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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON EMPLOYMENT AND
WORKPLACE RELATIONS

Reference: Aspects of workers compensation

WEDNESDAY, 12 FEBRUARY 2003

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS
Wednesday, 12 February 2003

Members: Mrs De-Anne Kelly (*Chair*), Mr Bevis, Mr Dutton, Ms Hall, Mr Hartsuyker, Mr Lloyd, Ms Panopoulos, Mr Randall, Ms Vamvakinou and Mr Wilkie

Members in attendance: Mr Bevis, Ms Hall, Mr Hartsuyker, Mrs De-Anne Kelly and Ms Vamvakinou

Terms of reference for the inquiry:

To inquire into and report on:

Matters that are relevant and incidental to Australian workers' compensation schemes in respect of:

- the incidence and costs of fraudulent claims and fraudulent conduct by employees and employers and any structural factors that may encourage such behaviour;
- the methods used and costs incurred by workers' compensation schemes to detect and eliminate:
 - a) fraudulent claims; and
 - b) the failure of employers to pay the required workers' compensation premiums or otherwise fail to comply with their obligations; and
- factors that lead to different safety records and claims profiles from industry to industry, and the adequacy, appropriateness and practicability of rehabilitation programs and their benefits.

WITNESSES

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Committee met at 11.37 a.m.

BRIGGS, Mrs Lorraine, Vice-Secretary and Member, Injured Persons Action and Support Association Inc.

HEEDES, Mr Arthur Samuel, Friend, Injured Persons Action and Support Association Inc.

ORRMAN, Mr Evald, Member, Injured Persons Action and Support Association Inc.

PURSEY, Mrs Margaret, Secretary, Injured Persons Action and Support Association Inc.

TAYLOR, Mrs Carol, Member, Injured Persons Action and Support Association Inc.

CHAIR—I would like to declare open this public hearing of the inquiry into aspects of workers compensation. This hearing will take the form of a videoconference. I would like to welcome the witnesses today. The proceedings here today are formal proceedings of the parliament and warrant the same respect as proceedings in the House. In providing your evidence today, please do not name individuals or companies or provide information that would identify those individuals or companies in making allegations or providing adverse comment.

The committee is interested in the broad principles and the issues that your experiences illustrate. However, the committee cannot address the circumstances of individual cases and no benefit is gained from the naming of particular individuals. The committee does not wish to provide the protection of parliamentary privilege to allegations about particular individuals.

Can I first apologise for Mr Wilkie, the member for Swan, who is a member of the committee but unfortunately has to take the chair in the House of Representatives. He is very sorry that he is not able to join the committee in hearing your evidence but will read it with great interest. I would now like to invite each of you to make some preliminary comments about the issues you think are important before we move to questions.

Mrs Pursey—I will start the proceedings if that is all right. I am the secretary of the Injured Persons Action and Support Association. Again, I would like to thank you for allowing us this late opportunity to present to you some facts that regularly occur in the Western Australian workers compensation system and to comment generally.

I would ask you to be a little patient with the people who follow me in giving evidence today. They are mostly ordinary Australian mums and dads. They have had no public speaking experience and are very nervous about this. But, having said that, they are all very determined to tell their stories. I would point out that none of them knew each other before they were asked to speak, yet they all seem to tell the same story in a slightly different way.

I would like to reiterate some points from IPASA's written submission. Firstly, the terms of reference of this inquiry are pointedly biased against injured people, although I do realise you can look beyond those terms of reference. Those terms of reference set the whole scenario, which would seem to be that you as a committee view all injured people as frauds. IPASA have told you this is not so. Harry Neesham, on behalf of the Western Australian government, has also told you this is not so.

What you have been told by both of us is that of course there is some fraud, but it is estimated to be under one per cent. Yet IAG in their submission to you state that fraud runs at between five and 10 per cent or even higher. So who are you going to believe? IAG offer no evidence regarding their 10 per cent claim, and neither we nor the Western Australian government can offer any evidence of our under one per cent claim. So perhaps this committee should be asking itself: who is going to gain the most from that supplied evidence? The answer is obvious: the insurance industry. It puts another cog in the wheel to justify wanting to nationalise workers compensation and demean injured workers.

You have received questionnaires submitted by IPASA members. Again, they do not know each other, yet they mostly tell the same story—one of insurance company intimidation, being cheated and unpaid for work accidents that mostly were not their fault, and the corruption in Western Australia's insurance funded adjudication, WorkCover. They talk of stacked medical panels and insurance company doctors and most talk of their utter feeling of helplessness. This is magnified when even their lawyers cannot help with decisions that usually favour the insurer at the insurance funded WorkCover. Most then begin to suffer depression.

Rehabilitation is also a major problem. If you read the questionnaires, I would say that the number of rehabilitation complaints received in IPASA come second to those about the insurance funded WorkCover. It is a major problem, particularly with the rehabilitation providers that are owned by the insurance industry. But even privately owned providers can pose a problem. It is almost like someone is saying, 'Get them back to work at any cost. Don't care if they are in pain; don't like it or can't do the job. Fight the GP if necessary. Keep very tight control on them and at the end tell everyone in your reports that they are fit for work, even if they are not.' It would seem to IPASA the major fraud in the system that was designed with the help of the insurance industry is the system itself.

I also remind you that only one or two workers in Western Australia have ever been convicted in the real courts of fraudulently claiming workers compensation, and one of them was innocent, having been framed by the investigator hired by the insurer. Harry Neesham, on behalf of the Western Australian government, admitted that only six companies were prosecuted for not having any workers compensation insurance and admitted they find thousands of businesses uninsured. This speaks volumes for government attitudes towards injured workers and that of their bosses: penalise every injured worker but let the companies get off scot-free.

We have supplied you with audited figures from the Western Australian annual report of WorkCover. These prove over a 21-year period there has never been a crisis in the insurance industry. Indeed, it would appear that the whole thing is one big con by the insurers. Bosses are paying far too much for their workers compensation premiums and injured workers are getting far too little for their injuries. Can't you as a committee see that this then reflects on the community as a whole by allowing the insurers to pay less for each claim, then believing the insurers' screams of crisis when in fact they have never opened their books for public scrutiny? Bosses pay more, injured workers get less. The community is the loser.

You are allowing people to become poor and dependent on the government for income and housing, whereas once people got a reasonable payout for their injury and, before turning to the government for welfare, were able to put a roof over their heads and live on that payout for a few years. Some even managed to start up a business that their injury would allow them to work in. Now most claim payouts are so small that injured people have no option but to ask the

government for help immediately. This is creating a crisis in the social security system and that, too, is going to be changed—again, we believe, to the detriment of the injured worker.

Brendan McCarthy, the previous head of the Perth Chamber of Commerce and Industry, is a person who sat on the insurance premium rates committee for years. He told us in 1998 at a state legislative committee inquiry that the insurers were cooking their books. He has suspected they are able to manipulate their outstanding claims to make their books look whatever they like. He also accused them of suspiciously similar premiums. He says injured people and their lawyers are the last to blame for the problems in the system. So who on this committee is going to question McCarthy? You want fraud? Brendan McCarthy has the knowledge and the qualifications to tell you where it is. So who on your committee is going to ask him? You have his evidence; we gave it to you.

Harry Neesham, the Western Australian government and the insurance industry are now working closely together to again change the Western Australian workers compensation system to bring it in line with other states. This is an ominous warning that the proposed productivity committee inquiry may be hell-bent on nationalising Australia's workers compensation systems. Western Australia's new proposals will also further decimate injured workers' claims to a point where common law claims will be all but wiped out, which is exactly what the IAG insurance group is asking for in its submission to this inquiry—nationalisation and the deletion of common law claims. There seems to be some sort of profit push to do this. Again, this will favour the insurance industry, which refuses to open its books and justify its claims of crisis. Remember that this has all been tried before in America. You have been given that information, too.

While this is all happening, with insurers trying to condemn injured people and systems and screaming 'crisis', governments seem to be agreeing with them. And why? When one mentions Queensland's workers compensation system, there is deathly silence from all the key players. Why would governments want to enact all the requirements that the insurance industry wants and put further burdens on business and the community in the way of higher premiums and lower payouts when clearly there is not a crisis at all?

Why would government not want the Queensland type of system introduced Australia wide? After all, it would lower most businesses' workers compensation premiums by nearly half and give full common law back to the injured worker. Of course, to do this, one would have to eliminate the insurance industry from the picture and set up state government type workers compensation and public liability insurance businesses. I can hear the mutterings now about how we should be encouraging private enterprise and keeping government out of what is essentially a private enterprise type business. Normally, I, along with most people, would totally agree with that line of thought, except that when these private type enterprises set up cartels and operate to the detriment of the community as a whole, the community expects the government to step in and protect them.

You are the government. You have a duty of care to protect the community from exploitation. If that means starting up government insurance businesses, then so be it. You owe us care and protection and, if you do not do this, there is only one conclusion that can be reached—governments are in bed with the insurance industry. Is this because donations are probably given to political parties by the insurance industry? Money—is that what we are all fighting over here? Not injured people, their claims, suspected fraud or any insurance crisis; just money,

Not injured people, their claims, suspected fraud or any insurance crisis; just money, plain and simple.

Politicians come and go. They make and change our laws, it would seem, without thought or care for what their actions cause now or in the future. Why has honesty and integrity gone from our once respected parliaments? How come you politicians are not governed by the same workers compensation systems you have been more than happy to impose on us?

If you threaten the insurers, and mean it, with opening state government insurance offices for workers compensation and common law payments, we could almost guarantee that the so-called insurance crisis would simply disappear. Your options for fixing this problem seem to us to be as follows. Firstly, remove the insurers from all Australian workers compensation systems and public liability businesses and introduce a fair system based on the Queensland system. Secondly, set up government owned insurance offices in each state and let the public use them for their workers compensation and public liability business. At least that would enable open and accountable insurance for all Australians. Thirdly, you can investigate claims of fraud, as told by the likes of Brendan McCarthy, and take the necessary action against the insurers if what he claims proves to be true.

IPASA believes the systems here in Western Australia are so corrupted that they are unfixable. It is time to act, not only for injured people but also for premium paying bosses as well.

CHAIR—Thank you very much. Could we move to one of your other colleagues?

Mrs Pursey—Yes.

Mrs Taylor—I reside at Wanneroo. I am a member of IPASA. I thank the committee for this opportunity to speak to them and tell my story. I was injured at work in January 1996. I was a bank teller and incurred a lower back injury. I was unable to work because of pain. I was paid workers compensation for about 10 months when WorkCover deemed that I was fit for work. The bank then sacked me as 12 months had passed. I found WorkCover at first quite helpful but later they became obstructive, rude and ignored me and favoured the insurer.

Surgeons have said I need an operation, but doctors employed by the insurance company said I did not need one. I am still injured and with severe back pain and am unable to work. My workers compensation claim was lodged at WorkCover in December 1999. On the very same day, the WorkCover boss backdated the deadline to the day before. My case finally came before the WorkCover review officer in November 2001. Along with thousands of other accident victims, I was not allowed to have a lawyer present. The review officer could have made a decision within days or weeks. In desperation, my lawyer wrote to the review officer in April 2002 and again in July 2002 seeking an explanation for the unjustified delay. Finally, in October 2002, some 12 months after the hearing and three years after it was first lodged and accepted by WorkCover, my claim was dismissed with a one-line decision which read:

The referred question be and hereby is dismissed.

No explanation or reason for the decision has been given, despite a request in November 2002. Neither has the review officer's decision been revoked, despite the fact that his orders were

clearly in contravention of a ruling by a Supreme Court judge who stayed my action in the Supreme Court in July 2002.

I am shattered, along with my husband and three children. I cannot work, have already lost my home and am now renting. I have chronic back pain and face financial ruin. The accident was not even my fault. The politician who set up WorkCover said it would be the envy of the world and that it would be cheap, just, quick and fair. I did not think that this could happen to me.

My mortgage was with the bank I worked for. They foreclosed on my mortgage because it was two months in arrears. Days before my husband, three children and I were to be evicted, I received my holiday pay, enabling me to pay the outstanding mortgage payments. It would seem my pay was held up to give them a reason to foreclose. Even though payments were made up to date, the bank registered a default with a credit agency for the full amount of the loan. Even with requests from me for that to be removed, it is still on my credit record and it still affects my credit rating. This was also paid off in full in 2000 when I refinanced with a different bank, but it is still on my credit record as an outstanding loan for the full amount. Thank you for your time.

CHAIR—Thank you, Mrs Taylor.

Mr Orrman—I live in Palmyra in Western Australia. I am a member of IPASA. I had a son called Paul. He was 23 years of age in 1994 when he committed suicide due to stress he suffered while on a workers compensation claim. Paul hurt himself at work in 1989. He injured his back at his job as a diesel mechanic. An examination at Royal Perth Hospital showed chest and rib injuries, but a vertebrae injury was not discovered until 18 months later. As usual, the insurer challenged his claim and sent him to two psychiatrists and three orthopaedic surgeons. One of the insurance psychiatrists hurt him so badly while examining him and stressed him out with what he could only describe as an interrogation medical examination that he was forced to be admitted to hospital. Later that psychiatrist was named in the Western Australian parliament and banned from working with workers compensation victims.

Paul's wages were cut off after he refused to go back to see that psychiatrist again. Paul tried desperately to rehabilitate himself. He wanted to work. He went to the Commonwealth Rehabilitation Service in Fremantle. He was eventually given a work trial through the CRS as an apprentice locksmith. Paul was continually harassed by the insurance company, and at one stage I caught a private investigator climbing over our fence carrying a video camera. The tyres of Paul's car were continually being let down—I believe in order to video him bending down to fix the tyres. He lost his self-esteem and self-confidence. He felt betrayed.

Eventually, he accepted a \$60,000 settlement after the papers were signed for his locksmith apprenticeship. This payout was for the fact that, due to his injuries, he could no longer work as a diesel mechanic. After all costs were taken out of the \$60,000, Paul was left with \$35,000. Included in the costs taken out was \$7,100 paid to the CRS for rehabilitation. Paul thought the insurance company was going to pay that cost in addition to the \$60,000 he received. My then wife went to the Administrative Appeals Tribunal on his behalf to try and recover the \$7,100 cost deducted from his payout. That Friday night, she came home and told Paul he was unsuccessful and would not be recovering the money. On the Monday afternoon, my wife found him hanging from the almond tree in the backyard. After this happened, my marriage fell apart,

my children left and I have never seen them since. I have four grandchildren I have never seen. I live alone with only my little dog for company. My late son asked our neighbour Harry Neesham for help with his case but Neesham brought the papers back to him the next night and said he could not help. Thank you very much.

CHAIR—Thank you for that, Mr Orrman.

Mrs Briggs—I am the vice secretary of IPASA and voluntarily work in their office. I would like to thank the committee for this opportunity to speak to you. I wish to tell you of the horrendous workers compensation case of my daughter Sarah, who is restricted by the terms of her compensation settlement from divulging her story and cannot be identified. However, as I accompanied her to many of her appointments, I feel I can speak knowledgeably about this. I do this with her total permission and encouragement.

Sarah injured herself at work in October 1998 lifting a heavy box of apples off a coolroom shelf. Her injuries involved sternoclavicular joints and acromioclavicular and C5 vertebrae. Three insurance companies got involved in Sarah's case and liability was accepted by all. She did not receive any pay for six weeks, and when she appealed she got her wages reduced from appeals at WorkCover.

She found them abusive and dismissive of her claim. Sarah's pay was stopped in May 2000. During the course of her claim, she has attended over 92 medical appointments in 32 months—approximately 29 insurance doctors and 63 of her own. She has been to WorkCover 23 times for conciliation and review meetings. She has been to two hand-picked WorkCover medical panels and found most of the doctors biased towards her. At the first medical panel visit in late 1999, she had a doctors certificate saying she was mentally unwell and that she should not attend the panel. At that time she had a sick baby in hospital. I approached WorkCover and asked for another date in view of the problem being experienced by Sarah. WorkCover told me it did not matter and that unless she went they would dismiss her entire claim. She was forced to leave her sick baby in hospital and attend.

The second medical panel she was forced to attend was in late 2000. This was hand-picked by WorkCover and made up of a GP and orthopaedic and psychiatric doctors. I attended this with her. By then, she was in a psychologically suicidal state and had moved into my house with her family as she could not cope at home due to the workers compensation claim. This panel was supposed to be for a psychological opinion. However, the orthopaedic doctor demanded that she strip and let him examine her injury in front of the three doctors, even though she reminded them that it was a psychiatric assessment. I phoned her lawyer from that room. He said that she should do as they asked or they may close the case. Threats again, so she did.

They all had prewritten questions in front of them when we entered the room originally. The psychiatrist started asking her questions such as whether she had ever tried to kill herself and, if so, what with. When she said that she would use tablets, he asked her how many and she said, 'A lot.' He asked where she would get them. She said that she had heaps. In the middle of this the orthopaedic doctor piped up and said, 'Oh, by the way, I will not be using any of the orthopaedic information in this hearing,' and asked why they had made her undress. It took an hour and a half for the panel and it took me an hour and a half to get her into the car to go home as she was in such a state.

This panel, previous to that day, had been given a videotape which the insurers said was Sarah, shown walking along wearing a hat and sunglasses. They claimed this was Sarah. It was not her, yet the panel decided it was Sarah. Each of the three doctors, according to their reports, had been given a copy to take home for the weekend. Neither Sarah nor her lawyers have been allowed to view this video to date, yet they based their questions on it. Sarah had been openly accused of fraudulently claiming workers compensation by the insurers at WorkCover. The adjudicator never reprimanded them.

The final straw came when, after winning three appeals, the last was lost on a technicality. The insurers then issued and were granted a bill of costs for the \$5,000 in the Compensation Magistrates Court against Sarah. They wanted their legal costs paid. This meant that Sarah would lose her home because she just did not have that amount of money. IPASA contacted a local talkback radio show, and they were in the process of disclosing all of the above information as to what happened to Sarah. When the insurer found out it was to be exposed on the radio, they then offered her a settlement of a small amount provided she kept it off the radio. This is a flagrant example of insurance fraud against the worker. She still needs an operation for this injury, as stated by her specialist. Thank you for your time.

CHAIR—Thank you very much for that. We will proceed to hear from the next witness.

Mr Heedes—I am a victim of the WorkCover workers compensation industry here in Western Australia.

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To be honest with you, I am somewhat humbled to state my particulars in the presence of people who are really the victims in Western Australia. If these stories you have heard have not touched some sort of chord with you, then—please take this the right way—you should not be in your position.

On 19 December 2000, I suffered a workplace injury. I notified my employer in writing of such injury and was sacked the next day. In March 2001, I underwent surgery to correct the injury to my right knee and began the process through WorkCover—that is, with the Conciliation and Review Directorate here in Western Australia, the judiciary which basically hears all matters. The amount of shenanigans and illegal activity that I have experienced in the past two years from the insurance company, members and employers, through the Conciliation and Review Directorate and WorkCover, have manifested themselves so badly that on 31 December 2002 my complaints, documentary evidence and witness testimony compiled over two years became part of a major police investigation by the major fraud investigation unit, which is four floors above us here in Perth.

Believe me when I tell you there is a corrupt and nefarious culture within the workers compensation industry in Western Australia which, like all cancerous forms, can only be eliminated by cutting the infected area out, followed by intense treatment. Corrupt and greedy insurance companies with an abundance of money, resources and economic and commercial influence marionette the whole system. Hell, they even fund the judiciary aspect of it at WorkCover and the inappropriately named Conciliation and Review Directorate.

Insurance companies, along with corrupt WorkCover employees and greedy and equally corrupt lawyers, collude to pervert the course of justice by whatever means it takes, predominantly economic weight. Employers are persuaded and harassed to break the law and go along with indemnifying insurance companies under extortion-like threats of legal action, significantly increased insurance premiums and/or black banning from insurance. Two years of extensive investigation into this corrupt culture by me has led me to follow the corruption trail all the way to the door of officers of the Crown. The police force, whilst undertaking to investigate the conspiracy and fraud plus the associated indictable offences pursuant—

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This corruption is so rife that only federal intervention with people with integrity can fix this endemic problem here in Western Australia because everyone here can be or has been got at by some form or other of influence or incentivisation.

With regard to my personal case, I have no alternative whatsoever but to resort to the court system and make all the criminal activity a matter of public record. Imminently I will be issuing a Supreme Court writ for damages and will name approximately 16 entities and individuals in total as co-defendants, such as ministers, insurance company employees, lawyers, WorkCover employees and others. There are a lot of people here walking around with innocent and defenceless people's blood on their hands. I think you should stay tuned to see where it congeals. Thank you very much for your time.

CHAIR—Thank you, Mr Heedes.

Mrs Pursey—I wonder whether I could address the fact that Mr Madden has not turned up. He was expected to attend today to support Mr Orrman's evidence about the suicide rates of injured workers in Western Australia.

Mr Madden runs a support group for men in one of our industrial areas in Western Australia called Kwinana. He runs it with the help of the Salvation Army. He was supposed to be here today to tell of the eight or nine men at the moment he is currently counselling who are not being paid their workers compensation through refusal by the insurance company to accept their claims. They are suicidal. Their rehabilitation has been stopped. They do not know what to do with themselves. If he could have been here today—I do not know what the hold-up was—he would have said to you that something needs to be done urgently, particularly here in Western Australia. It is really bad. We are not sitting here making up these stories. I could have brought hundreds of people here today with similar stories. These are not isolated, picked-out stories. I had a choice of hundreds. Please understand that something really does have to be done here. You saw the demonstration that occurred in Perth. Unfortunately—and I apologise again for that—that is an example of the anger that is building up here in the community over workers compensation and, to a smaller degree, public liability insurance. Thank you very much to all of you for your help and for listening to us today.

CHAIR—Thank you, Mrs Pursey. I am sure that my colleagues have all been very moved by the effort that your witnesses have made to come forward today. We appreciate it very greatly. We will move to questions now.

Mr BEVIS—Thank you for your evidence. There is one matter raised in your written submission which I would like you to elaborate on—the role of the insurers in being involved as owners or operators of rehabilitation providers as well. Effectively, it is a vertical monopoly in the industry. Can you elaborate on that?

Mrs Pursey—I do not have a lot of information about this. From what we gather from our members, there used to be or there are a number of rehab providers in Perth that are actually owned by the insurer. They actually own the rehab company. People who get caught up in that company have no chance of ever being retrained or anything. They just get sent back to work and told they are better. The insurers have the ability to own rehab providers. Therefore, they sit in judgment on the worker.

Mr BEVIS—The concern, presumably, being a conflict of interest between the welfare—

Mrs Pursey—An absolute conflict of interest. Even private insurers, I believe, do many things to appease the insurance companies just to get the business. Remember that most people have never been injured. They have never had any dealings with a system like this. They are just told, ‘You can have a choice of rehab provider but we’re here, so why don’t you have us?’ So they select them. They say, ‘Well, I don’t know anyone else. You’re here. Okay, the boss says to go there. I’ll have you.’ But once they do that, they are stuck with them. They cannot move. They are stuck there forever. The rehab provider has told them that they have a choice. Under Western Australian law, providing they are told they have a choice of rehab providers, they cannot be moved. You cannot apply to the courts to move rehabilitation providers.

Mr BEVIS—That was going to be my second question. It is also in your submission. You say that you legally cannot leave a rehabilitation provider unless they can prove certain conditions. You have got me stumped here. I do not understand how you can be stopped from going from one rehab provider to another one if you think, on the best medical advice, that you would be better off in another place with another provider.

Mrs Pursey—If, at the first interview with the rehab provider, the injured worker is told, ‘You have the option of another provider if you wish,’ providing that statement is made, the law is structured in such a way that they cannot move after that.

Mr Heedes—I would like to elaborate further on that. The Workers Compensation and Rehabilitation Act 1981 ostensibly is deficient in relation to sections 63 through to 66. The onus is purely on the injured worker in relation to being subjected to examination or terms of examination by the system. This needs a major overhaul. There are deficiencies in the act in Western Australia. There have been bandaid measures to implement structural changes to it. But the bias contained within this still is overbearing for the injured worker. I believe that that should not be the case.

Mr BEVIS—Mr Heedes, if I heard you correctly, you said you were sacked the day after you lodged an injury report. Was that for—

Mr Heedes—That is correct. I notified the employer in writing. From that point on, there was a domino effect—basically the employer covered their backside, as did the insurance company as indemnifier. During the process, over two years, everyone got their hands dirty, from WorkCover employees to solicitors representing the indemnifying insurance company. Trust me

when I say—I doubt whether my veracity is at question here in relation to the report—that the major fraud unit have taken this so seriously that they are undertaking now to get a task force involved because the scope of the conspiracy is so bad. I do not consider myself to be that special. I am just one of a number of victims who have been subjected to this. Maybe I am more in your face and have attracted a bit more attention and a bit more persecution because of my attitude and my belligerence. I do not consider myself special in any way, but this is a carcinogenic culture here.

Mr BEVIS—I do not know what advice you sought at the time about that, but if you did not do so, you should. People cannot be sacked for lodging a workers compensation claim. But that is outside our terms of reference.

Mr Heedes—I have gone to great lengths to—

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Mr BEVIS—My final question is to Mrs Taylor. This has nothing to do with the terms of reference either, but I will take the opportunity. If you have not seen the banking ombudsman, see your local member or your local senator to fix the problem you described with your credit rating. You are welcome to write to me if you want to. That should be fixed up. It has nothing to do with the inquiry but I would like to see it corrected.

Mrs Taylor—Thank you.

Mr HARTSUYKER—Thank you for your evidence. It was most informative. I note that you have raised the issue of improprieties in relation to certain doctors and medical panels. Have various claimants been able to successfully challenge the opinions of those medical panels?

Mrs Pursey—You cannot challenge the medical panel's decision on a workers compensation case. Their decision is final, complete and that is it. They will decide your percentage disability. That then rests on your workers compensation claim. That gives you the percentage. So there is no appeal from them and there is no record kept of what goes on in those interviews either.

Ms VAMVAKINO—Thank you for your evidence. You describe a picture in Western Australia which indicates that alleged victims of workers compensation fraud cannot have their voices heard. Is that a correct way to describe what you have put forward?

Mrs Pursey—That would be an absolute understatement. We cannot be heard. Our stories are not printed in the newspaper. They are not broadcast on television. There is only one radio announcer who puts forward our cause. He hears stories and repeats stories on the radio about injured people. There is a total blackout. When we look at the structure of the media boards, such as those of the main newspapers and television channels, we find that heads of insurance companies are all members of those media boards. So the corruption goes right to the top. I do not know how far that goes. It is something that we certainly cannot prove. But the fact is that they do not write anything about what is going on. Mr Heedes has been unable to get anything published about his case. As for many other bad cases, we just cannot get the media to write about them. So something is going on, but how do I say that it is corruption? I do not know. But when you look at the structure—

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Mr Heedes—Honourable members, can you hear us?

CHAIR—Yes.

Mr Heedes—To elaborate further on that, not only are they members of boards, but there is common directorship regarding directors of the companies. My investigations have been fairly detailed and cover a two-year period. These will be tabled more than likely in the Supreme Court when the perpetrators are brought to justice. But having regard to the area of influence of insurance companies, if they have advertising accounts with any media forum, their economic weight is beyond imagination. This is why everyone here in Western Australia is gun-shy. Without federal intervention I do not believe that any victim here can really get a serious appraisal of their situation because it is systematically endemic. The area of influence is mind boggling. We are talking about millions of dollars. That economic weight filters all the way down, right to the injured worker, who is the one who suffers the most.

Mr HARTSUYKER—My question is to Mrs Briggs. You mentioned that Sarah was offered a modest settlement in lieu of publicising her case on talkback radio. Did she accept that settlement or was the matter publicised?

Mrs Briggs—The reason she is not here today is that she has accepted the settlement. But it is still in the process of trying to be finalised. This case has gone on for four years. It is a last ditch effort on her part to get out. She has been harassed to such a degree that it has affected her family, her children and us. I am also an injured worker. I have also been through the workers compensation system. In fact, I took an early settlement to get out of mine so that I could help my daughter. The situation here is not good. There are thousands involved.

I went to work voluntarily at IPASA because so many injured people ring up every day who have lost their houses, lost their families, lost their bank accounts, lost everything they own and they have lost a sense of their own self-worth. The lying along the line is horrific. She had her own doctor in this insurance business. She had her own psychiatrist. He even overdosed her on Zoloft and she had a brain seizure on the riverbank because she was overdosed by the Zoloft she was taking because—

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WorkCover doesn't work and it doesn't cover. That is our motto for them. You need to be looking at WorkCover in the highest places. I have been there in some of the highest places. After the medical panel for my daughter, I went to WorkCover and confronted a manager at WorkCover about the issue. I did not know that on the Friday following the panel meeting they had just decided that she had no case, even though she was a psychiatric mess, living with me. We had to pull her out from the worst situation you can think of—she was wanting to kill herself. As a mother, that is totally heartbreaking. It is not just me. I am just a little person who lives in Western Australia, but I am speaking for an awful lot of people in Perth. Get over here and do something about this corrupt government, this corrupt state and this corrupt WorkCover. WorkCover should be dismantled today. They are so corrupt, it is not even funny.

When a person goes on workers compensation in Perth, most of the time they never get their pay on their original doctor's say-so. If you go to your GP, he will say that you are injured. When they take it to WorkCover to present the case, instantly the insurance company sends it to WorkCover. WorkCover say that people have to have a review or a conciliation before they even accept their wages. There are thousands whose cases have never been accepted because WorkCover do not let them past the door. I have seen this done as well: when they get to conciliation, if the conciliation officer gets something that is too hard for him, he rushes outside. I have watched him find other conciliation officers to come in with another section so that they can slap it on the workers and say they cannot get paid. It is so corrupt; so many people do not get paid and so many people have to give up their cases.

I think you have sat back for too long and left it for too long. The insurance companies in this state are totally corrupt. It goes right to government levels. I believe that right now you should be looking at government levels, WorkCover levels and the corrupt insurance companies. Why do you allow insurance companies to upset ordinary people in this state? It is huge. This is like Russia. We are behind a wall; we are in another state. You cannot get anything out to you because it never leaves the state. It is like we are oppressed. It is really, really bad. As a mother and as a helper of these people, I see them every week. They come into our office; they have lost their houses, their wives and everything else, because of the way the system is set up. That is just how it is here.

Ms HALL—Thank you very much for the evidence you have given us today and for sharing your stories with us. They are very touching stories. Obviously your lives have been greatly affected by your experience with the workers compensation system. There are two questions that I would like to ask. I am sure you will have the answers to them. Given the way the system works and the disincentive that you have told us about to proceed with your claims, what percentage of workers compensation cases would actually be dropped, what percentage would be conciliated and what percentage would actually go to settlement?

Mrs Pursey—This becomes a very hard question to answer because we are a voluntary group. We do not have the money to put into resources to research the exact percentages of a situation like that. It would be very hard. We also do not get access to everyone. People only come to us when they know about us. We do not have wads of money for advertising in order to let people know. The government will not even let us put our brochures in WorkCover offices to tell people that we are there to help them. We are not allowed to do anything. We are squashed. We are pushed down and not allowed to do anything.

I would find it nearly impossible to answer that question. But I would estimate—this is only from my experience; I am not saying it is gospel—that about 20 per cent of claims would be totally dropped and never pursued because people just get too scared about what is facing them and what happens. That is only an estimate. I am sorry but I do not know.

Ms HALL—That is fine. Would that information be available anywhere?

Mrs Pursey—I do not think so. WorkCover do not keep it. They would not know. They do not keep those sorts of statistics. No-one does. Insurers would know because they would know the number of claims that are lodged and then not pursued. But good luck getting it out of them! I do not think they are going to divulge to you how many claims do not proceed. If they are

going to divulge them and say that X amount do not proceed, I would want to see the books because I would not believe them.

Ms HALL—Turning to the terms of reference, and given the evidence we have received from you today, would it be fair to say that it is not fraud by workers that you believe is the problem with the workers compensation system; rather it is the issues you have identified today?

Mrs Pursey—Of course. There is fraud everywhere. You cannot—

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Ms HALL—I have missed everything that you have just said.

Mrs Pursey—Having regard to the percentage of frauds in the system, quite honestly, frauds cannot remain in it. No-one would stay in the system unless you are absolutely desperate. You would not put yourself through this. You could go and hold up a deli easier and get less of a jail sentence than what it takes to go through the Western Australian workers compensation system. So the fraud committed is not by the injured worker but by the insurer and the people that it has managed to manipulate into the system. The basis is the insurer, but there are also all those hangers-on, as I call them—some rehab providers, some medical doctors, some government workers and some insurance lawyers. They are the people who hang on to this system. They create this system to make the fraud. It is not the injured worker.

Ms HALL—It sounds to me like it is the injured workers who are missing out and it is the industry that revolves around them that is doing very nicely from them. Is that the message you are giving us?

Mrs Pursey—That is exactly what I am saying. We did a small survey amongst our members to try to find out who these insurance company doctors are. There are about 40 of them in Perth. Some of them have no Medibank provider number; they only do insurance work. They do not need Medibank provider numbers.

CHAIR—Mrs Pursey, thank you very much. I have some questions. In your submission, you describe the problems in Western Australia. What do you think would be of most benefit to assisting injured workers in terms of rehabilitation? What recommendations would you make concerning rehabilitation and return to work?

Mrs Pursey—I said in my original written submission that rehabilitation providers need to get a heart. The attitude by rehabilitation providers in Western Australia at the moment is to override and totally control the worker. That is not working. That does not work with people. You have to be sympathetic to them. You have to try to understand them at the same time as encouraging them back to work. There seems to be a mentality within the rehabilitation system itself that is creating an absolute hatred of rehabilitation providers. When that hatred and argument starts, the people cannot get away from them.

CHAIR—With regard to rehabilitation providers, we have found that in other areas there is a time delay in referring an injured worker to the rehabilitation system so that by the time they get

to rehabilitation their self-esteem is very low. Is there any time delay with your members or is it simply a matter of the attitude of the rehabilitation provider?

Mrs Pursey—There are two issues here. There is a time delay; there is no doubt about that. It is mainly brought about by, firstly, the insurer refusing the claim. As long as the insurer refuses the claim, the worker cannot get rehabilitation. I have had many injured people come into our office who did not even know they were entitled to it. The other issue is that they do not get told about it.

Mr Heedes—The obvious problem lies with the judiciary process regarding WorkCover. Two years, three years or four years for someone to have their claim heard is totally unconscionable and unacceptable. This procedure could be streamlined. The conciliation and review process and so forth should have set time parameters—whatever is deemed to be a reasonable time, such as three months or six months. We are talking about an endemic problem whereby insurance companies deliberately delay to allow investigators to obtain information to delineate the main specific issues that are before the directorate. I believe that the implementation of set time parameters—reasonable time parameters such as three months or six months—to have a person's claim deemed to be pursuant to the act is needed as a bare, basic minimum.

Mr Orrman—I absolutely agree with that.

Mr Heedes—At the moment, there are no parameters. People have been in the system for four years and they have not been before a review officer. This lady here waited for two years. Can anyone explain to me how that is conscionable?

CHAIR—Mr Heedes, during that period of time there are no payments from the insurance company at all? Is that what you are saying?

Mr Heedes—Absolutely. The burden of proof is upon the worker to prove their case to an acceptable level pursuant to the act, unless the worker can prove their case and have that deemed. The process is that if the review officer declines them, they have a right of appeal to the Compensation Magistrates Court. If the Compensation Magistrates Court, through their process, does not uphold the appeal, then you have to take the matter to the Supreme Court.

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CHAIR—Mr Heedes, we have missed your last few sentences.

Mr Heedes—What I am saying is that I know of no case, out of the 300 or so that I am privy to, that has got out of the Conciliation and Review Directorate process inside 12 months—not one single case.

CHAIR—Mr Heedes, in this period when injured workers are not receiving any payment from the insurance companies and certainly not getting any rehabilitation and plainly not working, what recourse do they have? Are they on social security?

Mrs Pursey—You cannot get social security.

Mr Heedes—I think Margaret is better versed in this. They do force you back onto the social security system. A lot of people revert to living off relatives and liquidating personal effects to survive. The employer is under no obligation pursuant to the act to pay the claimant until they have been so deemed or are ordered to. Once the employer and the worker are at issue, the insurance company's indemnifying policy then kicks in. Basically, the employer is taken out of the loop. The employer cannot even pay the worker his entitlements until such time as they have the approval of the insurance company. The insurance company, 100 times out of 100 times, initially denies, denies, denies. My evidence will be from insurance company employees who are instructed to knock back each and every specific claim on the first three occasions that they receive it. Therein lies the process.

CHAIR—Thank you. Mrs Pursey, would you like to add to the question about people seeking recourse to the social security system?

Mrs Pursey—I am not a social security system expert, so perhaps you should check what I am saying. From my experience in IPASA, until the insurer gives the person a letter saying they are not going to pay them or the claim is not accepted, social security will not pay them. These people are then forced to sell their homes and their cars. They live off the Salvation Army. They go to soup kitchens. Anglicare give them a bit of money sometimes. We have a whole list of stuff that is going on here, all because the insurers will not and do not accept the claim. People try for social security. I know of at least four cases recently where they have been rejected by social security because the insurer refuses to write that letter. They will not write the letter that social security wants. Each one of those four cases I put into the hands of federal members of parliament. They could not sort it out either. They were told the constraints of the Social Security Act prevents them from—

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Mr Heedes—Are you back with us?

CHAIR—We are. I am sorry about that. Mrs Pursey, I ask you this: where injured workers do finally receive lump sum payouts—you mentioned some cases where the amounts after costs were quite minimal—how successful are your members in being able to live on those lump sum payments in the longer term?

Mrs Pursey—Five to 10 years ago, lump sum payments were of a reasonable standard whereby a lot of people could put a roof over their head, not in our wealthy areas, of course, but in an ordinary working class area. They could put a roof over their heads and buy a house and probably live on it for a while. The government then changed the rules on social security. For every \$1,000 they receive in a lump sum payment before the costs are taken out, they do without social security for roughly a week. So someone receiving a \$100,000 payout would wait for 100 weeks, roughly, to get social security. In those days, people did cope. That worked fairly well. But now the payouts are down to \$5,000, \$3,000 and \$4,000. That is what we are seeing. We are seeing very, very small payouts now. The occasional big one will still come through, but mostly they have gone down. They have shrunk. Even donations to our association, which people used to give us for helping them, have totally disappeared. We do not get any now because people do not have the money to give us even \$100.

CHAIR—Correct me if I am wrong, Mrs Pursey: you are describing a system to me where there are long delays in assessing claims. People are then very demoralised. The rehabilitation they receive is coming too late, even if it were adequate—and, from what you have told us, it is far from adequate. If people do finally get a lump sum payout, by then their only recourse once that money is gone is to live on social security.

Mrs Pursey—That is exactly right.

CHAIR—Is this the scene you are painting for us?

Mrs Pursey—Exactly right. I am telling you that if you do not act and do something about this, you are going to have hundreds of thousands of people in Australia dependent on the government because the insurers are not meeting their obligations regarding workers compensation. If they were paying the correct amounts and giving people—

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CHAIR—Mrs Pursey, could you repeat all of that? We would really like to hear what you are saying.

Mrs Pursey—Most people do not want to be dependent on the government. You are creating a situation here where you are going to have hundreds of thousands of people living on the government or trying to live on the government or trying to apply for social security because the insurance companies are not meeting their obligations, and governments are letting them get away with it. They are virtually encouraging it. I do not know where this is all heading, but it is getting scary. Are you going to change the social security criteria? Injured people are already coming into my office, and they are really scared because they know they are going to get nothing for their injury and they are going to be dependent on the government for the rest of their lives, probably for money and for housing. My understanding is that social security is planning to bring in different work criteria. Different things are going to happen within the social security structure. These people do not know what they are going to do. This is all happening because the insurance companies have suddenly stopped paying. They have not stopped making a profit.

CHAIR—Mrs Pursey, are you saying that the insurance companies are shifting their obligations on to the taxpayers and the community and creating a whole raft of disability support pensioners?

Mrs Pursey—Absolutely. Furthermore, state governments are pushing what they call cost saving measures on to the federal government. The state government does not really care whether we have to go onto social security because we are not getting paid or not getting a lump sum for an injury or because we cannot work. They do not care because that goes on to you in the federal parliament. You have to pay for that. It is cost shifting.

CHAIR—Mrs Pursey, I know it is difficult to estimate, but to the best of your ability what percentage of injured people that you know of have had a good outcome in terms of successfully going through rehabilitation and going back to work? What percentage have had this terrible outcome that you mentioned whereby they are left on the social security system and would like to work but cannot?

Mrs Pursey—I do not know anyone who has successfully been rehabilitated back to work. In all my years, I do not know anyone who has gone back to work rehabilitated and is carrying on their job. I also do not know anyone who does not want to go back to work but cannot because they cannot find a job. You see, when you apply for a job these days—

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Mrs Pursey—Sorry, how far did I get then?

CHAIR—Mrs Pursey, could you please recap back to where you said you knew no-one who had been successfully rehabilitated.

Mrs Pursey—I do not know anyone who has been successfully rehabilitated back into work and back into a job and has carried on their life as before. Rehab, to me, is another ploy for businesses to get money to operate and create profits. But they are giving nothing back to the community in return. I do not know anyone who has ever successfully gone back to work who has been injured.

CHAIR—Mrs Pursey, in the course of your work with your organisation, how many injured people would you have come across? I know it is a big question, but just roughly?

Mrs Pursey—It is a big question. It is 20 years with an average of probably five to 10 people a week. I do not know who has the calculator.

Mr Orrman—That is 2½ thousand.

Mrs Pursey—At least 2½ thousand. I do not know any who have ever successfully gone back to work.

Mr Heedes—A salient point made by Mrs Pursey that you missed was that the worker is stigmatised from progressing from the ‘rehabilitation system’ to successfully gaining new employment. When they go to an interview or into the employment process with any employer here in Western Australia, they have to disclose whether they have been a member of the workers compensation system here in Western Australia and whether they have, firstly, lodged a claim and, secondly, have received and/or are entitled to any payments. Let me tell you that that stigma carried by the injured worker is a stigma they carry for the rest of their working life. It is something that is electronically tracked in relation to employers. It is cited as a major reason for employers getting out of WorkCover cases at the moment—that the employees have not disclosed that they have sustained an injury in a working environment in the past. They are going back 10 or 15 years and giving the insurance company reasons to discourage and/or dismiss their claim.

CHAIR—Thank you for that.

Mrs Pursey—That tends to follow injured people everywhere they go. Most injured people, when they have been on workers compensation—and they are all desperate to work—lie to get a job. They lie on the form. As a matter of fact, they come to me and say, ‘What am I going to do? I’ve applied for 350 jobs and I’m not getting accepted.’ I have to say to them, ‘Have you ever thought about the box you tick that says you have been on workers compensation?’

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They know that if they are injured again they can never claim because they have lied to get that job. It is an appalling situation. And that is another thing that should be addressed somehow by the government—the stigmatisation that follows on from a workers compensation claim. Maybe that is why I have never seen anyone successfully go back to work.

CHAIR—Mrs Pursey, you mentioned in your submission the comparison between Western Australia and Queensland, where there is a far more centralised management structure. What particular aspects of the Queensland system would you like to see implemented in Western Australia?

Mrs Pursey—There are a couple of aspects that I would not like to see implemented. Having said that, to get the insurers out of the picture would be a cause for celebration by all Western Australians. You cannot run a system here in Western Australia that is structured the way it is now. It is corrupted to the hilt. We believe that you need to get the insurers out of the picture. The people currently involved in the system, such as those at WorkCover, should never be given employment in a new system because the corruption is there. There needs to be a whole new system based on the Queensland system, making sure that fairness is there for everyone. Again, we still have problems with medical panels. I believe the Queensland government select their medical panels. Again, there seems to be a bit of a problem with that, but I do not know. I have heard whispers from people I have spoken to in Queensland that the medical tribunal can be a problem in Queensland. But I would like to see the insurers out of the picture and employers paying their premiums into a central fund and the fund administering the compensation back out to the injured worker. Queensland, I believe, had a \$180 million profit last year in their system alone.

CHAIR—Thank you, Mrs Pursey. Mr Hartsuyker would like to ask you another question?

Mr HARTSUYKER—There was mention earlier about the judicial process being invoked. This really harks back to my earlier question. When court action does occur, have there been in those court cases instances of impropriety on behalf of the participants in the system? By the participants, I mean those on the WorkCover side, the insurance companies and their consultants? Has there been impropriety disclosed in evidence in those particular court cases?

Mrs Pursey—Am I to understand that you are talking about court cases when they hit the real courts?

Mr HARTSUYKER—Yes, I am.

Mrs Pursey—The WorkCover court is not a real court. You are talking about real courts. We have wonderful success in the real courts, but for some reason the improprieties are never brought forward. I think a couple of recent—

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Can you still hear me? I do not know how far we got.

Mr HARTSUYKER—Could you start from the mention of real courts and your success in the real courts.

Mrs Pursey—I believe Western Australians have faith in the real courts at this stage. I do not believe there is a problem with the real courts. The real courts do not do what WorkCover does. We do not have those sorts of problems. I believe a couple of writs or suits have been brought forward into the courts citing insurance company wrongdoing. I believe Arthur Heedes could tell me the name of one of those.

Mr Heedes—There are a number of cases. One is *Ileveska-Diva v SGIO Insurance* and the matter of *Velenski v SGIO Insurance* in the Supreme Court in the year 2000. I cannot be precise about that.

Mrs Pursey—There certainly have been cases of impropriety mentioned in the courts. But it certainly has not gone far enough, because most people do not even get to those courts. They do not have the money to get there. It costs \$15,000 to get an appeal done in the Compensation Magistrates Court. Injured workers do not have that sort of money. That is when the claimants fold and go away. That is what the insurer depends on. They suss each worker out. They know whether they have a mortgage or whether they have kids or wives or anything else. They are the ones they go for. They are the ones that do not get a chance in the system because they have no money for appeals, and the lawyers in Perth will not fund the appeals any more.

Mr Heedes—Section 184 of the Workers Compensation and Rehabilitation Act 1981 relates to the protection of officials. I am led to believe on good authority that my test case in the Supreme Court, which is imminent, will be a bit of a landmark case. Section 184 protects the officials here in every capacity from prosecution. I will read one paragraph from the act:

Neither the commission nor a dispute resolution body nor any member of either of them or any person discharging any duty in pursuance of this act is liable to any suit or action or to pay any claim or demand made or brought by or on behalf of any person with respect to anything lawfully—

and I emphasise the word ‘lawfully’—

done or omitted by the commission or a dispute resolution body or the member or the person discharging the duty in pursuance of this act.

So the onus upon the person litigating as such is to prove the word ‘lawfully’ to be the antithesis—that is, unlawful or criminal activity. Hence, I am led to believe that my case is the first that has actually been seriously—

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Mrs Pursey—Did you get all of that?

Mr HARTSUYKER—I think we got the gist of the message there.

Mrs Pursey—You just cannot bring legal action against them. That is really what has been the hold-up. The other hold-up is this: where do you think a man, with a wife and two kids, working in a factory is going to find the money to do all of this? They do not have it.

Mr Heedes—It needs to be understood that the system has already put economic weight upon them for a period of time. So by the time they get to the Supreme Court—we are talking on average two to three years—they are financially destitute or unable to go through the process.

Mrs Pursey—And the insurers know this.

Mr Heedes—Economic weight is their major weapon.

CHAIR—Mrs Pursey and your other colleagues, we may have to draw to a close now. Could I please express our extreme gratitude to you and to the other people who came forward as witnesses today. We know that you have made a very big effort. We are sorry for the technical hiccups. It has been a very, very valuable submission from all of you. Thank you so much. We wish you well.

Mrs Pursey—On behalf of IPASA, we say, from the bottom of our hearts, thank you to each and every one of you for finally giving us this opportunity.

Resolved (on motion by **Ms Hall**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.06 p.m.