

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2015–16 ANNUAL REPORT HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 2 NOVEMBER 2016**

**SESSION SIX
INSURANCE COMMISSION OF WESTERN AUSTRALIA**

Members

**Hon Rick Mazza (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Alanna Clohesy
Hon Helen Morton
Hon Sally Talbot**

Hearing commenced at 4.30 pm**Mr ROD WHITHEAR****Chief Executive, examined:****Mr KANE BLACKMAN****Commission Secretary, examined:****Mr RICK HOWE****Deputy Chief Executive, examined:****Mr DAMON de NOOYER****Chief Finance Officer, examined:**

The CHAIR: On behalf of the Legislative Council Standing Committee on Estimates and Financial Operations, I welcome you to today's hearing. Can the witnesses confirm that they have read, understood and signed a document headed "Information for Witnesses"?

The Witnesses: Yes.

The CHAIR: It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard and a transcript of your evidence will be provided to you. It is also being broadcast live on the Parliament's website. The hearing is being held in public although there is discretion available to the committee to hear evidence in private. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session before answering the question. Agencies and departments have an important role and duty in assisting the Parliament to review agency outcomes, and the committee values your assistance with this. To get started, we might go to Hon Alanna Clohesy.

Hon ALANNA CLOHESY: Thanks very much, Chair.

The new catastrophic injury support scheme that commenced on 1 July 2016, how is that performing?

Mr Whithear: Well enough, member. It is early days, but we have been quite satisfied with the implementation arrangements we have been able to make. The Department of Transport performed their part well in developing the changes to their IT systems and as the retail arm, if you like, delivering that insurance policy on our behalf, that was absolutely critical to have that implemented. Our IT developments have progressed well as well, so we are happy enough with those. It is still early days, so we still have a fair bit more to do. We have been able to recruit some well-skilled allied health professionals into the organisation, which has been a productive step, as it was a bit of a change in the nature of the business for the Insurance Commission. Those people have already been performing a productive role, interacting with the trauma departments in the hospitals and reaching out and building relationships. Some of those relationships existed because we recruited people from those organisations and somebody who had done this sort of work for the Transport Accident Commission in Victoria. They are, I guess, striking up an early relationship with not only the trauma professionals, but also with the families when they are ready to be engaging with us, so that work can commence on developing care plans and things for people.

Hon ALANNA CLOHESY: So how many claims have been made to date?

Mr Whithear: If I can answer that across both the compulsory third party scheme and the new scheme because, as you might appreciate, with the compulsory third party scheme it can take

a while to identify whether another party is at fault and therefore liable and consequently whether the compulsory third party insurance will respond. If I can answer about suspected catastrophic injuries and work down across both schemes, starting with our estimates across both schemes. We expected that in this financial year about 92 people would be catastrophically injured; 44 of those would be unable to find another party at fault and would be in the new scheme; 48 of those would wind up claiming under the CTP scheme. Where we are at now is that we have received 53 initial notifications of serious injuries; 34 of those people were not catastrophically injured; seven cases have been confirmed to be eligible for catastrophic treatment in either of the two schemes. We have another 12 that we are still working through; people are still in hospital and their conditions are being worked through, diagnosed and, hopefully, are stabilising. As I said at the outset, in the early days we have dealt with a sizeable number of claims. We still have a dozen or so that we are still working through and seven have gone through, and we are in the process of having care plans developed for them as they leave hospital.

Hon ALANNA CLOHESY: Okay. So 34, did you say, were identified as not catastrophic?

Mr Whithear: Yes.

Hon ALANNA CLOHESY: What relationship do you have with other agencies to then transfer? If you have done the investigation, what happens next when you say, “You’re not considered to have a catastrophic injury”?

Mr Whithear: They may still be eligible; they still may be a client of ours under the compulsory third party insurance scheme.

Hon ALANNA CLOHESY: So they may be compensable in some way?

Mr Whithear: Yes.

Hon ALANNA CLOHESY: Depending on the level or degree of —

Mr Whithear: Yes, and I guess when an accident occurs, police reports come in and media reports are made. We will often hear about a serious injury and it may well be a serious injury, but it may be a number of broken arms or legs or ribs, but that does not put you in a long-term incapacitated state; it means you have a serious injury that requires serious medical care, but it may be dealt with just by the hospital and then there may be a compensation claim through to us, or there may be other insurances or, in some cases, even the Disability Services Commission may provide care.

Hon ALANNA CLOHESY: Or the National Disability Insurance Scheme?

Mr Whithear: Yes, that is possible.

Hon ALANNA CLOHESY: What relationships do you have with those agencies in order to ensure that that person, once you have done your assessment —

Mr Whithear: I guess we liaise with the other agencies, but it is more a case of where does the injured person look for assistance as they are coming out of hospital. We are talking about the spectrum of injuries from minor cuts and abrasions through to more serious injuries and whether those serious injuries are permanent or not. If it is a permanent spinal cord injury, they are likely to wind up with us. We could talk about different scenarios that might not wind up with us that could wind up with the NDIS; I guess we have not tackled those just yet.

Hon ALANNA CLOHESY: Okay. How many initial claims did you say you had?

Mr Whithear: Initial notifications from the hospitals is a total of 53, but then 34 of those were serious injuries but not catastrophic long-term and, as I said, seven are already in and another dozen are being examined.

Hon ALANNA CLOHESY: Okay. I am sure you have, but have you done some actuarial work around the number of people sustaining spinal injuries per annum?

Mr Whithear: Yes, we do. Do we have those or not?

Mr Howe: I do not have the exact details of the breakdown but I can say that when our assessments were done originally and when we did the planning, the actuaries identify the proportion of claimants that were expected to be in each of the categories of catastrophic injury. The two main ones were spinal cord injuries and acquired brain injury, and between them they account for 95 per cent or more of what is expected to be the claimants that we will deal with. The remaining three categories—which are severe burns, permanent traumatic blindness and multiple amputations—are far less frequent and would make up the balance. The rough ratio of brain injuries to spinal cord injuries that we would expect is around three brain injuries for each spinal injury that we might have, but those items were forecast in a quite detailed manner by the actuaries, but only based, obviously, on their best estimates from similar schemes elsewhere.

[4.40 pm]

Hon ALANNA CLOHESY: Did the advice you prepared identify some sort of total number of spinal injuries and acquired brain injuries and then, I guess, the trajectory of those and the costs, too?

Mr Howe: It did. Rod already mentioned the high-level estimates, which are the long-term average projections, and that is 92 total catastrophic injured per year, which was the expectation. Our own modelling identifies variations around that. In any one year you will get variation from that particular long-term average. Our modelling shows a 75 per cent certainty that we would expect between 81 and 103 cases in any given year. Whilst 92 is the projected expectation, in any one year we would, realistically, expect that number to be somewhere between about 81 and 103. Anything within that range would indicate that our projections are reasonably accurate.

Hon ALANNA CLOHESY: Okay.

The CHAIR: On the second column, second paragraph, on page 46 is your direct property divestment. You talk about the sale of four properties combined being almost \$600 million and that they exceed the property portfolio valuations. How much do they actually exceed the valuations by?

Mr Whithear: By \$60 million.

The CHAIR: By \$60 million, was it? How were the proceeds from the sale of those four properties reinvested?

Mr Whithear: All the proceeds are in cash right now. You will see in this annual report and our numbers since then have us very much overweight cash. That is a position that is taken by, I guess, a range of investment funds around the world. There are two primary factors driving that over-allocation to cash. One is the lack of opportunities in domestic and global markets to invest in assets at a price that we think is low enough for us to get a significant return. Also, the sale of these investment properties has just meant that there has been more cash moved from hard assets into cash. We are doing a lot of work to redeploy that cash but it is still with us in that asset class at the moment.

The CHAIR: On page 101, on your explanatory statement you have got —

Other income of \$36.8 million is \$10 million, or 21.4 per cent worse —

Which is interesting language. I would have thought “less” rather than “worse”. “Worse” sounds like there is something really wrong with it. I do not know who wrote this —

worse than the budget of \$46 million.

You have got —

This is primarily a result of the decline in property rental income arising from the sale of Forrest Centre

Is it the fact that you now put it in the cash and you are not getting the cash flow out of the cash that you got out of the Forrest Centre? Is that what is happening here?

Mr de Nooyer: The Forrest Centre was an interesting asset. Because we were owner occupied in that building, any income that came out of the Forrest Centre recorded as other income for accounting standard purposes. Any other investment class came through as investment income. It was only that Forrest Centre one asset that we recorded as other income. Because we sold the asset three-quarters of the way through the year, what we had projected to receive in rental income from holding that asset for the whole year was less than what actually happened.

The CHAIR: Okay. That is probably all the questions I have on that. You have explained it for me.

Hon SALLY TALBOT: I just wanted to ask you about the compensation for industrial diseases. Can I take you to page 64 and ask you to talk us through that profit and loss statement, because it looks as if there is quite a difference between 2016 and 2015? Can you talk us through that? It looks as if this year there has been a loss of \$1 million and last year there was a profit of \$1 million.

Mr de Nooyer: It is one of those funds where we actually have very low numbers of actual claims. In 2016 there were only seven new claims received for that fund. That is indicative of the nature of the insurance class, which is mainly asbestos-related, which have a long tail. What that means is when you have claims estimates which estimates from the actuaries your outstanding claims and liabilities, you get a small movement in any economic assumptions that might go into those actuarial assumptions. We will get big swings in that fund from year to year because of the low level of numbers. That claims expense—although that has increased, you will see, from around \$600 000 to over \$860 000, one of the reasons is that actuarial estimate. We had things like the impact of bond rates, which declined slightly, which did impact all the other funds but because this is a little bit smaller you see the higher variability from year to year.

Hon SALLY TALBOT: How many claims were there in 2015 that made up that \$591 000 compared to the \$864 000? That is the line that you are looking at, is it not?

Mr de Nooyer: It is. Within that there are two portions. There are the actual physical claims that people have actually come in and lodged with us and, as I said, that is a very small number. It was seven in 2016. I do not recall the number from 2015 but it would not have been too dissimilar. The other part that makes up that claims expense is what we call the outstanding claims estimates. That is where the actuary says that looking at the history and the experience of this fund we believe the potential claims, which might not have even been reported yet of so many million dollars going forward. That is what makes up the bulk of that claims expense—the movement in those actuarial estimates of future claims we might not have received yet.

Hon SALLY TALBOT: I see. Is there sufficient in that fund? What is the holding at the moment in that fund?

Mr Whithear: About \$25 million, which you will find over the page on page 66. Last year was \$26 700 000—now nearly \$25 600 000. The primary difference between 2015 and 2016, bearing in mind Damon's evidence about claim numbers, was in the investment income line on page 64. In the 2015 financial year, we had a very good investment year. You can see that the funds there —

Hon SALLY TALBOT: I notice there is a huge difference there.

Mr Whithear: — had a return of \$2.6 million and—it is still a positive return —

Hon SALLY TALBOT: Down to 0.7 per cent.

Mr Whithear: Indeed. That is the single biggest difference in the performance between the two years—the investment income last financial year was not as great as it was the year prior.

Hon SALLY TALBOT: Does ICWA regard the total asset held in that fund as adequate?

Mr Whithear: Yes.

Mr de Nooyer: Yes. That \$25 million that we have currently got in 2016—that equates to a solvency of over 540 per cent so it is very adequate.

Hon SALLY TALBOT: Okay. That is the answer to that question. The spike that is predicted—it is often said that there is going to be quite a significant increase in incidence of asbestosis and other asbestos-related diseases. You are not predicting that, presumably because they will not be related to industrial claims; is that right? I do not want to put words in your mouths.

Mr Whithear: We have conservatively forecast claims numbers so we are comfortable with that. In a financial sense this fund is in better condition than any of our other insurance funds so we are comfortable with where it is.

Hon SALLY TALBOT: Are you anticipating a spike in industry related claims?

Mr Whithear: I cannot recall our out year forecast of volumes.

Hon SALLY TALBOT: Could you take that on notice and get us that information?

[Supplementary Information No F1.]

[4.50 pm]

Hon SALLY TALBOT: Okay; I will wait to see that.

Hon HELEN MORTON: I will go with two and if we have got time, I will do a third one later on. My first one is under “RiskCover” on page 34, talking about the “Workers’ Compensation Claims and Costs”. I am interested that the mental stress claims have got the highest cost per claim coming in, and I am interested to know whether it is the way in which those claims are managed and, therefore, take a longer period of time or—what is contributing to the higher cost?

Mr Whithear: The length of the claim—the wages. People are off work longer for mental stress claims than they are for the slips and falls, trips and physical injury claims. So there is a greater proportion of wage expense, and wages, obviously, are the major component of workers’ comp claims.

Hon HELEN MORTON: Has this been the case with mental health claims or mental stress claims, I think it is referred to, for numbers and numbers of years?

Mr Whithear: Yes.

Mr Blackman: Yes. It has been a consistent trend.

Mr Whithear: And we are not the only insurer that observes that trend.

Hon HELEN MORTON: Do you think there is anything differently that should be happening at the workplace?

Mr Whithear: I guess the mantra that we have is that the faster someone gets back to work, the better for them and, obviously, that has a financial benefit as well. We always encourage—and we have seen the agencies invest quite a lot of capacity in injury management to do exactly that, and our workers’ compensation numbers as a whole are reflecting better management of workers’ compensation by agencies, but we do point out the financial results in our annual report.

Hon HELEN MORTON: I know that you know the Mental Health Commissioner reasonably well.

Mr Whithear: Yes.

Hon HELEN MORTON: I am just wondering whether there is any way that, through the Mental Health Commission, you could make this information come to life a bit better in Western Australia in particular?

Mr Whithear: We are certainly happy to do that. As you would know from your past roles, the more rapidly we can help people and help people get back to work, usually the better off they are

and the better off the workplaces are to function and perform their duty without having to hire extra people to backfill for those people as well.

Hon HELEN MORTON: Very quickly to my second one, it is about page 123 and my question is: why is there such a significant increase in written-off claim recoveries in the RiskCover fund?

Mr Howe: I was just going to say that my observation on that—whilst with those recoveries that are written off the variation is reasonably significant, the actual volume—we are looking at \$257 000 in total against claims in total running to the order of \$200 million to \$300 million. It is a very small number and, in reality, that is just a statistical variation you would expect in any one year based on the number of scenarios where we have an opportunity for recovery.

Mr Whithear: As Rick says, in a proportional sense, that is very low. In the compulsory third party fund we have rights of recovery against people. Somebody might have had an accident, caused an accident and been unlicensed and unemployed, but the cost of the accident is \$10 million to us, but getting that money back is virtually impossible. RiskCover has a far lower instance of those sorts of circumstances, but each year it will bounce around quite a bit. So, it will just be a flow-on effect of the write-offs that we made that year, and we have reached conclusions that a recovery that might have been able to be sought against a person cannot be achieved. That person is in prison or cannot be located or is bankrupt or those sorts of things.

Hon ALANNA CLOHESY: I might actually put these questions on notice after the hearing because they are generally questions about the expected cost of living with spinal injury and acquired brain injury over a period of time and also about the number of staff—full-time equivalent staff—that you have working in the area.

Mr Howe: I might be able to answer the staff numbers easily whereas the numbers for those other forecasts might be better if we go and look at the details for you.

Hon ALANNA CLOHESY: So the FTE that you have working in the area now and what your projections are.

Mr Howe: In order to establish the scheme, we now have four full-time staff on board within the motor injury insurance division that we did not have previously. Those roles are focused almost exclusively on the care provision and the assessment of the care requirements for people. So, we have three care coordinators whose backgrounds are allied health and whose role is to interact with both the health teams and the injured parties to determine what their needs are, to assess those people and determine the extent of the injuries and the care needs resulting from it, and then to put in place the plans for the care that is then delivered.

We started off with four people in that space. We are anticipating that growth in that area will come as the scheme progresses and we are projecting that by the end of this year we will probably have added one more person. I would project that at the end of next year we will probably have increased that again by one or two additional people at that stage. Obviously, one of the fundamental differences with the new scheme by comparison with the CTP scheme is that people stay on the books. So we have a continuously growing portfolio projected to grow over the course of the next 80 years before it sort of reaches an equilibrium point, whereas the CTP scheme, as people come on, there are other people dropping off as they receive their compensation payouts. We do anticipate there will be growth, but the projections are reasonably flexible because, obviously, if we are looking 80 years down the track, we do not know how we are going to be administering that and what the actual needs in relation to that will be, but we have looked at the short-term requirements for staff and that is the likely expected increase in staff numbers as we go.

Mr Blackman: We can provide you with some information now on the average cost of care for a person who is catastrophically injured. That has been estimated for the scheme by an independent actuary at \$4 million on average for a person.

Hon ALANNA CLOHESY: Over —

Mr Blackman: Over their lifetime. Of course, that will vary depending on the nature of the injury and also the age of the person. Of course, if someone is injured at 60 years of age and they have a life expectancy of 80 years, we will be required to pay lifetime care support costs for 20 years, but if someone is injured at 20 years of age and therefore has a life expectancy of 80, we will be paying 60 years of lifetime care and support costs, so there will be some variations. But the average cost per person is estimated at \$4 million for lifetime care.

Hon ALANNA CLOHESY: It is the variations, particularly by type of disability, that I am interested in.

Mr Blackman: Sure.

Hon ALANNA CLOHESY: So we come back to you with those ones.

Mr Whithear: We have actuarial estimates. We do not have 10 years of experience in managing those claims, so we are as good as our actuaries and their own experience as it builds.

Hon ALANNA CLOHESY: I fully appreciate that and I also fully appreciate that what comes with actuarial advice is that underlined is the word “advice”. I get that.

Hon HELEN MORTON: This might even be a question that is too general. I am really interested in the Bell Group recoveries under the chief executive’s report, actually. You are saying now that you believe the litigation could take up to 15 years to resolve and that you have appointed two law firms et cetera. Can you give us any indication of how successful you think you will be?

Mr Whithear: We intend to be successful. How successful is very much a subjective view and, as is, when it might be brought to an end. We were hoping it would be brought to an end this calendar year and, obviously, that was not to be the case after the High Court judgement. So, we are back in the trenches.

[5.00 pm]

Hon HELEN MORTON: Were there not some negotiations taking place that were also hopeful to —

Mr Whithear: There have been some and we remain open to negotiate. Unfortunately, this thing is very difficult to close out so there have been a range of agreements reached with parties involved in this Bell litigation and those parties are stepping away from those agreements. We are now in the courts debating issues that were agreed and run through the courts for 20 years and now our allies then are taking a different position on those transactions or agreements that have been in place for about 20 years. So it is very difficult to transact with confidence with people that adopt that sort of dealing. We will remain prepared to negotiate but we certainly are determined to pursue the Insurance Commission and the state’s interest through the courts to the extent we need to.

Hon HELEN MORTON: Right.

The CHAIR: On behalf of the committee, I thank you for your attendance today. The committee will forward the transcript of evidence, which highlights the questions taken on notice, together with any additional questions in writing, after Monday, 7 November 2016. Responses to these questions will be requested within 10 working days of receipt of the questions. Should you be unable to meet this due date, please advise the committee in writing as soon as possible beforehand. The advice is to include specific reasons as to why the due date cannot be met. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of the hearing. Once again, I thank you for your attendance today. As a reminder to members, the deadline for submitting additional questions is 12.00 o’clock—midday—on Monday, 7 November 2016 as stated in paragraph 8.2 of the procedures policy.

Hearing concluded at 5.01 pm
