Can you compare perhaps what was happening at that point in time as to why premiums were going down and now what you perhaps think is the driving force? We are hearing it is mental injury, but in the manufacturing sector what trends are you seeing that might be driving it up?

Tim PIPER: It is mental injuries. That would still be the main area – not to the extent that we are seeing in the public service in particular. I saw some figures just recently that showed the top 10 mental health injury areas were all public service areas, and you must have seen those. In the private sector there have been many less mental injury claims; however, there is still an impact. We are recognising it, we are understanding it and we are appreciating it, and we were not doing that before. So that is a change.

Sonja TERPSTRA: I think you said earlier too the scheme was designed around principally physical injuries in the past and now it is being asked to appreciate other types of injuries – more than it has ever previously done – and maybe is not grappling with it that well. What sorts of things do you think really need to change in your sector, in the manufacturing sector, to kind of grapple with those mental injuries? What could employers do locally? Is it about early intervention, greater education and getting support for all of those things?

Tim PIPER: It has got to evolve. Employers are evolving, but we look to the larger employers very often to start and recognise it. Many have, and they have got experts within their organisations who can help them. But a lot of SMEs and medium sizes just do not have that support mechanism, so they need to get it in one way or another – and the recognition that mental health injuries can be dealt with at an earlier stage and that we do not have to just let them get worse, as often they do. We know that physical injuries can create mental injury, and we know that mental injuries can compound themselves. In order to reduce the level of those injuries, we need to get early intervention and support.

Sonja TERPSTRA: And do you recommend to your members that perhaps they look to having an employee assistance scheme in place so that if employees are struggling with mental health issues, they can get that early access through employee assistance programs?

Tim PIPER: EAPs are in so many places now, especially in white-collar –

Sonja TERPSTRA: But do you recommend it to your members?

Tim PIPER: Yes, we do. We recommend the support that can be given to them. We have it and many other organisations that I am involved with have it, and we recommend that employers support their employees as best they can. But an EAP system is also expensive.

Sonja TERPSTRA: Thanks, Chair.

The CHAIR: Thanks, Ms Terpstra. Mrs McArthur.

Bev McARTHUR: Thank you very much, Mr Piper. I imagine when you refer to the mental injuries that might be occurring at home but brought into the workplace, they could be things like a gambling issue, an addiction issue, a domestic issue or financial issue. They are the sorts of things you are referring to?

Tim PIPER: Absolutely. It could be a gambling issue of your husband or wife.

Bev McARTHUR: Exactly.

Tim PIPER: It might not be you.

Bev McARTHUR: Yes, quite. Now, we have also learned that a significant reason for the increased blowout in WorkCover is due to the public sector increases in costs. Should the private sector be picking up the bill for a bad employer from the government sector?

Tim PIPER: I have specifically asked WorkSafe about this quite recently, and I do not believe we are. Well, WorkSafe tells me that we are not and that the claims that are being made on the public sector are being compensated by the public sector – because I was very conscious that we should not be having to deal with these claims that are being created not unreasonably in many sectors that we are having to deal with now. But I do not believe we are paying for it, if at all.

Bev McARTHUR: But the increase in the premiums is clearly due to the cost blowout, which we have learned is from the public sector largely.

Tim PIPER: That is true, but the premiums have not all been across the board. Some sectors have not had the major increases that the police have had or the teachers have had. I think education have had significant blowouts. That has not occurred in the private sector.

Bev McARTHUR: No, we realise it has not occurred in the private sector. It has occurred in the public sector, but all employers in the private sector are going to pick up the bill for the public sector.

Tim PIPER: I think we are paying a certain amount of it but, I understand, not very much, because that is a specific question I asked at a most recent meeting where the Chair and CEO of WorkSafe were.

Bev McARTHUR: Mr Hilakari painted a dire picture of the relationship between the union movement and this Labor government –

Tom McINTOSH: Mrs McArthur –

The CHAIR: Sorry, I think –

Members interjecting.

Bev McARTHUR: Now, now, stop running the protection racket –

Members interjecting.

The CHAIR: Order! Can I just have some order. I did go to speak before the others did to say that I think that is out of order. Can we keep questions in line with the Bill we are inquiring into, not the relationship between the union movement and the government.

Bev McARTHUR: Okay, Chair, do not take up my time. Has the Workplace Injury Rehabilitation and Compensation Amendment Bill united the union movement and the employer movement like never before?

Tim PIPER: Unions and employers united –

Bev McARTHUR: Over the concerns about this legislation.

Tim PIPER: No, I think we are on a different page with the legislation. I think if there has been any reason to push it out, there are different rationales between why the union movement is doing it – they would like to see it not happen – and us that want to make sure that we do not have an increase in the premiums. But I did hear one union leader saying, ‘Let’s increase premiums.’

The CHAIR: This is your last question, Mrs McArthur.

Bev McARTHUR: So how are you going with negotiations with the government about the increase in premiums, or have there not been any negotiations?

Tim PIPER: I think that negotiation needs to be between the opposition and the government and the crossbenches to make sure that happens.

Bev McARTHUR: Even though you are on those committees that are supposed to be looking at it.

Tim PIPER: Those committees are really oversight more than anything else. But we have discussions – of course we have discussions – with both sides of the house, all sides of the house, and we are pushing our position that we need to make sure that premiums simply do not increase.

The CHAIR: Thanks, Mrs McArthur. Mr Galea.

Michael GALEA: Thank you, Chair. Thank you, Mr Piper. We have heard a line of questioning this morning from opposition members in fact, including one question to you as well, around the dates at which the issues emerged, and it seemed to me to be commentary around premiums and action in 2020–21. If there was a premium increase at the height of the pandemic when all Victorians, including Victorian businesses, were doing it tough, what sort of detrimental impact would that have had on your members?

Tim PIPER: I think we would have had a reaction, as you would have expected.

Michael GALEA: A strong reaction perhaps.

Tim PIPER: You know what my answer is going to be here. We could not have afforded increases at that stage.

David DAVIS: But they hid it instead.

Michael GALEA: When you are dealing with all sorts of other pressures. Excuse me, Mr Davis – when you are dealing with all sorts of other –

Members interjecting.

The CHAIR: Order! Can we please give respect to the person asking the question.

Michael GALEA: Thank you, Mr Piper. You did say in your opening remarks, and please correct me if I transcribe this wrongly, mental health claims are always being accepted. Was that a literal or hyperbolic comment?

Tim PIPER: I think it was a bit more literal than I would like it to have been perhaps. Mental health claims are accepted; I think ‘always’ is probably a bit more than I would have suggested.

Michael GALEA: Sure. And I note there has been an increase over time as we have had a better understanding of mental health issues as well.

Tim PIPER: Thank you for amending that for me.

Michael GALEA: With pleasure. You did also then talk about in terms of differentiation between mental health and physical health claims and how that works with a no-fault system. We know that exacerbation is a really big principle of the WorkCover system – that it is perfectly legitimate. If you do have an injury at the workplace which exacerbates something from outside of work, that is still a valid claim. Is it your view, though, that it should not be that for mental health as well? Would you draw the distinction there?

Tim PIPER: I think we should be conscious of it. Invariably if somebody comes to work with especially something that is not as well noticed as a physical injury, and it is exacerbated – wherever that might be, and let us say it is at work – then it is just very hard for employers to accept it because they cannot see it nearly as easily. Often they do not know what they can do. If somebody has got an injury, you know you cannot have them doing any physical activity, whereas if they have got a mental injury, you might not be aware of it, and you do not know what steps can be taken or whether you should be taking any steps. I just think that we are having to deal with community-based mental injuries as well as workplace ones, and WorkCover and the WorkSafe system seem to be having to pay for a lot of that.

Michael GALEA: Would you agree, though, that just because something might not be as physical that it is no less important or impactful?

Tim PIPER: I think we have recognised that mental health injuries can be equally as debilitating in one form or another as physical injuries.

Michael GALEA: Thank you. We could have a nice long conversation about how we define that, but I think my time is up.

The CHAIR: That is correct. Thanks, Mr Galea. Ms Broad.

Gaelle BROAD: Thank you very much for attending today. I am interested because news reports said that the costs of the latest premiums have added \$18 billion to business over the next 10 years, and you talked about premium increases of up to 75 per cent. Just moving forward, what would a further increase to premiums do to business in Victoria? I think we had 7500 businesses leave Victoria last year, but what do you see the impact being?

Tim PIPER: It is not just one thing that will create change. It is one thing upon another upon another. We are finding increased costs that are being imposed on businesses across the board. This is one of them that is very highly visible, and businesses react to it. Whether it is a rational decision or whether it is just an emotional decision they make, it is something that they consider, particularly when they are reinvesting. Businesses in Victoria will be looking to reinvest all the time, yet it is another cost that they have to pay. I have businesses that are looking to South Australia as to what they do there. I have got businesses that are looking to Thailand. All these things just add up and start to impact on businesses' ability and willingness – probably the willingness as much as anything else – to continue to invest in Victoria, and that is not what we want to see. I do not think it is what the government wants to see either. We want to make sure that we continue to support business, and that means keeping costs down across the board.

Gaelle BROAD: The Finity report was mentioned earlier. That was back in 2020, and I think it took an FOI request to get that information out in the public, but it says:

WorkSafe is currently facing claims-management pressures essentially across the board – growth in claim numbers, worsening claim durations, less-effective termination provisions and an increasing risk of common-law pressures in the next two to three years ...

I guess the government talks a lot; it seems to have taken a long time. The government has been pressing pause on the snooze button on the alarm for a number of years on this issue. Do you think premiums are the only way? You mentioned alternatives like Return to Work Victoria – should that have already been in operation back from 2020?

Tim PIPER: We have to look at alternatives, and this is not a blame game as far as we are concerned. It is actually looking at where we are now and trying to make sure we improve. The common law you mentioned could be a significant one with this legislation. I think the government should be making sure they keep an eye on common-law claims to make sure that where people do not reach that 20 per cent level that common-law claims are not instituted as a result of not achieving that, because that is one of the dangers where it could spiral again. Common-law claims were much more significant in past years than they are now, so that is another area that the government must keep an eye on. It is not just one issue; it is not just premiums – it is a whole range of areas where we look to support from WorkSafe and where we can give support to WorkSafe to keep those costs under control.

Gaelle BROAD: So in your understanding of Return to Work Victoria, should that have already been operating as part of this scheme?

Tim PIPER: There have been systems, I think, to support return to work but it has not involved employers. I think if we made sure that we involved more employers in this area, we would get a better result.

The CHAIR: Thanks. One really quick question – we are well over.

Gaelle BROAD: This government has talked about a review in 2027. Would you like to see a review of this earlier?

Tim PIPER: I think we should see a review well before that.

The CHAIR: Thanks, Ms Broad. Thank you both for appearing before us today and for coming at such late notice and before the holidays. We really appreciate it.

Witnesses withdrew.