LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

(Reference: Inquiry into Annual and Financial Reports 2022 - 2023)

Members:

MS L CASTLEY (Chair)
MS S ORR (Deputy Chair)

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 23 NOVEMBER 2023

Secretary to the committee:
Ms S Milne (Ph: 620 50435)

By authority of the Legislative Assembly for the Australian Capital Territory

APPEARANCES

Privilege statement

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Amended 20 May 2013

The committee met at 11.18 am.

Gentleman, Mr Mick, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

Chief Minister, Treasury and Economic Development Directorate
Rutledge, Mr Geoffrey, Deputy Director General, Office of Industrial Relations and Workforce Strategy
Young, Mr Michael, Executive Group Manager, Work Safety Group, Office of Industrial Relations and Workforce Strategy

WorkSafe ACT
Agius, Ms Jacqui, Commissioner, WorkSafe
Grey, Ms Amanda, Deputy Commissioner, WorkSafe

THE CHAIR: Good morning, and welcome to this public hearing of the Economy and Gender and Economic Equality Committee for its inquiry into annual and financial reports for 2022-23. The committee will today hear from the Minister for Industrial Relations and Workplace Safety.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and contributions they make to the life of the city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event.

The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We welcome Mr Mick Gentleman MLA, Minister for Industrial Relations and Workplace Safety, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Please confirm that you understand the implications of the statement and that you agree to comply with it.

Mr Rutledge: I have read and understood the privilege statement.

Mr Young: I have also read and acknowledge the privilege statement.

Mr Gentleman: I have read and acknowledge the statement.

Ms Agius: I have read and understand the privilege statement.

Ms Grey: I have read and understood the privilege statement.

THE CHAIR: Thank you. When the rest pop up, could they please acknowledge that when they arrive. We are off to a good start. We do not have any opening statements. I will kick off with the first question. I could be in the wrong session, because I have tried this a few times: worker compensation. Are we able to chat about that? I see in the annual report that there is a lot about public sector workers compensation, but I would like to understand private sector workers compensation, if I can.

Mr Gentleman: I will ask Mr Young to give you the detail of their operations across the territory.

Mr Young: Thank you very much. Yes, this is certainly the right portfolio to be putting those questions. The Work Safety Group has responsibility for the ACT private sector workers compensation schemes legislative framework. The regulator for that private scheme is the WHS Commissioner. Perhaps I could begin with some remarks around how the insurers are licensed and operate, and then, if there are questions around operational compliance and enforcement, they can best be directed to Mr Agius—

THE CHAIR: It is more about the costs and how we get to that. Basically, I am coming from the business perspective.

Mr Young: The scheme is privately underwritten. There are five insurers that are licensed. Workers compensation is compulsory. It is a mandatory statutory class of insurance. All employers engaging employees with a connection to the ACT must have a policy or must be declared a self-insurer for the purposes of the act. The vast majority of employers operating in the territory purchase an insurance policy from one of the five licensed insurers. There is a licensing process in place to periodically review the underwriting, the capital arrangements, the claim management administration et cetera of those licensed insurers.

In terms of price, because it is a privately underwritten scheme, the insurers are able to set their own price based on the individual characteristics of the employer seeking the policy. The government assists with that process by way of an annual process where we commission an independent actuary to review the performance of the scheme and look at the claims experience of individual industry sectors. We publish, essentially, a detailed schedule of reasonable premium rates. These are not mandatory rates. It is a guidance instrument that is published annually. It is available on the CMTEDD website. What that indicates is on, I think, a four-division ANZSIC class basis—the amount of premium that the actuary believes is reasonable. That is available. It is promoted to the insurers and the insurers use it to inform the underwriting decision-making. But, ultimately, it is for the insurers to determine.

THE CHAIR: That is on the CMTEDD website? What is it called, so I can look that up?

Mr Young: There are two documents. There is the independent valuation of the private sector scheme and schedules of estimated reasonable premium rates.

THE CHAIR: Great.

Mr Young: It is the schedule of reasonable premium rates there. We have been doing that for a number of years, and we monitor, on an annual basis, the actual prices that insurers charge relative to the recommended rates. We see a condensing. Over time, the rates being charged on an industry basis are getting much closer to the reasonable rates.

However, there is of course variation for individual employers. So, while we estimate the reasonable rates based on classes of employer, ultimately, when an employer or their broker approaches the insurer, the insurer will look at the experience of that employer and they will write a price. It is a competitive market. If we look at the amount that is traditionally charged by the insurers to employers compared to the estimated reasonable rates, for a number of years the amount that is actually being charged is less. Sometimes it is 20 per cent less than the reasonable rates. That is because it is a highly competitive market. The regulatory and licensing footprint that we have established is intended to encourage competition in that respect and keep premiums charged to employers low.

If you were to look at other jurisdictions that have different underwriting models, where there might be a central agency or where the government sets premiums, and compare them to what the ACT does, if the ACT were to adopt one of those file-and-rank type systems, for example, our premium prices would probably need to go up.

THE CHAIR: I have heard from a couple of businesses in different industries—one has over 100 employees and one has, I would say, between 20 and 30—that their premiums have doubled in the last 12 months, and their insurers have advised that it is cheaper across the border. I often get told by business, "If we could move to Queanbeyan, it would be much cheaper." What are your thoughts on that, and will these schedules help me to understand that a bit better? You say it is 20 per cent cheaper here. I do not understand.

Mr Young: No, I was comparing prices that historically insurers have charged in the ACT compared to the estimated reasonable rate for the ACT. Essentially, insurers are charging less than the reasonable estimated rate because it is a competitive environment.

In respect of that question, I would make two observations. If we look at the rates being charged on average for the whole ACT private scheme, or even for individual sectors, the premium price has actually been very stable over a number of years. Where you are seeing those significant increases in the ACT, it would generally be as a result of an underwriting decision made in respect of a specific employer. I would look at their experience or factors that might have affected the risk profile.

However, going to the question of the relative price of the ACT scheme compared to New South Wales or other states and territories, there are significant differences. At heart, they go to the design of the benefits regime for the two schemes. If you look at the ACT scheme, for example, there is unlimited access to uncapped common law. Around 20 per cent of claims in the ACT private scheme make their way down some sort of common law lump sum redemption-type pathway. Those are pathways that are generally unavailable in New South Wales. With probably around 80 per cent of the claims that go to common law on the lump sum payout pathway in the ACT, if the

same claim had occurred in New South Wales, they would not be able to access this.

There are also limits on the amount of time that compensation remains payable in New South Wales, and all of the other states and territories during a claim. The ACT private scheme compensates people when they are injured travelling to and from work. That is a head of damages that is not available in New South Wales. That alone accounts for about a 10 per cent difference in premium rates. There are very significant differences in scheme design that are the primary determinative factor for those claim cost differentials.

If you look at certain sectors, though, in New South Wales it is a managed fund. It is not privately underwritten. Ultimately, there is a single underwriter, the iCare Corporation, and they set the premiums. It is open to iCare to introduce cross-subsidisation. If they want to keep a premium rate low for an at-risk class of employer, and charge other classes extra, it is open to them to do that. They have done that in the past—for example, exemptions for apprentices from workers compensation premium or probably some cross-subsidisation to high-risk dust sectors in New South Wales. These are things that you can do in a managed fund environment that cannot be done in a privately underwritten one, because ultimately the underwriting pen is held by commercial insurers, and they are subject to APRA requirements around pricing and capital arrangements.

THE CHAIR: ACT is the only jurisdiction that covers to and from work?

Mr Young: It is not the only one, but New South Wales and Victoria do not. Queensland is probably the scheme that is closest to the ACT in that respect.

THE CHAIR: Do we know how many claims a year we see in the ACT, for private?

Mr Young: Certainly. The valuation report that I mentioned provides—

THE CHAIR: That will have that?

Mr Young: detailed information about the number of claims—

THE CHAIR: No worries; I will look that up.

Mr Young: that are coming through. If you look at the experience, it has been quite volatile over the last few years, essentially down to COVID restrictions. Significant sectors of the ACT labour market reduced their activity and significantly changed their risk profile in that COVID period, so there is some volatility there. Generally speaking, the number of claims occurring relative to total wages is trending downwards. We are pretty much at historically low levels of claims and lost-time injuries.

THE CHAIR: I will find those two documents; thank you.

MS ORR: I have some questions regarding silica dust and the moves that the ACT has taken to strengthen work health and safety regulations regarding this. Could I get an update on where you are up to with the reforms and what sort of change in

practices you are already starting to see?

Mr Gentleman: Yes, we have done quite a bit with regard to treating silica dust for employees across the ACT, and we have engaged with employers as well. It is probably worthwhile asking the commissioner to give some details on the work that she has been doing.

Ms Agius: Thank you for your question, Ms Orr. Firstly, the code of practice was introduced last week, and we are really happy about that code of practice. Our code of practice in the ACT applies to most silica-containing materials, unlike other jurisdictions, where the codes of practice apply only to engineered stone. That code of practice was actually drafted by WSG, in consultation with WorkSafe ACT and the Work Safety Council.

Since 1 October, duty holders have had to ensure that all workers are trained in a nationally accredited silica awareness course, and this is a mandatory course. We are the only jurisdiction that mandates that training. There was a significant transition period to allow duty holders to enrol their workers and have them trained.

Between 1 October and 23 November, WorkSafe issued seven improvement notices for non-compliance with the mandatory training requirement. Those notices have mostly been in relation to out-of-jurisdiction workers coming into the ACT. WorkSafe ACT have also issued notices for uncontrolled dry cutting of silica-containing material, which is also banned in the regulations. As of 23 November, this includes 17 prohibition notices and five infringement notices for breaching that regulation.

Additionally, we have issued various notices for ineffective control measures for cutting silica-containing materials, one improvement notice and seven prohibition notices for that. We have also ramped up our team. Initially, our dangerous substance team had two inspectors and we now have three inspectors and two assistant inspectors in that team, so we are out there doing that work. The ACT government have announced that they support the banning of engineered stone in Australia, and I have also come out publicly and said I support that.

MS ORR: With the work that you are doing now, it sounds like a lot of it is focused in the first instance on education and then on making sure that best practice is followed once you have had that education. I think you mentioned that some of the initial notices were going to workers from outside the ACT who were working inside the ACT. In what ways can we better address that gap?

Ms Agius: We have a lot of education in that space. One of the things that I am aware has happened—and I have spoken to industry about this; I had a conversation with someone from industry yesterday—is that the main contractor or the PCBU on the site is checking to ensure that workers on their sites have the mandatory training. If they do not have the mandatory training then they ensure that they are trained before they allow that worker on their site. Industry is working with us to provide that information to ensure that people are trained.

MS ORR: A lot of it is about making sure that industry is aware of their responsibilities?

Ms Agius: Yes.

MS ORR: You said that you and the minister support the banning of stone cutting—engineered stone. I take it that a little bit of work still needs to be done federally before that one is banned. How do the steps that we are taking in the ACT allow for best practice and management of the risks from engineered stone while we wait for the feds to do their bit?

Ms Agius: The main problem with engineered stone is that we just do not know whether there is any safe level. Safe Work Australia, in their current report which has been provided to the ministers for work health and safety, has recommended a ban, and it has provided three different provisions for how that ban can occur.

In the ACT we are doing everything that we can do under the current regulations to keep workers in the ACT safe from exposure to risk. Part of our work is to ensure that those workers have had health monitoring. In fact we are having health monitoring in our own workplace; we are about to introduce that for our own workers as well.

MS ORR: For silica exposure?

Ms Agius: Yes, for inspectors at WorkSafe ACT. That has not happened before, but it is something that we deem necessary as a work health and safety protection for our workers. We know that, with silicosis, the earlier it is diagnosed the better it is for prolonging the person's life, as long as there is no further exposure post diagnosis. We have also published significant web updates and we are providing information all the time. We have numerous LinkedIn posts about this and the risks associated with that exposure.

MS ORR: Minister, would I be right in assuming, given that Safe Work Australia is taking this up and it is happening at a national level, that that is a conversation you will continue having?

Mr Gentleman: Yes, indeed. We have had a look at the report that Safe Work Australia has done. It indicates, as the commissioner said, that there is no safe level of working with engineered stone. I have had a conversation with my cabinet colleagues, with a view to supporting a national prohibition on engineered stone. The next steps will be that we will have a work health and safety ministers meeting early next month. I understand from conversations that most other jurisdictions have already made that decision as well, so I will be supporting them, Safe Work Australia and the federal government in that national prohibition.

They did provide, in the report, a number of reasons for the prohibition. The first is that there is no safe level of working with engineered stone. Engineered stone workers exposed to respirable crystalline silica are significantly over-represented in silicosis cases. Those particular workers are being diagnosed with silicosis at a much younger age than workers in other industries. Engineered stone is physically and chemically different to natural stone, and the high levels of RCS generated by working with engineered stone, as well as the differing properties of RCS, are likely to contribute to a more rapid and severe disease.

There is no toxicological evidence of a safe threshold, as I mentioned before. Silicosis and silica-related diseases are preventable. However, a persistent lack of compliance with all enforcement of the obligations under the WHS laws across the whole industry at all levels is not protecting workers from the health risks associated with crystalline silica.

MS ORR: Mr Young, were you going to say something?

Mr Young: These are very important issues. We certainly look forward to settling the question of a ban. However, a significant amount of engineered stone will remain in situ in the ACT in workplaces and private homes. In that respect the regulations that have been introduced, which include a dry cutting ban, mandatory training and extensive requirements around controls that must be used when it is being cut will remain very important in the years to come.

In addition, the Asbestos Safety and Eradication Agency is in the process of having its scope expanded from covering asbestos to also covering silica. This will be particularly important because it has a mandate that looks at not just workplaces but private homes. With respect to your question of how our regulatory arrangements are protecting workers going into the future, while the ban will be critical, proper management of in situ materials will also remain very important.

THE CHAIR: I have some questions about Creative Safety Initiatives. I believe that they were chosen as the sole organisation to provide training for the crystalline silica exposure prevention; is that correct?

Mr Young: It is a nationally accredited course that is used there. Ultimately, it goes to the RTOs that are registered via that national process to be able to deliver the training.

THE CHAIR: They were the only ones that could do it?

Mr Gentleman: Not nationally, I do not think.

Mr Young: I will check that and come back to you before the end of the hearing. The regulatory model that we have put in place does not involve us identifying specific RTOs; rather, it recognises that nationally accredited course, and we rely on the infrastructure that is in place via that national process to ensure that there are appropriately accredited organisations delivering it.

Ms Agius: On our website there is a list of other training organisations that can provide the course, but CSI own the accredited course, which is approved by ASQA, the Australian training authority.

THE CHAIR: Okay. Have any industry groups suggested improvements to the CSI course?

Mr Young: We have been in receipt of some ministerial correspondence providing suggestions around making sure that the content remains up to date, particularly as regulatory changes are being made, and we are in touch with the relevant bodies in

raising those issues. I think there are 10 or 11 RTOs currently registered and able to deliver that training.

THE CHAIR: But it is still CSI content and they were the only ones that had the ability to write the course. Or are they the one you chose, and for what reason?

Mr Young: It is part of the national ASQA process. There is an entity that owns the training course. That is then approved by the national authority and it may be delivered, with agreement, by additional RTOs, so—

THE CHAIR: How did the other RTOs go? Has there been any delay in training due to having just that one CSI course? Have the other RTOs been able to hop on board quickly?

Mr Young: I believe that there is sufficient capacity in the market to meet the requirements. It would be open to other entities to produce another course and seek the national accreditation—

MS ORR: This is my question. If you are an entity, you can develop a course and have it approved. There is no limit to it? It is not just one entity, per se? In this instance, is it that CSI have taken the initiative to develop the course and get it accredited and if other entities wanted to do that they could? Alternatively, they could apply to administer CSI's course or CSI can just continue to do it. It is not an exclusive rights thing for CSI; that is what I am getting to.

Mr Young: They are not a monopoly provider of the course. They own the IP, but it can be delivered by other RTOs. Sorry; I have just had an update. There are 17 RTOs able to deliver it.

THE CHAIR: I think Ms Orr was getting to this. I understand that other RTOs can hop on board and deliver CSI's course. Can other bodies write their own course and apply to have it as the course?

Mr Gentleman: An alternative accredited course? Yes; correct.

THE CHAIR: Okay. I have some further questions here. What connections are there between the CSI, the CFMEU and the Tradies Club in Canberra?

Mr Gentleman: You would have to ask CSI.

THE CHAIR: You do not know?

Mr Gentleman: It is not in my portfolio.

THE CHAIR: CSI providing training?

Mr Gentleman: In that sense, yes—CSI providing training.

Ms Agius: My understanding is that CSI is the training arm of the CFMEU.

THE CHAIR: Good. So when—

Mr Gentleman: Like HIA have their—

Ms Agius: A training arm; yes.

THE CHAIR: A training arm.

MS ORR: The MBA does too.

Ms Agius: Yes.

MS ORR: But they sit as separate entities?

Ms Agius: Yes.

THE CHAIR: When will a regulatory impact statement be released and does the government have any idea of the financial impacts that these changes will have on small and medium businesses locally? I understand, of course, that safety is important. I am just wondering if there has been any modelling done.

Mr Gentleman: I suppose the financial impact to date is simply the training package. It is about $300 per head. It depends on who is delivering it.

THE CHAIR: Okay.

Mr Gentleman: There would be other impacts as well. The government works with companies across the ACT, and nationally other governments work with their providers and companies that deliver these particular products. In fact, I have met personally with manufacturers here in the ACT that have worked with this material in the past. We are engaging with them about the changes that we are making into the future.

I have not looked at the financial impact of a ban yet. That is still something that needs to be discussed with our counterparts in other jurisdictions. Certainly, there is that initial cost of training. You would imagine that if there is less use of that particular product into the future there will be an impact there. Where this occurs in other circumstances, though, we see that clever companies tend to pick up other products to replace the material and provide some other resources.

Engineered stone is relatively new in Australia. Previously we used original stone. There are of course very difficult conditions around working with original stone and it is more expensive than engineered stone. There will always be, I think, a financial aspect to the choices that companies make on the delivery of these sorts of products.

THE CHAIR: Sure.

Mr Rutledge: If I may, Ms Castley, as part of the national work that Safe Work Australia did on behalf of all ministers, they put together a decision regulatory impact statement. That was brought to the last national meeting of workplace safety ministers,

in October. That came to the recommendation that there are other options, but under that RIS statement the recommendation was that the costs outweigh the benefits.

THE CHAIR: Of course. Yes. I am just—

Mr Rutledge: Sorry; the benefits outweigh the costs. The benefits outweigh the costs. That is informing those national discussions. We have not done one internal to the ACT, but, as the minister said, every time we have brought in additional training and education we have done that with industry and with workers representatives to ensure that everyone is up to date. If you are looking for a single decision RIS, the Safe Work Australia website would contain that for you.

THE CHAIR: Okay. One final question. I think you might have answered this before, but how does the government advertise to workers on the ground the requirements under the new regulations, not just about the training? Is that up to the PCBU on each website?

Ms Agius: No. We do quite a bit on that as well. Prior to this coming in on 1 October—the requirement to do the training—all of our inspectors were out there handing out little cards saying that people were required to do training. We even had some jellybeans with a card attached saying that they needed to do training by this date. They went out to every workplace they visited.

We also engaged a consultant, ThinkPlace, who provided a report for us. That report is available. The report explored silica dust exposure, attitudes, perceptions and practices within the ACT. We used that as the basis for the work that we did in ensuring that we made people aware of all of the changes.

We had a targeted campaign called "Silica Saturdays". Every Saturday we would post things about silica. People mentioned that it was being shared. We also had a couple of other jurisdictions approach us to adopt that same hashtag "#silicasaturday" for their campaign. There was lots of engagement. I would go out and speak often to industry and workers. Also, I have been out speaking to unions about it so that the industry associations and worker associations can pass on information to their members. We promote silica exposure prevention and training in all discussions that we have in the construction industry.

MS CASTLEY: But some of the smaller people may not be associated with the MBA or the HIA.

Ms Agius: Yes. That is why we ran the campaign of our inspectors going out into residential construction. In the ThinkPlace report one of the issues that we found was that those smaller and medium-sized businesses were not getting the information that they needed and were not as aware, so we ran proactive campaigns in residential construction, where our inspectors were speaking to contractors, subcontractors and workers to provide that information to them.

Ms Grey: We also, during Safe Work Month, which is in October, hosted a barbecue at Bunnings. Our inspectors were there, engaging with do-it-yourselfers and tradespeople. We started that last year, handing out information about upcoming

changes directly to people who were at Bunnings.

THE CHAIR: Great. Thanks.

MR BRADDOCK: I understand that the contract for the Young Workers Advice Service expires today, after being extended several times and reaching its maximum duration. Has the service been re-tendered? What is the plan for delivery of that service?

Mr Young: It has not been re-tendered. I expect that an expanded grant will be provided to UnionsACT to deliver education and awareness-raising services. That will potentially encompass elements of that service being provided. This was an initiative announced in the previous budget which is intended to utilise the unions' networks, contacts and infrastructure to educate employers and workers more generally. The grant will provide for an expansion of those education and advisory services, with a particular focus on mental health. I expect that that will utilise the infrastructure that was in place via that previous contract.

MR BRADDOCK: Will there be any value for money assessment conducted in the handing over of those public moneys?

Mr Young: The grant will be subject to regular review and it will assess performance against the delivery criteria within that grant. I expect that there will also be periodic oversight of the operations via the tripartite WHS Council, which provides advice to the minister. The grant itself has been in place for many years and has been independently reviewed on two occasions. That infrastructure and those governance arrangements are being built on and expanded, rather than setting up an entirely new process.

MR BRADDOCK: To be clear: there is no value for money assessment. It is more of a performance assessment against the grant deed.

Mr Young: I would argue that that would encompass a value for money assessment.

MR BRADDOCK: I would like to think it would, but I am just trying to clarify whether that is the case.

Mr Young: The grant will be a public document. It will be published, once settled. That will clearly lay out the services that are expected to be delivered. The governance arrangements will review performance against those on a regular basis.

MR BRADDOCK: Okay. I have also called for, in the past, a migrant workers centre, due to the exploitation that is rife for migrants. Is there any consideration of such a service?

Mr Young: I expect that the grant will encompass services around migrant support, particularly for visa workers.

MR BRADDOCK: You expect? Is there certainty there or is that wishful thinking?

Mr Young: It is currently being negotiated. There is agreement in principle, but it is yet to be signed. Once signed, it will become public, but all indications are that there will be additional services for migrant workers.

MR BRADDOCK: Very good. Thank you.

THE CHAIR: I have some questions about sexual harassment and assault in the workplace. Could you remind me what the mandatory reporting requirements are now? I have a lot of questions on this, so could you briefly hit me with the important ones.

Ms Agius: The mandatory reporting requirements came in on 9 June. Employers or PCBUs are required to notify WorkSafe of any sexual assaults or suspected sexual assaults in their workplaces. Since that time we have had, I think, about 21 notifications.

THE CHAIR: Since 9 June?

Ms Agius: Since 9 June. We are only able to collect limited material in relation to sexual assaults because there is a privacy element to that, so we are not able to collect the name of the alleged victim. We can only collect the name of the workplace where the alleged incident has occurred.

THE CHAIR: Are there any trends? Have you noticed any trends at this stage?

Ms Agius: It is too early.

THE CHAIR: Too early to tell. We have recently seen published in the media disturbing allegations of significant sexual harassment and misconduct occurring here in the Assembly. Has WorkSafe received any reports regarding sexual harassment in the Assembly?

Ms Agius: We have not received any reports, to my understanding, but we are aware of those matters because of the media highlighting them.

THE CHAIR: What WorkSafe processes are triggered when a report is made?

Ms Agius: There are a number of things that occur in our agency. Firstly, depending on the severity of the report that comes to us, we will triage the matter and then determine whether a workplace visit is necessary. The first thing that happens is that there is a discussion with the employer. We also send an email to them saying, "Have you followed these steps?" Included in that is reporting the matter to the police. There is an online form that employers and workers can fill in—and they can do that anonymously as well—to notify us of those incidents. Generally, because we are unable to collect specific information, it is a visit to the workplace to ensure that they have proper systems in place to manage the risk of sexual harassment in the workplace. Can I add, Ms Castley, that we are the first jurisdiction in Australia to implement that notification requirement; no other jurisdiction does that.

MS ORR: While we are on this, can you just run me through, Commissioner, how

important it is to change that systemic approach to how we proactively create environments that minimise sexual assault, as opposed to being reactive, with a complaints-based approach?

Ms Agius: Yes. Being proactive in relation to all work, health and safety matters will result in fewer reactive complaints, so our work will always be around trying to get people to be proactive. When we issue an improvement notice, for instance, that is in order to improve the proactive work of that particular PCBU.

In relation to sexual assaults and suspected sexual assaults, one of the things that we know about them is that they are under-reported, not just in the community but in workplaces. Even though we have had what we consider a significant number since 9 June, we still believe that to be under-reported. We are about to embark on quite a significant campaign. Our team is planning a campaign about sexual assault and sexual harassment in workplaces to ensure that PCBUs are proactive about it.

Of course, what we are seeing in society will be reflected in what is happening in workplaces. If we can start changing the attitude through proactive work in workplaces then, hopefully, we will see a change in society. That is my biggest wish, anyway.

MS ORR: I know we have done a bit of mandatory training in the Assembly around sexual harassment—and workplace harassment in general, not just sexual. What sorts of things would constitute sexual harassment in the workplace beyond the things that you would instantly think about, which would probably go to assault in the first instance?

Ms Agius: We have produced some posters on what sexual harassment sounds like. There are a number of things on the posters, and they are things that perhaps people do not think indicate that there may be a sexual harassment or sexual assault hazard in the workplace. One of those things is consistently asking somebody to go out, for instance. That may be sexual harassment. It may be just generally touching someone constantly on the shoulder or on the arm or where you would not normally have that physical contact—

Mr Gentleman: Personal space.

Ms Agius: Yes, and even encroaching on a person's personal space. We see comments from women who say things like, "I wish you would stop staring at me." That might seem like a minor thing, but for women it is not a minor thing if they have somebody leering at them. They might say, "I wish they would stop staring at me," but what that might translate to is that that person is consistently leering at them. If we are hearing those things in the workplace, we encourage employers to start thinking about how they would manage those hazards, and also to put in place particular things to ensure that those people in the workplace are safe.

THE CHAIR: On behalf of the committee, I thank our witnesses for your attendance today. I do not think you have taken any questions on notice, but if you have, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. On behalf of the committee, I would like to

thank our witnesses, who have assisted the committee through their experience and knowledge. We also thank broadcasting and Hansard for their support. If a member wishes to ask questions on notice, please upload those on the portal as soon as practicable, and no later than five business days after the hearing. This meeting is adjourned.

The committee adjourned at 12.02 pm.