

**Insurance Commission of Western Australia —**

Mr S.J. Price, Chair.

Mr M. McGowan, Treasurer.

Mr R. Whithear, Chief Executive.

Mr W. Stirling, Finance Manager.

Ms J. Gardner, General Manager, Government Insurance.

Mr D. Lines, Principal Policy Adviser.

[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 close of business Friday, 3 June 2022. If a minister suggests that a matter be put on notice, members should use the online questions on notice system.

Does the Leader of the Opposition have any questions?

**Ms M.J. DAVIES:** I refer to page 180 of budget paper No 2, volume 1, and paragraph 6 in relation to the Civil Liability Act and the removal of the statute of limitations for child sex abuse claims. Could the Treasurer provide an update on the impact that that will have flowing through the budget and the special dividend that has been paid?

[10.30 am]

**Mr M. McGOWAN:** From memory, we have allocated around \$180 million of the surplus to this. As the member knows, we changed the law in 2018 to allow for victims of child sexual abuse to pursue actions against their perpetrators outside the statute of limitations. Up until then, essentially, there was a six-year limitation period, so if someone had not taken action by the age of 24 years, their right expired. That was obviously a significant injustice, so we fixed that. Because the state is liable for a range of activities in boarding houses and other state-run venues, we have allocated money towards it. That liability has grown. I will ask Mr Whithear to comment further.

**Mr R. Whithear:** The special dividend paid was \$130 million, and that has been transferred from the third-party insurance fund as a result of very healthy investment returns in the prior financial year. Although we have only recently been able to quantify the liability for these historic claims, we now have an estimate heading towards \$300 million, so this dividend from our investment returns will provide \$130 million to meet part of those liabilities.

**Mr M. McGOWAN:** The Insurance Commission of Western Australia is allocating \$130 million and the state is putting in \$185 million to meet forecast payments from the redress scheme and civil litigation. Therefore, we will have allocated a total of over \$300 million towards these issues.

I think what I have said is correct.

**Ms M.J. DAVIES:** Just so I am clear, the quantification of the claims that the state is expecting in total is \$300 million as a result of the removal of the statute of limitations. Could I just get an understanding of how that has been arrived at?

**Mr M. McGOWAN:** The advice I got from Treasury and perhaps from the State Solicitor's Office is that the liability is growing. Obviously, if we can, we want to negotiate outcomes, not go through court processes. We made a deliberate decision in 2018 to allow for this in view of the horrific stories out there about what happened to people when they were children, so it will cost what it costs. That is the reality of what we are dealing with. We want to be fair and reasonable about it; that is certainly my commitment. I will get Mr Whithear to explain what the expectation is of the total liability.

**Mr R. Whithear:** We estimate that the total liability for the civil liability actions is approaching \$300 million. That has been difficult to calculate for quite some time, because some claims settle for very low amounts, and then there are more shocking cases for which the compensation is quite high. It has been quite difficult for the actuaries to develop averages because of the spread of the settlements, if you like. We now have a greater number of claims. We have better experience in the settlement of those claims, so our actuaries have been able to calculate this estimate of \$300 million. But the redress channel is separate, and that is not something that the Insurance Commission of Western Australia manages.

**Ms M.J. DAVIES:** Just for my own clarity, the \$300 million that has been estimated in total—although I think I heard that that is expected to increase—is currently covered by the \$130.3 million special dividend, and then there was other funding from the consolidated account, so it is fully covered for that quantity. Is that correct?

**Mr M. McGOWAN:** That is right. I think I announced on budget day a \$185 million allocation towards assisting, then there is what ICWA is putting in. That adds up to around \$300 million, which probably covers some of the legal fees as well. We are using the budget surplus to deal with what is going to be an ongoing financial liability for good purposes out of these historic claims. As I said, we committed to changing the law when we came to office, and we did. We have met some of the people who have been sexually abused and we want to do the right thing by them.

**Ms M.J. DAVIES:** I have one further question. How often does the assessment of those claims occur? I am trying to get an understanding of whether the Treasurer thinks that number will continue to grow, and how that is assessed.

**Mr M. McGOWAN:** I might ask Mr Whithear to comment.

**Mr R. Whithear:** Our actuaries will look at these liabilities every six months and we will come to a firm landing annually in our budgets and annual reports. Whether it is expected to grow will depend on claims development. Like any other insurance line, if you like, we look at the volume and quantum of claims that have materialised in any year and try to make a forecast about future claims. In this case, we think that the civil liability claims will be covered at around \$300 million, but we may have a different estimate next year.

**Mr R.S. LOVE:** I turn to page 180 of budget paper No 2, volume 1, and significant issues. The second point refers to the motor injury insurance premiums in Western Australia being affordable. It does not say it is the cheapest. It points out that there is a jurisdiction where it is slightly higher. Where do we sit between the cheapest and the most expensive, given that we have had an increase in premiums in this budget?

**Mr M. McGOWAN:** I will let Mr Whithear explain how we sit on these things. I will be interested to hear!

**Mr R. Whithear:** I know I have this written down somewhere. It is still substantially cheaper than the rates in most other Australian jurisdictions. Australian Capital Territory is \$499, New South Wales is \$515, Victoria is \$539 and the Northern Territory is \$576. Those rates vary. Some jurisdictions have risk ratings, so a young male living in western Sydney driving a car with a V8 engine will pay a lot more than an elderly lady in north Sydney who drives to the shop once a week. Those rates are not standardised as they are in WA.

**Mr R.S. LOVE:** I have a further question. Does the motor injury insurance premium that is quoted there include the catastrophic injury fund?

**Mr M. McGOWAN:** I will let Mr Whithear explain.

**Mr R. Whithear:** Yes, it does.

**Mr R.S. LOVE:** I will just ask about that fund, which was established, I think, back in 2016 because some people who were at fault could not get insurance cover through normal third-party insurance. I note that there seems to be an increase in some of the demands on the fund. It is not really qualified so much as speaking qualitatively. Can the minister give us an idea of how much money is available from the premiums that have been put into that fund, and whether there is an assessment of whether it is necessary to keep that premium at the current rate?

[10.40 am]

**Mr R. Whithear:** To answer the member's question about whether premiums are assessed, every six months our actuaries look at the adequacy of premiums and whether they need to be increased, and also at the solvency of the fund. In this budget, the government has announced an increase in the motor vehicle injury insurance premium of 2.4 per cent, but zero per cent to the catastrophic injuries fund. That fund is in a healthy financial position. I do not want to overly complicate things, but as interest rates rise, the discount rate is higher, so the liabilities of the fund come down. The catastrophic injuries fund is in good financial health.

**Mr R.S. LOVE:** Is there scope for a reduction in premiums or the removal of certain classes of vehicles from the premium?

**Mr M. McGOWAN:** I will ask Mr Whithear to comment.

**Mr R. Whithear:** The Insurance Commission of WA would not recommend that. If we reduce a premium and then the position changes—say interest rates reverse—we may then have to look at a substantial lift in premiums. That is why the Insurance Commission has taken the position for the last decade of trying to break even on its underwriting and see minimal increases rather than substantial reductions or increases in premiums.

**Mr R.S. LOVE:** Did the introduction of the NDIS have no effect on payouts or the necessity to compensate people who are catastrophically injured? There is not much difference between a person who jumps into a pond and breaks their neck and a person who falls off their motorbike and has a similar injury. Does that have any effect on the level of claims?

**Mr M. McGOWAN:** The member has to remember that the catastrophic motor vehicle injury changes were brought in under the last government. We supported them, and I support them. I think they align with what is in place in other states for catastrophically injured people. Those changes came about because there were people who had been injured in a motor vehicle accident but could not point to the liability of another party; therefore, it was a bit of a lottery whether they were compensated or assisted properly or otherwise. The interaction between the NDIS and this scheme is a broader question. I will ask Mr Whithear to comment on the interaction between the two.

**Mr R. Whithear:** There is not much in the way of interaction. As the member has said, a person who sustains a spinal injury from a swimming pool accident, or from falling off a pushbike, will presumably be covered by the NDIS. People who sustain a catastrophic injury from a car accident are now covered for their care and support regardless of whether another party is at fault. When the NDIS was developed by the Productivity Commission, with all the failings of that estimation process, it also proposed that state governments establish a fund to look after people who are catastrophically injured in a motor vehicle accident. All states have those funds. They are slightly different. For example, our fund preserves the common law right of people who have been injured by another party to claim compensation and leave the scheme and look after their own affairs. That is one difference between our scheme and the scheme in the other jurisdictions.

**Mr R.S. LOVE:** Paragraph 7 on page 180 refers to the challenging situation with insurance and certain types insurance becoming difficult to obtain. I want to ask quickly about housing industry indemnity insurance. I think the only provider of that type of insurance in WA is QBE Insurance, and it provides only limited cover, with a maximum of \$100 000. Could this organisation potentially move into that space to provide a more realistic level of cover for home builders and households?

**Mr M. McGOWAN:** I suppose it is a decision for government as to whether we do that. I would prefer those things to continue to be dealt with by the private insurance market. The more government gets involved, the greater the risk to government and to taxpayers. I am reluctant to do those sorts of things. No decision has been made to do that at this time.

**Ms M.J. DAVIES:** Premier, one of the highlights from cyclone Seroja, and certainly the feedback we get from people in regional communities in the north of the state, is that insurance is virtually impossible to obtain; and, if it can be obtained, is extraordinarily expensive. Is any work being done within government to look at that, because when these types of events occur, the cost comes back to government through emergency payments? To me, the fact that it is a very thin market is certainly a market failure. This is an issue that is raised, and I am sure government members must be hearing it as well.

**Mr M. McGOWAN:** Cyclone Seroja was a dramatic event and impacted a number of communities. Fortunately, no-one was killed. The disasters on the east coast, with the fires, floods and cyclones, were magnitudes worse. I suspect that a range of communities, particularly in northern New South Wales and parts of Queensland, are going through some of the same issues. I will ask Mr Whithear to comment on the broader question.

**Mr R. Whithear:** We certainly acknowledge that in the north of this country, insurance is expensive and difficult to procure. We know some insurers will not insure property north of the Tropic of Capricorn. The federal government has had multiple inquiries into the availability of insurance. The Australian Competition and Consumer Commission has also looked at this. The former federal government made some policy announcements about a federal reinsurance fund and an expansion of the Australian Reinsurance Pool Corporation, which was brought in to cover terrorism events. That is yet to unfold.

In the last six weeks, I have been to London to pitch to all of the Lloyd's syndicates that reinsure government assets just how little damage has been caused to this government's assets in 59 cyclones over the last 20 years. We try to make the pitch that at least in Western Australia, the losses from cyclones have not been that great. We also try to differentiate Western Australia from the population distribution in Queensland and New South Wales, which is very different.

**Ms M.J. DAVIES:** It is more decentralised.

**Mr R. Whithear:** Yes, it is far more decentralised. I think that works when we are pitching to reinsure government assets. I am not sure that it works that well in the commercial market, where a person in the Kimberley might be seen as involving the same risk as a person in Cape York, which is probably not quite fair.

**Mr M. McGOWAN:** What has been the impact on insurance of the floods in northern New South Wales and southern Queensland? A major city, Brisbane, had huge floods. Are the people over there having trouble getting insurance?

**Mr R. Whithear:** The cost of insurance is going up. There are debates about flood cover versus storm surge cover. I believe the floods were the most expensive losses in Australia, at about \$3.5 billion. That compares with the east coast bushfires in Queensland, New South Wales and Victoria, which totalled about \$2.5 billion. We can also contrast that with a 40-minute hailstorm in Canberra, which cost nearly \$2 billion. Weather events can have unpredictable consequences.

**Mr M. McGOWAN:** I still see cars around with damage from our hailstorm. They do not look good. The pockmarks are amazing.

[10.50 am]

**Mr R.S. LOVE:** Earlier when we were talking about the HIA, the Premier mentioned that the government did not want to get into the business of underwriting the risk, but is it not a fact that the government already underwrites QBE if there is a run on the program? I think a maximum amount is already in the agreement.

**Mr M. McGOWAN:** I will let Mr Whithear explain the way it works.

**Mr R. Whithear:** In 2013, the market ceased to function effectively. QBE is largely the policy issuer and the claims manager, but premium revenue is transferred from QBE to the consolidated account or a special account in Treasury and claims are paid by Treasury via QBE.

**Mr M. McGOWAN:** Is this for home indemnity all over Western Australia?

**Mr R. Whithear:** Yes, for Western Australia. I do not think commercial insurance is available anywhere in Australia.

**Ms M.J. DAVIES:** So there could be a role for the government to expand its footprint in areas where the market has failed absolutely by any assessment, particularly in the north of the state?

**Mr M. McGOWAN:** I will let Mr Whithear comment further. It is quite interesting.

**Ms M.J. DAVIES:** I am glad we are having such an interesting conversation!

**Mr R. Whithear:** I guess it is a matter for the government to decide which agency looks after different functions. For example, I think the commerce department, or whatever it is called now, oversees this arrangement. It is up to the government how it chooses to manage that facility.

**The CHAIR:** That completes the examination of the Insurance Commission of Western Australia.