

WorkCover Western Australia Authority —

Mr S.J. Price, Chair.

Ms S.F. McGurk, Minister for Industrial Relations.

Mr C. White, Chief Executive Officer, WorkCover WA.

Mr J. Hull, Chief Finance Officer, WorkCover WA.

Dr S. Gallacher, Chief of Staff, Minister for Industrial Relations.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available online as soon as possible within two business days. Questions must relate to the operations and budget of the off-budget authority. The chair will allow as many questions as possible. Questions and answers should be short and to the point.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by noon on Friday, 31 May 2024. If a minister suggests that a matter be put on notice, members should use the online questions on notice system to submit their questions.

I give the call to the member for Cottesloe.

Dr D.J. HONEY: Thank you very much, chair. I refer to page 117 of budget paper No 2, volume 1, and the asset investment program table, which includes building maintenance, hardware and so on. The increase in the asset investment program is attributed to the replacement of the regulatory services management system in 2025–26 and 2026–27. I am intrigued; the system is described as being obsolete and I wonder: why is it not being replaced earlier, given the importance of those systems?

[10.20 am]

Ms S.F. McGURK: I might hand over to Mr White to answer that question.

Mr C. White: The system is still perfectly functional. It is reaching its end of life, but it has been programmed to be replaced following the introduction of the new act. The new workers compensation act has been coming for a long time and will come into operation on 1 July. We felt it was too much of a shift for our systems to cope with a brand new system for our regulatory services team and to cope with the changes that are incorporated in the new act. The intention is to look at a third-party system. This system is built in-house, and we have spent and continue to spend a lot of resources on ensuring cybersecurity for it and our other systems to achieve the essential eight requirements that are being implemented across government. It is a high priority, once we get to the other side of the new act, to do the evaluation and tender work to select a system for the long haul. The system dates from 2012.

Dr D.J. HONEY: The system is described as being obsolete. Does that mean that WorkCover will need some sort of workaround or other things until it gets the new system? Will it sort of restrict its ability to manage the new act or will it cope in other ways?

Mr C. White: No. The system is still perfectly functional, and we have a good, solid in-house team that maintains it. It is being updated at the moment, ready for the new system requirements that are associated with the new act. Obsolete might be too strong; it will be maintained over the next few years, and that is largely on the back of increased cybersecurity expectations. The skill sets required internally to ensure safe and secure systems are getting beyond the scope of an agency like ours, so the plan is to move to a third-party system that has those cybersecurity expectations baked in. That is the intention. I do not have any concerns about our ability to manage regulatory services cases in the next year or two.

Dr D.J. HONEY: I have a new question related to budget paper No 3, page 103, and the updated financial estimates. The budget updated financial estimates for workers compensation are \$18.2 million for 2023–24 to 2027–28. The former minister and I spent some time in the chamber talking about all these changes. How many claims have we seen over the past year for uninsured employers?

Ms S.F. McGURK: Thank you. I will ask Mr White to answer that question.

Mr C. White: This is something that we track very closely. The organisation, WorkCover, has a key performance indicator that expects about five uninsured claims a year. This year to date, we have had nine. Many are small in cost, but there have been one or two very large uninsured claims that the safety net the scheme provides is required to fund. They are baked into the actuarial estimates for the forward estimates. Our recent experience—not so much

in the number of uninsured claims but in the cost of a small number of claims—has been that the cost is unusually high, and that has played out in the actuarial estimates going forward.

Mr W.J. JOHNSTON: Could I ask a further question on that?

Dr D.J. HONEY: Yes; fire away!

Mr W.J. JOHNSTON: Could the minister update us on the program of work of chasing down the uninsured employers?

Ms S.F. McGURK: Thank you. I will ask Mr White to answer that.

Mr C. White: I mentioned that we have nine claims for which WorkCover is providing payments to injured workers, but there are 22 potentially uninsured claims. WorkCover spends a lot of resources to find an insurer if the employer is unaware that it is insured, but the workers compensation also provides that if the contract chain has a principal, the principal picks up the liability if the contractor is uninsured. WorkCover, historically, has been very successful in finding principals and, therefore, insurers that pick up the cost of the claim. The average payment out of the scheme is not high. We have to make provisions for it because if all those 22 claims were payable by the safety net, we would need to fund them. We have actuarial updates every 30 June to make sure that we are well provisioned for that. In most cases, we find an employer or a principal employer and, therefore, an insurer that is liable to make the payments. There have been one or two very large claims for which that has not been the case and the scheme has had to make the payments to the injured worker.

Dr D.J. HONEY: I appreciate that Mr White said there are a reasonable number of these. For those very large claims, was it that the employer had not followed the law and taken out insurance, or was it that the business had gone broke and was no longer existent to pay the claim?

Ms S.F. McGURK: Thank you. I will get Mr White to answer that.

Mr C. White: In those cases, the employer did not have insurance. They were rather informal employers that perhaps were not aware of their obligations on many fronts, but there was an employment relationship and a very serious fall from height happened. The injured worker was a worker, the employer was an employer at law and, therefore, those obligations were there. That is something we see perhaps increasingly: employers are not fully aware of their obligations through informal arrangements. Sometimes family or friends are involved and work is done; it is actual work and paid work, but the protections are not in place.

Dr D.J. HONEY: I refer to the money recouped. Mr White said WorkCover puts a lot of effort into making sure that people do somehow or other have to pay for their obligations. How much money was recouped by WorkCover over the last 12 months or financial year?

Ms S.F. McGURK: Can I just clarify? Is the member asking about the employers that are not insured?

Dr D.J. HONEY: Yes, I am asking about when WorkCover has pursued a negligent employer.

Mr C. White: That is a difficult question to answer because often we do not make the payment or it takes many years. When we do make the payment, it goes to the fines and recovery process for recompense, so it takes a long time to get those moneys back. We will have figures on how much income we received in 2024 or the year to date on those recoveries, but, unfortunately, it is not a very high proportion.

Dr D.J. HONEY: I have a follow-up. Again, I refer to page 103 of budget paper No 3. Part of that \$18.2 million increase is attributed to in-house prosecution activities. Can the minister outline what prosecution activities have been undertaken to save time? What team does WorkCover have in-house for prosecutions?

Ms S.F. McGURK: I will ask Mr White to answer that.

Mr C. White: Traditionally, WorkCover prosecutions have been done by the State Solicitor's Office, but in the last three years, through a memorandum of understanding with the Australian Taxation Office, WorkCover has obtained data on wages paid and pay-as-you-go taxation context for employers, which have greatly enhanced our ability to identify employers that look like they should have insurance but we cannot find them on our systems. That has been very successful. Elsewhere in the budget paper, it talks about additional revenue that we have obtained from fines and penalties through that process. We have substantially increased the number of prosecutions, to the extent that the SSO asked us to consider bringing that function in-house. Through a period of conversation with the SSO and training, we have trained one legally qualified in-house person, and we have recruited an ex-police prosecutor to undertake that function for us. From the Department of Justice, we obtained the relevant approvals to run the prosecution process ourselves, and that is going very smoothly. Over time, we expect that the number of those prosecutions will diminish. The power of the data-matching is so strong that we think in the next year or two—perhaps a little longer—it will be very hard to be an employer in Western Australia and not have insurance because we will see it within a few months on our systems. At least for the next year or two, we will need that prosecutorial function to be sustained.

Dr D.J. HONEY: Thank you very much. Minister, in budget paper No 2, volume 1, page 176, just under the reference to the Workers' Compensation and Injury Management Act 2023 is an estimate that the premiums across the catastrophic injury support scheme will increase by 2.83 per cent. That will increase income by about an additional \$8.6 million in 2024–25. Can the minister outline how that was estimated and how that number was determined, please?

[10.30 am]

Ms S.F. McGURK: Thank you, Mr White.

Mr C. White: As part of the development of a new workers compensation act, the ability for workers to access the Insurance Commission's catastrophic industry fund was built in and it was actuarially costed. The new act effectively positions WorkCover as a collector of a levy and the funds collected pass through WorkCover through our standard levy mechanisms. WorkCover is funded by levies on insurers. This is an additional levy that WorkCover will collect and remit directly to the Insurance Commission to cover the costs of catastrophically injured workers. For this year, insurers and self-insurers will be levied approximately \$27 million and their contributions will go to the Insurance Commission to manage those claims when they occur.

Dr D.J. HONEY: When we discussed this in Parliament with the former minister, that was a reassuringly low estimate for giving that important cover. It did not look like it was going to send business to the wall to cover it all. Are there any surprises, or does it look like those estimates have been pretty good?

Ms S.F. McGURK: Through Mr White, thank you.

Mr C. White: It is early days yet. Because the system has not commenced, we have had the benefit of other jurisdictions moving in the same way and it has been very varied. In some jurisdictions, quite a number of claims have found their way to their catastrophic schemes. In others, not so much. We think there will be a relatively small number of claims, and actuaries agree, simply because in Western Australian workers compensation schemes, severely injured workers can still sue at common law, receive large lump-sum payments and take care of their own care. This lifetime care is only for care, so an injured worker who meets the criteria will have all their standard workers compensation payments and can opt to go to the Insurance Commission for lifetime care for medical and other supports. Similarly, a worker can decide that they can manage their future and will take the lump sum associated with the cost of that care, and they will look after themselves. It will be very interesting to see over the next few years how many claims there are and what choices workers make and what legal advisers provide to them.

The CHAIR: That completes the examination of the WorkCover WA.