

# **PORTFOLIO COMMITTEE NO. 1 – PREMIER AND FINANCE**

**Wednesday 11 September 2024**

**Examination of proposed expenditure for the portfolio area**

## **INDUSTRIAL RELATIONS, WORK HEALTH AND SAFETY**

<b>UNCORRECTED</b>
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**The Committee met at 9:15.**

### **MEMBERS**

The Hon. Jeremy Buckingham (Chair)

Ms Abigail Boyd  
The Hon. Mark Latham  
The Hon. Stephen Lawrence  
The Hon. Bob Nanva  
The Hon. Peter Primrose  
The Hon. Chris Rath  
The Hon. Damien Tudehope

### **PRESENT**

**The Hon. Sophie Cotsis, Minister for Industrial Relations, and Minister for Work Health and Safety**

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**

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**The CHAIR:** Welcome to the sixth hearing of Portfolio Committee No. 1 – Premier and Finance for the inquiry into budget estimates 2024-2025. First, I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. My name is Jeremy Buckingham. I am the Chair of the Committee. I welcome Minister Cotsis and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Industrial Relations, and Work Health and Safety. I ask everyone in the room to please turn their mobile phones to silent.

Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures. To all witnesses, welcome and thank you for making the time to give evidence. All witnesses will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. Mr Draper and Ms Campbell, I remind you both that you have already been sworn before this Committee during this inquiry and do not need to be sworn.

**Ms SAMARA DOBBINS**, Deputy Secretary, Delivery and Coordination, Premier's Department, sworn and examined

**Mr GRAEME HEAD, AO**, Secretary, Department of Customer Service, affirmed and examined

**Mr TRENT CURTIN**, Acting Deputy Secretary, SafeWork NSW, Department of Customer Service, affirmed and examined

**Mr STUART FARQUHARSON**, Interim Chief Executive Officer, icare, affirmed and examined

**Mr TONY WESSLING**, Group Executive, Workers Compensation, icare, affirmed and examined

**Mr SIMON DRAPER, PSM**, Secretary, Premier's Department, on former affirmation

**Ms SONYA CAMPBELL**, Deputy Secretary, Commercial, NSW Treasury, on former oath

**The CHAIR:** Today's hearing will be conducted from 9.15 a.m. to 5.30 p.m. We are joined by the Minister for the morning session from 9.15 a.m. to 1.00 p.m., with a 15-minute break at 11.00 a.m. In the afternoon we will hear from departmental witness from 2.00 p.m. to 5.30 p.m., with a 15-minute break at 3.30 p.m. During these sessions there will be questions from Opposition and crossbench members only, then 15 minutes is allocated for Government questions at 10.45 a.m., 12.45 p.m. and 5.15 p.m. We will begin with questions from the crossbench.

**The Hon. MARK LATHAM:** Thank you, Minister and officials attending estimates today. Minister, among economists there's a consensus that the New South Wales economy is not in great shape, as per the situation around the country. In particular, economic growth is basically flat, while inflation remains above the Reserve Bank target range. The governor of the Reserve Bank has said that, in part, the inflationary problems are due to excessive State government deficits, particularly in New South Wales and Victoria. Economists are also saying that the only way out of this economic dilemma is to increase productivity. Is it the policy of the New South Wales Government to put a heavy emphasis on improvements to labour productivity?

**Ms SOPHIE COTSIS:** Mr Latham, thank you for your very important question. It is a very tough time, absolutely, for many people in our community. Of course, the inflation rate is where it's at. I understand that our Government is doing everything we can to make sure that we do our bit, as part of all other jurisdictions, to try to put downward pressure in terms of inflation. I hear what you're saying about productivity. That's something that our Government is doing, particularly with our changes to industrial relations, to make sure that we're pursuing productivity efforts in relation to the work that we're doing in industrial relations. Our mutual gains bargaining program that we have established is making sure that we—we have to go back 12 years, when the former Government brought in the wages cap. What that did was that stifled new ways of doing things and it stifled productivity. It stifled productivity in a very big way. What we're trying to do with our industrial relations reforms, particularly in the delivery of service, is we're delivering services across the public service.

We're one of the largest employers in the Southern Hemisphere. We employ over 430,000 employees. The demand for our services has changed. It depends on where you live and your location et cetera. We are doing what we can from Industrial Relations to make sure that we are lifting our productivity in the way we provide service and in how we value that service. I know the Treasurer and the Premier have had a lot to say about this aspect as well. We've got excellent public servants that have incredible capability—so listening to what they say about the way we can do things better and how we can do things better in delivering service to lift that productivity. We're doing what we can. It's going to take time in how we get to certain points of where we measure particular productivity and say, "That's working." But I hear what you're saying. There's no one size fits all. But we're playing our role, together with the Treasurer and other agencies.

**The Hon. MARK LATHAM:** Minister, back in December you answered one of my questions on notice with a suggestion about improving public sector productivity by stating at the end of your brief answer, "The productivity reform branch will play a role in monitoring the proposals that parties to bargaining may bring." That was nine months ago. What are the proposals the Government is taking to the bargaining process to improve public sector productivity?

**Ms SOPHIE COTSIS:** Yes, that's right. I answered that at that time. There's a lot of work that's currently being undertaken. Yes, Treasury does have the productivity reform branch. They're considering, as we're going through our negotiations with the agencies and the unions—each party is putting forward various items in terms of what are productivity items that go through a process. There have been a number in terms of our firefighters, for example, that we looked at for the award that we negotiated—not this one but the one last year. I'm happy to relay that, but I'm also happy to defer to Ms Campbell or Ms Dobbins.

**SONYA CAMPBELL:** Mr Latham, it's not my part of the portfolio in Treasury, so I would have to take that on notice in terms of Treasury's role. But perhaps I could answer that for you this afternoon.

**The Hon. MARK LATHAM:** Minister, you mentioned the firefighters. What's the productivity measure that the Government's taking to the bargaining table with the firefighters?

**Ms SOPHIE COTSIS:** With the firefighters—not the current situation at the moment—currently it's in the commission. But I'll give you some examples with respect to the firefighters that concluded their one-year agreement. These are good examples. A lot of work has gone into this firefighter award. Also, there's a lot of work that's currently being undertaken across agencies and across awards. I want to give you some other examples. We are currently going through an award reform process in Health, for example, looking at the allied health awards—so looking at items of productivity in those awards.

For example, with the firefighters, there is an introduction of a new health screening process. That is simplifying health check processes and promoting increased engagement from firefighters. That hasn't happened before. That is happening now. That's one important measure. There's also an allowance for non-station-based roles to attract people into training roles. That is improving Fire and Rescue's ability to fill vacancies and will support overtime reductions. Those are just some of the things. There are quite a few items across agencies that will be identified and looked at as productivity. Productivity isn't just one thing, but for us it's about making sure that we're delivering service for the public, we're doing it in an efficient way and we're making sure that we value-add. When you're having these discussions with frontline staff, there are a lot of good ideas in how you can improve providing service. All of these things are being put through this process and measured in various ways.

**The Hon. MARK LATHAM:** What are the measurement projections of what level of productivity you can improve through the reform process with the bargaining groups?

**Ms SOPHIE COTSIS:** At the moment there are a number of negotiations that are currently being undertaken.

**The Hon. MARK LATHAM:** But does the Government go to the bargaining table at say, "Look, if we do all these things, productivity will increase by X percent"? Have you got those projections or are they just general ideas that you think might be useful?

**Ms SOPHIE COTSIS:** This is part of the mutual gains bargaining process.

**The Hon. MARK LATHAM:** But have you got projections for what your proposals will achieve in terms of public sector productivity? Do you want to take that on notice?

**Ms SOPHIE COTSIS:** I can give you some information on that after the break, Mr Latham.

**The Hon. MARK LATHAM:** Those firefighter improvements were achieved last year, weren't they? They are separate from the current dispute that's underway.

**Ms SOPHIE COTSIS:** They certainly were. That particular award expired in February. It did take a considerable number of months. But a lot of this process and a lot of the back-and-forth process of bargaining does take time. You've got to remember that a lot of these awards haven't been reformed for a very long time—for over a decade. First of all, you're establishing an open relationship of trust and transparency and the provision of information. It's important for all parties to have that framework, but also the provision of information, to help get to the point you want to get to. We've still got a long way to go with respect to a lot of these awards, reforming these awards, modernising them and making sure the awards reflect the way we do work and the way we practice in terms of our work. IT has supported the way we do work. There are so many great ideas across government, and, now we have that open dialogue, those ideas can be put on the table. That's what's currently being done.

**The Hon. MARK LATHAM:** Has the productivity reform branch presented a list of recommended productivity improvements to you as Minister? You said there is a lot of ideas. I assume they are being generated by the productivity reform branch. Have they presented to you a list of the productivity improvements they would like to make and reforms they would like to make in New South Wales?

**Ms SOPHIE COTSIS:** That branch is working across agencies. What's happening is that agencies are talking to the unions and they are going through a bargaining process. Ideas are being put forward. They go through a particular process.

**The Hon. MARK LATHAM:** Are the ideas coming from the productivity reform branch? That's what I asked. Is there a list of their proposals that have been presented to you as Minister?

**Ms SOPHIE COTSIS:** I can get back to you. There is not a list, per se, but there are some guidelines.

**The Hon. MARK LATHAM:** Is there a set of recommended reforms that the Government would like to take to the negotiating table? Have you had that presented to you?

**Ms SOPHIE COTSIS:** I will get that for you.

**The Hon. MARK LATHAM:** Will you get that and pass it on to the Committee?

**Ms SOPHIE COTSIS:** Yes.

**The Hon. MARK LATHAM:** You mentioned productivity in allied health. What are the proposals there?

**Ms SOPHIE COTSIS:** My understanding—and this is obviously the Minister for Health's area, so I don't want to traipse into his area because he is doing a great job—is that currently there are over 30 awards in allied health. Most of these awards haven't been modernised for a very long time. My understanding—and any of the officials should correct me if I'm wrong—is that a committee has been set up to work through those awards. There is a number of outdated allowances, as well as the way people work and the practice of work.

A lot of the ways our wonderful allied health workers—whether they are cleaners, security guards or professional social workers in our hospitals—practice and do work are very different to 20 or 30 years ago. It is about modernising those awards. There is a number of allowances—for example, an incinerator allowance and an infectious diseases allowance—that may not be appropriate. It is about looking at all of those things line by line. That is currently being undertaken. I don't know where they are up to in terms of that process but I'm happy to get back to you. If I don't get the information for you during the break in terms of where they're up to, I'll take that one on notice. But I'll try to get back to you.

**The Hon. MARK LATHAM:** So the objective there is award simplification?

**Ms SOPHIE COTSIS:** Award simplification and modernising it and looking at how it benefits the employees. It's time and motion. For example, to access one of the allowances, a cleaner has to have a form signed by a superior. It might take 15 minutes to find that superior or it might take 20 minutes. It's about simplifying that process and the time taken running around trying to get a signature. Why don't we use that time for the cleaner or others to provide service? That forms part your productivity, it forms part of your delivery of service and it also cuts out that type of red tape where you are running around chasing a signature and filling out paperwork. It has been expressed to me by some of my local cleaners at Canterbury Hospital about the red tape that they have to endure to access some of those allowances. So let's simplify it. These are the things that we're going through. It does take a long time.

**The Hon. MARK LATHAM:** The Government awarded teachers a fairly generous double-digit pay increase without any productivity offsets. Why was that?

**Ms SOPHIE COTSIS:** They have already got an agreement.

**The Hon. MARK LATHAM:** The Government agreed to that. Why didn't the Government seek productivity improvements in the teaching profession as it's doing for firefighters, allied health and all the other areas?

**Ms SOPHIE COTSIS:** That's part of the negotiation that they went through last year. That's all part of the process that they went through last year.

**The Hon. MARK LATHAM:** It's not really a negotiation, is it? You weren't seeking any productivity improvements.

**Ms SOPHIE COTSIS:** There was a lot of work and a lot of bargaining with respect to the teachers. Mr Latham, as you know—better than a lot of us here, because education is key priority of yours—we were left with a situation where thousands of kids every day were in merged classes. There were massive teacher vacancies. The Government has improved teachers staying in the system but we're also recruiting more teachers. Our vacancy rate has actually dropped, which is a good thing. Now we don't have as many merged classes. We had a situation where we put forward a commitment to turn 10,000 temporary teachers and 6,000 temporary support staff from temporary to permanent. The Premier and Deputy Premier put that up to the people.

In the space of seven months, not only—and this was for over four years. In the space of seven months, we've actually exceeded expectations, and that demonstrates to you, to all of us, to the community that those temporary teachers—we've actually exceeded that from 10,000 to over 11,000 where you've got teachers who are now permanent, teachers who now, particularly in our rural and remote communities, have a secure job. They can plan for a family. Same with the support staff. We've taken some hard measures to ensure that we have permanent teachers. We're increasing the number of teachers in our schools and making sure that they get paid well. Particularly, we want to see more uni students becoming teachers. For those people who are thinking of a career

change, if you're an engineer or if you're a pilot or a scientist, become a teacher. Come and work for the New South Wales public service and become a teacher because we need you.

**The Hon. MARK LATHAM:** Do you think the teacher pay increase has caused problems in other sectors? The nurses were striking yesterday and protesting, saying in part that teachers got a good pay increase without any offsets and why don't the nurses get the same.

**Ms SOPHIE COTSIS:** We've established a bargaining framework. These things do take time. Last year when we were elected, we made a commitment to remove the wages cap, bring forward a bargaining framework and also sit down and negotiate and have that open dialogue. We provided a 4 per cent pay rise and we've made an offer to all the public sector. With the nurses and the midwives—huge respect to the nurses and midwives, and I know that for nurses and midwives they'll say, "Here's another politician saying thanks and acknowledging, and we want a pay rise." We're working very, very hard to ensure that we hear what the nurses and midwives are saying. As you know, I had breast cancer a few years ago and the nurses, particularly the oncology nurses, are absolutely critical in our system and vital—all of our nurses and midwives. Tomorrow the Treasurer, health Minister and I are meeting with the nurses and midwives. We're listening to what they're saying, and the Premier and of course the health Minister have had a lot to say about that.

**The Hon. MARK LATHAM:** But when the nurses say that teachers received a generous pay increase without any productivity offsets, without a genuine bargaining process where teachers didn't concede any particular productivity gains or changes to the award, what do you say to the nurses in response when they make that point?

**Ms SOPHIE COTSIS:** We're going through a process, the same as the teachers, the same as other occupations, and we're currently—

**The Hon. MARK LATHAM:** I know you're going through a process. What do you say to the nurses when they say, "Why can't we get what the teachers got?"

**Ms SOPHIE COTSIS:** The nurses are a different occupation. We're currently going through a process with the nurses and midwives, and the door is open and the dialogue is there. We are talking to the nurses and midwives.

**The Hon. DAMIEN TUDEHOPE:** Minister, at the February estimates icare told us that they already provided you with modelling in relation to expanding the list of cancers covered by firefighters' diseases in schedule 4 of the Workers Compensation Act. In April you wrote to Mr Drury from the FBEU stating that the presumptive legislation is progressing with all expedience. That is five months ago. Where is the legislation?

**Ms SOPHIE COTSIS:** I have a note, and I wanted to give you some stats.

**The Hon. DAMIEN TUDEHOPE:** No, I just want to know if you are bringing the legislation to this term of Parliament before the end of the year. What's the program?

**Ms SOPHIE COTSIS:** I'm glad that you're concerned about this area of public importance. You were the industrial relations Minister for a long time. Can I just say, I do acknowledge that when I wrote to you about listing a number of dust diseases—can I say, that after some campaigning but also writing to you and speaking to you about it, I do acknowledge that you did put a number of the dust diseases on the schedule. I want the Committee to know and the public to know, and I do acknowledge that. With respect to the presumptive cancers, I can't give you a date of when legislation is going to come forward. What I can say to you and to our firefighters, particularly to our firefighters who do an extraordinary job—they put their life on the line for the public and they do important work. They're so meticulous, listening to them and the way they operate. I have great respect for our firefighters.

**The Hon. DAMIEN TUDEHOPE:** You and I are on the same page, Minister.

**Ms SOPHIE COTSIS:** In terms of the presumptive legislation, as you know, currently we have a list of cancers where firefighters—

**The Hon. DAMIEN TUDEHOPE:** But we want to know when the legislation will be introduced.

**Ms SOPHIE COTSIS:** We are currently undertaking a process within government.

**The Hon. DAMIEN TUDEHOPE:** It's February to now.

**Ms SOPHIE COTSIS:** As you know, as a Cabinet Minister—and you were a Cabinet Minister—all of these things have to go through a process. They have to go through a Cabinet process.

**The Hon. DAMIEN TUDEHOPE:** I'm aware of that. Is it six months more? Is it what?

**Ms SOPHIE COTSIS:** I can't give you—

**The Hon. DAMIEN TUDEHOPE:** Is there some certainty around this? You've had the modelling; icare has provided you with the modelling. It is sitting on your desk. This is now a process to move it towards legislation. All I'm asking you is is there a date?

**Ms SOPHIE COTSIS:** I can't give you—

**The Hon. DAMIEN TUDEHOPE:** That's okay.

**Ms SOPHIE COTSIS:** I'm being very straight with you. I can't give you a date. As all governments do—

**The Hon. DAMIEN TUDEHOPE:** Is there anyone in the Government opposing it?

**Ms SOPHIE COTSIS:** This is very important because we want to make sure we look after workers, and we want to make sure—

**The Hon. DAMIEN TUDEHOPE:** Is the Treasurer stalling it? Who's stalling it? I know you're committed to it. I just wondered where the block is.

**Ms SOPHIE COTSIS:** The Treasurer is fantastic.

**The Hon. DAMIEN TUDEHOPE:** I know he is—at stalling.

**Ms SOPHIE COTSIS:** No. Like all submissions, like all policies, they have to go through a process. We want to make sure that our firefighters are looked after.

**The Hon. DAMIEN TUDEHOPE:** Let's move now onto public sector wages. You answered some questions from Mr Latham in relation to that, and I don't want to cover that territory again. However, in May this year the Treasurer announced a 10.5 per cent wages policy over three years as being the wage rise offer which he was making to the public sector. He described the offer as giving certainty and being fair. In the same media release you described this offer as a baseline. Is your 10.5 per cent offer a fair and certain offer or is it a baseline offer?

**Ms SOPHIE COTSIS:** What I've stated in my comments is what's in my comments.

**The Hon. DAMIEN TUDEHOPE:** So it's a baseline? Is that what you're telling us here today, "The 10.5 per cent is the baseline"?

**Ms SOPHIE COTSIS:** The Government made an offer of 10.5 per cent.

**The Hon. DAMIEN TUDEHOPE:** And that's the baseline.

**Ms SOPHIE COTSIS:** The Government has made an offer of 10.5 per cent over three years.

**The Hon. DAMIEN TUDEHOPE:** The Premier has made it clear that the 10.5 per cent offer is a fair and reasonable offer, and that if the Nurses and Midwives' Association, and presumably any other union, doesn't agree, they will need to go to arbitration at the IRC. Is that correct?

**Ms SOPHIE COTSIS:** I support what the Premier has said.

**The Hon. DAMIEN TUDEHOPE:** That means of course that any mutual gains bargaining on negotiations is just a waste of time, isn't it? What you've just told is that if you want more than 10.5 per cent, go to arbitration.

**Ms SOPHIE COTSIS:** No.

**The Hon. DAMIEN TUDEHOPE:** Isn't that what you're telling us?

**Ms SOPHIE COTSIS:** No. There are a number of pathways that we've opened up here. There's a few things here. We talked about this last time last year. That the difference between your industrial relations policy and our policy is very stark. Our policy is about bargaining, open dialogue, making sure that we're recognising and valuing the practice of work, and we're valuing the efficiencies and the productivity—

**The Hon. DAMIEN TUDEHOPE:** Minister, I'll come back to that. You've answered a lot of that to Mr Latham.

**Ms SOPHIE COTSIS:** But the policy that you took—and I understand you believe in that policy. You voted down our legislation; I understand that. I don't understand it, but I get why you did it. If that's the policy and if that's the position that you're taking to the next election, that you are going to bring back the wages cap—

**The Hon. DAMIEN TUDEHOPE:** No, that's not true.



**Ms SOPHIE COTSIS:** You've already demonstrated that by voting against our industrial relations reforms in November. What we're trying to do is, yes, fair and reasonable and what we're saying is that here's an offer of 10.5. We'll go through a mutual gains bargaining process. Where there are mutual interests and where there are mutual gains for the employee and for the employer, the employer is saying, "If you agree to mutual gain, you as the employee will get that gain."

**The Hon. DAMIEN TUDEHOPE:** Is any agency able to agree above 10.5 per cent?

**Ms SOPHIE COTSIS:** It won't go back to consolidated revenue. It will go into—

**The Hon. DAMIEN TUDEHOPE:** Has any agency got as its bargaining parameters the ability to bargain above 10.5 per cent wage increase?

**Ms SOPHIE COTSIS:** There are processes in place.

**The Hon. DAMIEN TUDEHOPE:** Is there any agency which has been given bargaining parameters above 10.5 per cent?

**Ms SOPHIE COTSIS:** You're looking at it in a different light. The 10.5—

**The Hon. DAMIEN TUDEHOPE:** I'll come to that. Which agencies are able to negotiate above 10.5 per cent for a wage rise?

**Ms SOPHIE COTSIS:** I don't get the premise. All agencies have been negotiating with their unions, right?

**The Hon. DAMIEN TUDEHOPE:** Let's look at the FBEU and their negotiation process. On 19 July 2024 in its SitRep 44, the FBEU told its members:

... it is highly disappointing that we have had resort to this option, even after months of negotiations. Not one of our claims has been agreed to by FRNSW and the State Government. Neither have demonstrated any interest in working with the FBEU to fully assess the productivity, efficiency, and work value of our claims and to delivery fair pay and conditions for their firefighters.

These negotiations have failed to demonstrate the fair and more collaborative bargaining process guaranteed by the Minns Government.

Minister, do you understand why the FBEU is so frustrated by this process in which you promised so much and have delivered so little?

**Ms SOPHIE COTSIS:** What we've done, Mr Tudehope, is remove the wages cap. That is a significant difference to the way that you operated.

**The Hon. DAMIEN TUDEHOPE:** But the cap is now 10.5 per cent over three years.

**Ms SOPHIE COTSIS:** You had a draconian legislative process. What you said to the workers of this State was, "If you want a pay rise"—

**The Hon. DAMIEN TUDEHOPE:** They got real pay increases, Minister.

**Ms SOPHIE COTSIS:** No, they didn't.

**The Hon. DAMIEN TUDEHOPE:** They did, Minister.

**Ms SOPHIE COTSIS:** They didn't get productivity. There was no measure of productivity under your system.

**The Hon. DAMIEN TUDEHOPE:** Is that true?

**The Hon. CHRIS RATH:** Nor is there under you.

**Ms SOPHIE COTSIS:** Hang on a minute, your system was you couldn't bargain so you had a wages cap.

**The Hon. DAMIEN TUDEHOPE:** Yes, they could, Minister.

**Ms SOPHIE COTSIS:** They could bargain their—

**The Hon. DAMIEN TUDEHOPE:** Anyway, I'm not going to—

**Ms SOPHIE COTSIS:** You're comparing a system that has currently come in and currently going through a process. These things take time because there has been—

**The Hon. DAMIEN TUDEHOPE:** But they've said to you that negotiations with you is pointless. That's what they've said to the Government and to their members that negotiating with your Government is pointless—

**Ms SOPHIE COTSIS:** Well, they're negotiating with us; they didn't negotiate—

**The Hon. DAMIEN TUDEHOPE:** —and in fact your mutual gains bargaining process is nothing but words.

**Ms SOPHIE COTSIS:** Under your Government you legislated in June 2011 and shut down the process of bargaining, and the only thing that you could bargain is your employee-related savings. So if you wanted a pay rise under your Government, you didn't look at productivity or efficiency or—

**The Hon. DAMIEN TUDEHOPE:** Employee-related savings sounds like productivity to me, Minister.

**Ms SOPHIE COTSIS:** Employee-related savings is giving up your long service leave or giving up—

**The Hon. DAMIEN TUDEHOPE:** No.

**Ms SOPHIE COTSIS:** Yes, it is. Well, you tell me what your view—

**The Hon. DAMIEN TUDEHOPE:** A lot of the things that you indicated—but let me go on. Minister, why did you reduce the offer to the FBEU from 10.5 per cent to 10 per cent after mutual gains bargaining and negotiations failed?

**Ms SOPHIE COTSIS:** You asked this question of Mr Mookhey and he responded you.

**The Hon. DAMIEN TUDEHOPE:** You tell me. Why did you do it?

**Ms SOPHIE COTSIS:** We didn't. We haven't.

**The Hon. DAMIEN TUDEHOPE:** In their Sit Report 47, this is what the union leadership said—

**Ms SOPHIE COTSIS:** Have you joined the union?

**The Hon. DAMIEN TUDEHOPE:** It said:

In a petty move, FRNSW and the Government have lowered their wages offer to 3% per year over 3 years deducting 0.5% from their baseline wages offer in the first year after we refused to accept their quite frankly insulting baseline wages offer.

Are they lying, Minister?

**Ms SOPHIE COTSIS:** I have deep respect for the firefighters of this State, and I have deep respect for the work that they do.

**The Hon. DAMIEN TUDEHOPE:** I don't know that they'd agree, Minister.

**Ms SOPHIE COTSIS:** That's their matter, but, from my point of view, I have absolute deep respect. We have listened, and they're frustrated. They're all frustrated because they haven't had the opportunity to sit down and have open dialogue with government about their wages and conditions.

**The Hon. DAMIEN TUDEHOPE:** So how many meetings have they had with you?

**Ms SOPHIE COTSIS:** It's all in my diary. They're meeting with their agency, which is the appropriate—

**The Hon. DAMIEN TUDEHOPE:** How many negotiated meetings have they had?

**Ms SOPHIE COTSIS:** I'll have to get back to you on that. But they're currently going through—

**The Hon. DAMIEN TUDEHOPE:** When you go to the arbitration commission, the offer which you're making to the firefighters, is it 10 per cent? Is that what you're going to argue for at the Industrial Relations Commission?

**Ms SOPHIE COTSIS:** What do you mean? We're going through—

**The Hon. DAMIEN TUDEHOPE:** In terms of the wage offer which you are making to the union, when you go to the Industrial Relations Commission, are you going to argue that the pay offer should be 10 per cent over three years?

**Ms SOPHIE COTSIS:** Mr Tudehope, when you're going to the commission, as you know, there's a conciliation process, right? I'm happy to—

**The Hon. DAMIEN TUDEHOPE:** But what's the argument of the Government? Are you going to argue for 10 per cent when you go to the Industrial Relations Commission?

**Ms SOPHIE COTSIS:** Mr Tudehope, we have put forward a wages offer, okay, and then there is a process of bargaining.

**The Hon. DAMIEN TUDEHOPE:** But that's finished. We're now at arbitration.

**Ms SOPHIE COTSIS:** There's still open dialogue. Our door is open. Our door is always open.

**The Hon. DAMIEN TUDEHOPE:** But they've now gone to arbitration.

**Ms SOPHIE COTSIS:** Your door was shut, and this is a very important process. We're currently going through a very important process because you've got to remember that the frustration stems from a wages cap from 12 years ago and the wages suppression—

**The Hon. DAMIEN TUDEHOPE:** Minister, that is unhelpful. Let me ask this—

**Ms SOPHIE COTSIS:** No, it's not unhelpful. Mr Tudehope, you've got to understand, you're just trying to trap me into a number so you can try and get a headline; so you can say I said something that's contrary or whatever. There is a process. And do you know what we've done? We have brought back the industrial relations court, the independent umpire, and we've brought them—

**The Hon. DAMIEN TUDEHOPE:** I'm not trying to trap you. You have to make an argument before the Industrial Court. What is your argument in terms of wages?

**Ms SOPHIE COTSIS:** We've made it very clear: It's 10.5 per cent, and the 0.5 was based on them signing on but you can also continue to negotiate.

**The Hon. DAMIEN TUDEHOPE:** And the 0.5 was dependent upon them signing on.

**Ms SOPHIE COTSIS:** You've got the press release.

**The Hon. DAMIEN TUDEHOPE:** I have, Minister. So you did in fact reduce the offer—

**Ms SOPHIE COTSIS:** No, we didn't reduce.

**The Hon. DAMIEN TUDEHOPE:** —because you took the view that they didn't sign on.

**Ms SOPHIE COTSIS:** No, that is absolutely not correct, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Let me just say this: Why wouldn't you offer them the 3 per cent immediately? Rather than making them wait for the determination of the IRC—which is going to be on, I think, in April of next year—why wouldn't you at least, as an act of good faith, offer them the 3 per cent immediately?

**Ms SOPHIE COTSIS:** It's not April.

**The Hon. DAMIEN TUDEHOPE:** It is April.

**Ms SOPHIE COTSIS:** Someone's giving you the wrong date for the listing.

**The Hon. DAMIEN TUDEHOPE:** Sorry, it is 25 March. I beg your pardon, 25 March next year it's listed.

**Ms SOPHIE COTSIS:** Mr Tudehope, I want to be able to see that our bargaining framework that we introduced last year is working, and there's open dialogue.

**The Hon. DAMIEN TUDEHOPE:** It's not working.

**Ms SOPHIE COTSIS:** It is. There's open dialogue.

**The Hon. DAMIEN TUDEHOPE:** But it would be good faith, wouldn't it be, to offer them the 3 per cent now.

**The Hon. BOB NANVA:** Point of order: The Minister should, as a matter of courtesy, be given more than five or 10 seconds to answer, I would suggest.

**The CHAIR:** Yes. I uphold the point of order. We have to give the witnesses the opportunity to answer the question in full. Please allow the witness to answer your question in full, Mr Tudehope. Minister, you have the call.

**Ms SOPHIE COTSIS:** We continue to bargain. We continue to talk. Sure, these matters have been listed, but, like I said to you last year, when we settled on that one-year agreement with the firefighters—look, it's frustrating.

**The Hon. DAMIEN TUDEHOPE:** We're in a cost-of-living crisis, Minister. These are families which are going without that pay rise and you won't give it to them now. Why do you make them wait until next March for a pay rise?

**Ms SOPHIE COTSIS:** I dispute that. I am absolutely very encouraged by where we have landed with respect to the open dialogue, the changes that we have made. We have made huge changes to industrial relations.

**The Hon. DAMIEN TUDEHOPE:** But you're not answering my question, Minister. Why wouldn't you pay it now?

**Ms SOPHIE COTSIS:** Mr Tudehope, you asked these questions of the Treasurer and he responded to you, and I refer you to those questions.

**The Hon. DAMIEN TUDEHOPE:** You're the Minister responsible.

**Ms SOPHIE COTSIS:** No, I'm the Minister responsible for establishing the framework. I'm the Minister responsible—

**The Hon. DAMIEN TUDEHOPE:** The Treasurer is the problem, is he?

**Ms SOPHIE COTSIS:** —for establishing the independent umpire that we brought back, that these unions can now go and argue, but also there's a pathway of bargaining as well, and we are listening. I am acutely aware of what people are going through in terms of cost of living, absolutely acutely aware.

**The Hon. DAMIEN TUDEHOPE:** If you were, those families would be getting that 3 per cent now.

**Ms SOPHIE COTSIS:** The Government is absolutely aware.

**The Hon. DAMIEN TUDEHOPE:** I move on to the nurses and midwives. How many mutual gains bargaining negotiations meetings have been had with the nurses and midwives in relation to their demands? Is there a number? Do you know?

**Ms SOPHIE COTSIS:** Mr Tudehope, that's a matter for the health Minister and his agency.

**The Hon. DAMIEN TUDEHOPE:** Well, is it?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. DAMIEN TUDEHOPE:** It's for you, Minister. It's for you. You're the responsible Minister.

**Ms SOPHIE COTSIS:** For the framework. It's the agency, the health department, with the union.

**The Hon. DAMIEN TUDEHOPE:** I quote:

Portfolio Ministers must seek the concurrence of the Minister for Industrial Relations on all decisions relating to the proceedings, including decisions on whether agencies can commence proceedings or seek to progress the matters to arbitration.

That's for you, Minister. Minister, how many have occurred?

**Ms SOPHIE COTSIS:** Mr Tudehope, the health Minister answered those questions and there have been more meetings combined than what your Government organised over 12 years.

**The Hon. DAMIEN TUDEHOPE:** Have you attended any?

**Ms SOPHIE COTSIS:** With respect to?

**The Hon. DAMIEN TUDEHOPE:** The nurses and midwives.

**Ms SOPHIE COTSIS:** I'll be talking to them tomorrow and our agencies have been involved, and it's a matter for Health.

**The Hon. DAMIEN TUDEHOPE:** Why has it taken so long? They've had 10 meetings already, mutual gains bargaining. Why is it the first time they're meeting with you and the Treasurer tomorrow?

**The Hon. BOB NANVA:** Point of order: My point of order goes to relevance. The Minister has already made it clear the day-to-day management of negotiations with the trade union is not within her portfolio responsibility but the Minister for Health's.

**The Hon. CHRIS RATH:** To the point of order: The Minister is meeting with the union officials tomorrow and she is the Minister for Industrial Relations. I think that's highly relevant. If that's not relevant, I don't know what questions we would be asking the Minister.

**The Hon. DAMIEN TUDEHOPE:** I point the member to the NSW Government Fair Pay and Bargaining Policy.

**The CHAIR:** You don't have to. I don't uphold the point of order. The question is clearly within the remit of the Minister's responsibilities, but we might have to come back.

**The Hon. DAMIEN TUDEHOPE:** Can I just get an answer to that? Why is it the first time tomorrow?

**Ms SOPHIE COTSIS:** With respect to?

**The Hon. DAMIEN TUDEHOPE:** The Treasurer and yourself to meet with the Nurses and Midwives' Association? Ten meetings.

**Ms SOPHIE COTSIS:** We have had a lot of dialogue on many issues, whether it's safety issues, whether it's industrial relations reform, whether it's work health and safety, whether it's psychosocial claims in the workplace. Many discussions. With respect to the bargaining process, it is appropriate that the agency and the union sit down and work through these issues.

**The Hon. MARK LATHAM:** Minister, you said earlier that the pay rise for the teachers was in large part designed to get teachers back in front of the classroom. Why didn't the Government also address at the same time some of the incredibly generous leave and job-share arrangements that actually take teachers away from the classroom?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. MARK LATHAM:** For instance, teachers can take their long service leave and they come back in a job-share, part-time arrangement that causes confusion within the school and discontinuity in the classroom. Why didn't the Government look at that pay increase and say to the teachers that there are some other things that can be done in terms of the award that would put more teachers permanently in front of students?

**Ms SOPHIE COTSIS:** Mr Latham, as you know, you don't just stop talking. You are going to continue talking to look at better ways of doing things. We need more teachers in our schools. We need more specialist teachers. But in terms of the specifics, I can take it on notice. I can refer you to Mr Draper and Ms Dobbins. The specifics are a matter for the Department of Education.

**The Hon. MARK LATHAM:** What about the productivity reform branch? Are they having a look at the teachers' award for these further discussions and negotiations?

**Ms SOPHIE COTSIS:** I will have to take that on notice.

**The Hon. MARK LATHAM:** When the Premier issued his back-to-work order, was that regarded as a productivity measure?

**Ms SOPHIE COTSIS:** I can refer you to Mr Draper, who issued the memo.

**SIMON DRAPER:** It was actually issued by me as the head of the public service. The primary focus of that circular was not about productivity. There are, frankly, a lot of debates about the productivity elements of it. That wasn't the primary focus. The focus was really about trying to develop public sector agencies and institutions where people have a much stronger sense of belonging, they are working together, they are connected to their organisation and providing services to the public. Obviously, that was all disrupted when COVID hit us, and it is well and truly time to make sure that we are remedying that. I think I have said in the previous hearing that the reason why the public service did so well during COVID was because prior to that the public service was so connected, the public institutions were so strong. We have just got to make sure that we spend time replenishing that and making sure that is a continuing factor.

**The Hon. MARK LATHAM:** People working cooperatively in their physical workplace, isn't that a productivity gain in itself, as opposed to various satellites working from home?

**SIMON DRAPER:** I think there are definitely benefits from it. That is one of the reasons we are promoting it. I don't want to buy into—there is competing research about people saying they are more productive at home than they are at work et cetera. I don't want to buy into that, because there are different views. I think in the type of work we do in the public service, there are clearly benefits to the public and also to employees for being much more connected, yes.

**The Hon. MARK LATHAM:** Minister, what is your view of the optimal productivity outcome that would be achieved in the balance between working in the office cooperatively with colleagues, that collegial sense of belonging to a workplace and knowing your colleagues and sharing ideas and so forth that Mr Draper mentioned, as opposed to working from home? What is the best outcome the Government can achieve for productivity and the service consumers in New South Wales?

**Ms SOPHIE COTSIS:** Mr Latham, obviously, it is a matter for our secretary. Speaking to staff in my agency, for example, I think that there is an important balance in getting that balance right in terms of service delivery and the work that we are doing to deliver services for the people of New South Wales and also making sure that we provide flexibility—I don't want to gender this—particularly for women in the public service who make up over 66 per cent of the public service. This is from my own experience. When I've travelled up to our regional centres, for example, particularly in my areas, where we have women who are doing case management or front line, front office, in terms of the specialisation of service that they provide to the public, whether it's in

icare or SafeWork or long service leave, for example, what I have found is the wealth of knowledge, the corporate knowledge and professionalism. But also, particularly in our regional centres, having women have permanent work and, particularly in the public service, being close to home but also being able to work from home and, of course, having obligations, whether it's caring for a family member, whether it's dealing with other duties, but where they'll log on at night or things like that—providing that flexibility is very critical in particular areas. We've got to remember too: Eighty-five per cent of the public service in New South Wales are on the front line. Am I correct there, Mr Draper?

**SIMON DRAPER:** That's correct.

**Ms SOPHIE COTSIS:** So you're talking about 15 per cent and, for me, particularly in our rural and regional communities where we have women in public service that have permanent work, it's important not just for them but for family. It provides that stability and that work security, but it also means they can plan for the future. They can plan to have a family or they can be involved in the P&C. For me, it's about being involved and engaged in society. This is where I think working in the public service, which is very noble—we've got excellent people that work across the public service—and in particular for women in those areas, that permanent work is really critical. I think that the policy that Mr Draper has put forward is important, getting that balance right and making sure that we have that flexibility as well. I agree that having more people in the office in terms of collaboration, engagement, working together in terms of innovation is very important as well.

**The Hon. MARK LATHAM:** Minister, from what you've said earlier about flexibility, why was the back-to-workplace order necessary in the first place?

**Ms SOPHIE COTSIS:** That's a matter for—

**SIMON DRAPER:** Yes. We've always said that flexible working, which we strongly support both in our own department and across the public service wherever it's possible to do that, and working from home—we wouldn't say those are the same things. There's lots of ways to do flexible working. We have lots of arrangements. In fact we've published a draft policy for consultation with our own department that sets out all those different forms of flexibility. Working from home can be a component of that, but it's not the only one. We're leaving the possibility of doing some work from home on the table. I think the Minister is quite right to couch this in terms of flexible working arrangements and, going to your earlier point about productivity, we believe that flexible working does enhance productivity. It also enhances participation, which is another driver of economic growth, growth in the economy, and we think that we've done quite a good job of bringing people into the workforce that otherwise would not have participated in the workforce.

I don't want to venture too far into the schools and teaching area because it's not an area of expertise of mine, but I understand that one of the strategies in that space is to enable people who have reached the point in their career where they don't want to work full time, where they've taken the option to move towards retirement, to move back into the teaching profession, working on a different basis with greater flexibility than they otherwise might have had. We wouldn't have had the benefit of that experience and those people, had we not offered those types of working arrangements.

**The Hon. MARK LATHAM:** Minister, what has been achieved in terms of back to workplace since the Premier and the secretary issued the directive? Can we point to a single public servant who's come back to the workplace as a result?

**SIMON DRAPER:** As I said, what the circular that we issued required was for agencies to adopt a new policy and each agency is doing that. In our own department we're in the process of doing that. We issued a policy for consultation. The consultation period closes in about a week or 10 days. We have already seen anecdotally more people attending the office because we've been talking about it, but we haven't made it a hard requirement at this point. We already had quite a lot of people attending the workplace in any case, but I'd say anecdotally people are sort of buying into that.

**The Hon. MARK LATHAM:** Have you got anything more than anecdotes? Have you got some measurement and data?

**SIMON DRAPER:** We haven't made any attempt to measure it. That's not the point. We're really focused on getting the policy right and making sure that within teams and people talking directly to their managers they get their work arrangements in place.

**Ms ABIGAIL BOYD:** Minister, I wanted to start with an incident at John Hunter Hospital. I understand that last year, in July, a 20-year-old worker had a reo cage fall on him at that site.

**The CHAIR:** Sorry, what was that, Ms Boyd?

**Ms ABIGAIL BOYD:** A reo cage. I do have some pictures of reo cages, should you be interested. My understanding is that this is currently being investigated by SafeWork. However, in the middle of last month, another steel reo cage at that site collapsed and in this case, when Multiplex called SafeWork, SafeWork actually released the site over the phone. They didn't inspect it. Four weeks later the cage had been dismantled and there is now no possibility. I am informed—and I have pictures, should you be interested, that show clearly—that this cage has snapped and it's really lucky that no-one died. Do you find this concerning and what will you be doing about it?

**Ms SOPHIE COTSIS:** Safety, absolutely. I'm concerned about it. In terms of the details, I'll refer those to Mr Curtin, our regulator, to provide information. Without sort of traipsing into the operational, of course, once a request is made of this kind, the inspectors should be out, but I'll leave that to Mr Curtin.

**TRENT CURTIN:** Yes, thanks. In relation to the first matter, it is under investigation so I can't provide any more comment in relation to that investigation. But in relation to the second matter, I would have to come back to you on notice in terms of the details of exactly what's happened there and what actions were taken.

**Ms ABIGAIL BOYD:** Is that standard practice? I mean you would think that SafeWork would be on high alert if there has already been one death at a site from a cage falling and then we have another cage falling. Does that strike you as being a bit extraordinary, that they would just release it over the phone rather than issuing a non-disturbance order and going and having a look at the site?

**TRENT CURTIN:** All matters that come through to the SafeWork contact centre are triaged according to the national framework for triaging those types of matters. In relation to releasing the site, I would have to look at the specific details of this particular matter and come back to you.

**Ms ABIGAIL BOYD:** Yes, if you would come back to me. If at all possible, if you could come back this afternoon, it would be useful to know.

**TRENT CURTIN:** Yes.

**Ms SOPHIE COTSIS:** Ms Boyd, if you have further detail, I guess in the break we can get that information for you.

**Ms ABIGAIL BOYD:** Will do. It's been reported to me, Minister, that union organisers in the Newcastle area have been hindered and prevented from sites to investigate safety hazards because of a lack of cooperation from the SafeWork inspectors there. I will put on record that I've had some conversations already with SafeWork. They've been very cooperative in terms of looking at what looks like a cultural issue in SafeWork Newcastle inspectors. But there has been some suggestion that all CFMEU organiser requests need to go through the manager or the main number rather than organisers being able to call the SafeWork inspectors, as was previously the case. I understand that this is a Newcastle-specific thing and a CFMEU-specific thing. Are you aware of this and does this cause you concern?

**Ms SOPHIE COTSIS:** Ms Boyd, with respect to the operational matters, I'll leave those to Mr Curtin, but with respect to the matters that you've raised about the Hunter, there is obviously a lot of work that's currently underway in the Hunter, a lot of building work that's underway. Of course, safety concerns are constantly raised, whether it's in the Hunter, but in areas where there's high construction going on and where there's an increase of activity. For us, particularly in these areas—construction, building, moving plant—my concern is always the falls from heights. That is a massive concern for me. With respect to those matters around the Hunter, Mr Curtin, would you like to respond?

**Ms ABIGAIL BOYD:** I note that it was just last week that we had organisers being prevented from going on site for safety.

**Ms SOPHIE COTSIS:** Do you have the specific sites? I don't want to take up your time. I'll let Mr Curtin respond.

**TRENT CURTIN:** In relation to specific sites and specific interactions with CFMEU officials, I'm not aware of any concerns being raised with me or at a more senior level in the organisation about union officials being restricted from entering sites. SafeWork has an important role to play in terms of negotiating concerns in relation to entry permit holders and working alongside health and safety representatives to resolve disputes with PCBUs. It's a normal part of our business. We take a very impartial approach to that. In relation to a specific protocol that might be in place in Newcastle, I'm not aware of any specific protocols about the manager being involved.

I will say in relation to the CFMEU that when we became aware at SafeWork that the Government was taking steps in relation to the administration of the CFMEU, we did put in place an additional protocol to make

sure that matters that related to CFMEU-known sites were triaged at a senior level to make sure that additional safety protocols were in place to look after our inspectors. If you're referring to that protocol, that protocol is currently in place for CFMEU-related sites.

**Ms ABIGAIL BOYD:** Can you clarify that? For anything related to the CFMEU, there's a separate protocol in place?

**TRENT CURTIN:** There's an additional step in place to make sure that the safety of our workers is forefront. The triage process involves a review by an executive at SafeWork to make sure that those protocols are in place.

**Ms ABIGAIL BOYD:** Why is that?

**TRENT CURTIN:** That was in relation to concerns that were raised with us that there might be heightened activity around those sites around the time that administration steps were being taken. We wanted to make sure that we had appropriate steps in place. SafeWork has a violence and aggression protocol for our inspectors. There are various concerns across all industries and all areas. SafeWork inspectors can, at times, be abused or confronted, and we wanted to make sure the additional protocols were in place.

**Ms ABIGAIL BOYD:** Have they been abused? Was this pre-emptive?

**TRENT CURTIN:** That was pre-emptive, correct. We haven't had any concerns raised.

**Ms ABIGAIL BOYD:** That really concerns me, because it seems like we're now going to have some sort of two-tier safety system. This is, as you know, very clearly an industry that is so risky, and we are so dependent on union organisers going in to check on safety. If there is an additional barrier in place because someone happens to be CFMEU, that seems to be quite a—

**Ms SOPHIE COTSIS:** No, it's not a barrier. What do you have? Two inspectors going out?

**TRENT CURTIN:** It's just a review by a senior member of staff to check it for safety protocols. We have not had any concerns in relation to the CFMEU since that protocol has been in place.

**Ms ABIGAIL BOYD:** So it's not saying that, with this, you need to go through and do—

**Ms SOPHIE COTSIS:** No.

**Ms ABIGAIL BOYD:** This report I've had that somehow they need to go directly to—

**Ms SOPHIE COTSIS:** No.

**TRENT CURTIN:** No.

**Ms ABIGAIL BOYD:** Maybe that has been misunderstood.

**TRENT CURTIN:** In relation to the relationship with unions in Newcastle, I have met specifically with Hunter unions to make sure that there's an open dialogue between SafeWork and unions in the Hunter region.

**Ms ABIGAIL BOYD:** Given what is happening with the John Hunter Hospital site and what we're hearing in the Newcastle area in particular, will you issue a direction that there be no additional obstruction for CFMEU officials?

**TRENT CURTIN:** Our inspectors take an impartial approach regardless of who the requester is. There is no change in terms of the operating protocols for inspectors.

**Ms ABIGAIL BOYD:** Would you look into that for me? If that is happening and that's delaying safety inspections, that's quite concerning. I would hate for there to be another accident because somebody hasn't been allowed on site when they should have been.

**TRENT CURTIN:** If you have got details of the specific matter, I can look at that.

**Ms ABIGAIL BOYD:** Another bit of feedback I've had is that SafeWork is refusing to attend sites where there is a bargaining process ongoing. I understand that there are over 200 companies currently with EBA bargaining going on. Is that a policy? No.

**Ms SOPHIE COTSIS:** Is that in writing somewhere? Is that a note or a memo?

**Ms ABIGAIL BOYD:** This is something that has been going back to union organisers and then has come through to my office, but I could provide you with more details later if you like. It's a Newcastle site again. They're saying that they don't attend the sites where there is an EBA negotiation on site. Minister, I understand that there



was some direction from the Premier that Ministers weren't to meet with the CFMEU. Is that applying to you as well? Are you still meeting with them in relation to work health and safety issues?

**Ms SOPHIE COTSIS:** As you know, we've appointed an administrator. In terms of the operational matters, it's business as usual. The organisers have to do a job representing their members and making sure that they're on site and working together with SafeWork. Any issues raised, we'll tend to those. As we said, there's an administrator in place and it's the same process in terms of if there are any issues of concern, the administrator will raise those with me in terms of safety.

**Ms ABIGAIL BOYD:** So it'll go through the administrator? For those systemic issues, that'll come through—

**Ms SOPHIE COTSIS:** Of course, yes. In terms of organisers going out and doing their job, they have a job to do representing their members with respect to safety. SafeWork is here to listen. We're here to listen. We take our role very seriously when it comes to safety in the workplace. Our door is open.

**The Hon. DAMIEN TUDEHOPE:** If I can return, Minister, to the nurses and midwives. Before negotiations started to take place with the nurses and midwives in relation to their log of claims, did you approve a set of bargaining parameters?

**Ms SOPHIE COTSIS:** There's a process, as you know. There's an internal government process.

**The Hon. DAMIEN TUDEHOPE:** So you approved a set of bargaining parameters?

**Ms SOPHIE COTSIS:** As you do when going through the parameter process.

**The Hon. DAMIEN TUDEHOPE:** Did any of those bargaining parameters allow for any increase above 10.5 per cent for a wage claim?

**Ms SOPHIE COTSIS:** Mr Tudehope, like I said, and like the health Minister said, the door is open. We're in dialogue. I know that there is frustration. We will continue to be talking to nurses and midwives. I refer you to what the Minister for Health said yesterday. He made it very clear in terms of his expectations, but also the bargaining process takes time. I know it's frustrating, but it does take time.

**The Hon. DAMIEN TUDEHOPE:** I understand. I'm just asking about the bargaining parameters that were put in place. Was there any scope within those bargaining parameters for any increase over and above 10.5 per cent?

**Ms SOPHIE COTSIS:** As you know, going through any bargaining process where you have mutual agreement, there will be an opportunity to look at mutual gain over the 10.5.

**The Hon. DAMIEN TUDEHOPE:** So yes is the answer. There was opportunity within the bargaining parameters—

**Ms SOPHIE COTSIS:** No, you're putting words in my mouth. From my understanding, there have been discussions with Health and the Nurses and Midwives' Association with respect to their agreement.

**SIMON DRAPER:** I might help, because I wrote those additional letters with the baseline offer. Those offers set out the baseline offer, but it also alluded to the fact that, where there were mutual gains to be made, there was scope for further discussions around those things. You're asking about negotiating parameters as if there is a number that we can put forward. That's not the case. That's part of the negotiation process. There is a baseline offer, and then there is a process to go through to identify the gains that can be then quantified for people.

**The Hon. DAMIEN TUDEHOPE:** In relation to that, in the course of negotiations, have you been able to identify any productivity or negotiation parameters which would allow for an increase over and above 10.5 per cent?

**SIMON DRAPER:** Sorry, is that for the Minister or for me?

**The Hon. DAMIEN TUDEHOPE:** The Minister.

**SIMON DRAPER:** I'll just say that we don't conduct those negotiations. The Minister was quite right earlier when she said that the employer is the Secretary of Health. They have them through the portfolio agencies. When they want to bring forward proposals, there is a framework around taking those things forward through our senior officers group and through the Government. But the actual negotiations are conducted by the agencies.

**The Hon. DAMIEN TUDEHOPE:** I accept that, Mr Draper. Has any proposal come to you, Minister, to increase the offer above 10.5 per cent arising from those negotiations?

**Ms SOPHIE COTSIS:** Mr Tudehope, there is obviously a lot of discussion and dialogue and we will continue to have discussions with the Nurses and Midwives' Association.

**The Hon. DAMIEN TUDEHOPE:** Under section 210 of the Industrial Relations Act, nurses have rights to ensure that they are free from victimisation. Isn't that the case?

**Ms SOPHIE COTSIS:** Of course.

**The Hon. DAMIEN TUDEHOPE:** Of the midwives who are on strike in support of the 15 per cent claim, none of them have been threatened by the New South Wales Government, have they?

**Ms SOPHIE COTSIS:** This is the first I have heard of this.

**The Hon. DAMIEN TUDEHOPE:** What about nurses who wear badges at work relating to their campaign? Have they been threatened by managers in relation to adverse consequences?

**Ms SOPHIE COTSIS:** Mr Tudehope, I understand that one of your colleagues asked the Minister for Health this question yesterday, and the Minister for Health answered this. I am very pleased that you have a new-found respect for union—

**The Hon. DAMIEN TUDEHOPE:** It's not new found, Minister. Don't pass on a reflection I've made. It's not new found.

**Ms SOPHIE COTSIS:** Your Government had their particular views about a particular type of union activity. No-one should be threatened or intimidated or bullied in the workplace anywhere, whether it's in the public service or private sector.

**The Hon. DAMIEN TUDEHOPE:** In respect of the action which was taken yesterday, there was an order of the IRC for that action not to take place, was there not?

**Ms SOPHIE COTSIS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** In contravention of those orders, the strike activity still took place and there was a significant impact on health services being provided across the State, was there not?

**Ms SOPHIE COTSIS:** The health Minister, Minister Park, responded to that. All action was taken with respect to care and making sure patient care was a priority. He answered that question.

**The Hon. DAMIEN TUDEHOPE:** Will you be taking any action in the IRC for fines to be imposed arising from the contravention of their orders?

**Ms SOPHIE COTSIS:** Mr Tudehope—

**The Hon. DAMIEN TUDEHOPE:** Yes or no?

**Ms SOPHIE COTSIS:** I will explain the thinking. The Government will consider all its options. I will say this to you: The opportunity for any public sector union, at this point in time, to have the opportunity to go to this new commission that we have re-established is something that their members have worked very hard to campaign for over many years. This Government has delivered. We have delivered removing the wages cap, setting up a bargaining process and also establishing—

**The Hon. DAMIEN TUDEHOPE:** Minister, you are not answering my question.

**Ms SOPHIE COTSIS:** No, I have. I have said to you that we will consider all options.

**The Hon. DAMIEN TUDEHOPE:** So you will—

**The CHAIR:** Order! Mr Tudehope, the Minister is answering—

**The Hon. DAMIEN TUDEHOPE:** With due respect to the Minister—

**The CHAIR:** Order! Mr Tudehope, please do not interject over the Minister. The Minister is being relevant to your question. Please, don't talk over the top of her.

**The Hon. DAMIEN TUDEHOPE:** I am sure she is.

**The CHAIR:** Order! Minister, you have the call.

**The Hon. DAMIEN TUDEHOPE:** Only in this Committee.

**Ms SOPHIE COTSIS:** The Industrial Relations Commission in the re-establishment—

**The Hon. STEPHEN LAWRENCE:** Point of order: I am concerned about the reflection upon you, Chair.

**The CHAIR:** I am too. I uphold the point of order. The comment from Mr Tudehope was "only in this Committee". I think I am a fair and independent Chair and I was simply upholding the resolution of the House to treat all witnesses with courtesy. I remind Mr Tudehope that reflections on the Chair are disorderly at all times. If he does it again, I'll call him to order. Mr Tudehope, you asked a question and the Minister is answering. Minister, you have the call.

**Ms SOPHIE COTSIS:** The fact that we were able to re-establish the independent umpire after many years of campaigning also by the nurses and midwives and other public sector unions is a credit to their campaigning but also to our Government that has delivered on that promise. As Mr Tudehope has said, orders were issued with respect to the union. It is disappointing they defied the orders of the independent umpire, but there is pent-up frustration from 12 years of wage suppression. This is what happened. I spoke in 2011 against your wages cap legislation and I did raise the issue about what would happen to nurses and midwives in 10 years time because of this wages suppression, and here we are today. It is a very difficult climate economically, but this is what happens when the Government closes the door on dialogue and closes the door—

**The Hon. DAMIEN TUDEHOPE:** Will you rule out seeking fines for the contraventions of the order?

**Ms SOPHIE COTSIS:** I have already answered that question.

**The Hon. DAMIEN TUDEHOPE:** No.

**Ms SOPHIE COTSIS:** I have answered the question.

**The Hon. DAMIEN TUDEHOPE:** Yes or no?

**Ms SOPHIE COTSIS:** I have answered the question.

**The Hon. DAMIEN TUDEHOPE:** You haven't.

**Ms SOPHIE COTSIS:** I have.

**The Hon. DAMIEN TUDEHOPE:** I will accept that as the answer which you have given. Minister, could I ask about the Police Association? The current demand of the Police Association is 25 per cent over four years, not including superannuation. Are you aware of that?

**Ms SOPHIE COTSIS:** I am aware of their offer, yes.

**The Hon. DAMIEN TUDEHOPE:** Are you aware of all the other conditions that they are seeking in relation to their claim?

**Ms SOPHIE COTSIS:** Yes, I am.

**The Hon. DAMIEN TUDEHOPE:** Have you been able to identify, in relation to any of those other matters, circumstances where you could trade off opportunities to meet the 25 per cent claim?

**Ms SOPHIE COTSIS:** Sorry, Mr Tudehope, it's best for me to just give you an outline. With respect to the police officers award, the Police Force and the Police Association have actively engaged in mutual gains bargaining and have been meeting regularly to progress bargaining discussions. Productive discussions are continuing and ongoing.

**The Hon. DAMIEN TUDEHOPE:** In relation to that, have you been able to identify any opportunities to trade off conditions or productivity enhancements in respect of meeting their 25 per cent claim or are they wasting their time and should they just go straight to arbitration?

**Ms SOPHIE COTSIS:** I think it's important that, with respect to all of these award negotiations, they are done without prejudice, which is what is happening, and also in the confines of their confidentiality. There is a lot of back and forth and it's all done without prejudice. My understanding is that the police discussions are ongoing. I don't think it's very wise of me or anyone else to disclose anything further. Those discussions are currently at hand with the Police Force and the union. The other great thing that the Government did was paying student police officers while they study at Goulburn police academy.

**The Hon. DAMIEN TUDEHOPE:** That's good. I didn't ask about that, Minister. Can I ask about child protection workers? Child protection workers are wanting a 15 per cent—

**Ms SOPHIE COTSIS:** But that's a great thing because we've got more police students who are coming through. It's great. It's really good.

**The Hon. DAMIEN TUDEHOPE:** It is. Child protection workers are demanding a 15 per cent wage rise for 2024-25. What is the Government's current offer to child protection workers?

**Ms SOPHIE COTSIS:** They all come under Crown employees, Mr Tudehope, as you know.

**The Hon. DAMIEN TUDEHOPE:** What's the current offer?

**Ms SOPHIE COTSIS:** Mr Tudehope, you have already been told. But can I just say in terms of child protection workers, again, in 2011, unfortunately, the former Minister for Family and Community Services, Pru Goward, basically pillaged \$1 billion—

**The Hon. DAMIEN TUDEHOPE:** Point of order—

**Ms SOPHIE COTSIS:** —from Family and Community Services—

**The CHAIR:** Order! Minister, a point of order has been taken.

**The Hon. DAMIEN TUDEHOPE:** I asked a specific question: What is the current offer? This is not responsive to that.

**The Hon. STEPHEN LAWRENCE:** To the point of order: I would say that it is relevant; it is quite clearly relevant. This is background and context, even if it's not the answer you wanted.

**The Hon. DAMIEN TUDEHOPE:** It is not context. It is a specific question: What is the current offer?

**The CHAIR:** Order! Mr Tudehope, I don't uphold the point of order. The Minister is providing some context. Wide latitude is given. I ask the Minister to come back to the specifics of the question.

**Ms SOPHIE COTSIS:** Mr Tudehope, I know you care about child protection workers. We have high vacancy and we have high turnover. You have to look at the background of this. Minister Washington is doing an excellent job in doing her very best to make sure we recruit and retain. But we need to do a couple of things. It is not just one size fits all.

**The Hon. DAMIEN TUDEHOPE:** But what is the current offer?

**Ms SOPHIE COTSIS:** The Government has made an offer.

**The Hon. DAMIEN TUDEHOPE:** What is it?

**Ms SOPHIE COTSIS:** We're in bargaining. This is a certain sector. It's not one size fits all as well. You've got to understand that these are child protection workers where we have a retention and retain problem. We have high vacancy and we have high turnover as well. We've got legitimate issues and challenges that we have to address. Minister Washington, as I said, is doing an excellent job in trying to ensure that we're recruiting and retaining. Yes, Mr Tudehope, pay is an issue; it absolutely is an issue. This is something that we have to look at because it's about vulnerable children. We have to make sure that we've got our very best in terms of people dealing in this area. Of course, we advocate very strongly for them, but we've got to go back to history. The historical context is that \$1 billion was taken out of FACS.

**The Hon. DAMIEN TUDEHOPE:** You haven't told us what the current offer is, so I'll move on. Minister, the Public Service Association is demanding 13 per cent over three years. Have you rejected the demand?

**Ms SOPHIE COTSIS:** As in, Crown employees?

**The Hon. DAMIEN TUDEHOPE:** The Public Service Association, yes.

**Ms SOPHIE COTSIS:** As you know, the Public Service Association represents—

**The Hon. DAMIEN TUDEHOPE:** The Department of Community Services.

**Ms SOPHIE COTSIS:** Yes, that's right—prison officers, child protection workers and national parks rangers. They represent a whole range.

**The Hon. DAMIEN TUDEHOPE:** Have you rejected their claim?

**Ms SOPHIE COTSIS:** We're in discussions, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Is there an offer on the table for the Public Service Association?

**Ms SOPHIE COTSIS:** As Mr Draper said to you earlier, he wrote to the union secretaries as the employer with respect to the Government's offer. What we're doing is we're in discussion. As you can understand, particularly with the excellent public service members that the PSA represent, they work in a variety of areas, whether they're working in Customer Service or they're rangers or prison officers or whether they're in Fisheries or child protection. You have to look at each of these areas separately in terms of—as we said before, it's about vacancy rates.

**The Hon. DAMIEN TUDEHOPE:** It's a complete failure of mutual gains bargaining, Minister. In any event, let's move on.

**Ms SOPHIE COTSIS:** I disagree.

**The Hon. PETER PRIMROSE:** Point of order: I think, by editorialising, the Hon. Damien Tudehope has shown great discourtesy. The Minister sought to respond and fully answer the question, but she was cut off, a comment was made and then another question was sought to be asked. The Minister should be allowed to answer her questions.

**The CHAIR:** Yes, I uphold the point of order. It is discourteous to make comments and, as the member has said, editorialise. Please desist from that, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Minister, I want to move on to the combined rail unions. Are you supporting or opposing the RTBU's application to the Fair Work Commission for a single-interest employer authorisation covering light rail as well as Sydney Trains and NSW Trains?

**Ms SOPHIE COTSIS:** Sorry, I'll get you a response. I read it just before I came in. One moment. I am aware, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** In its report to members on the enterprise agreement bargaining sessions held on 28 and 29 August with the New South Wales Government, the RTBU said, "Questions remain about what capacity the management representatives in the room have to either agree or disagree, and at times tensions rose as claims were dismissed as being outside 'bargaining parameters'". Minister, is it true or not that when you entered into negotiations with the RTBU and the combined rail union, they had no idea what the bargaining parameters were? Is that why the RTBU was so frustrated?

**Ms SOPHIE COTSIS:** Mr Tudehope, I understand that there have been meetings every couple of weeks with respect to the combined rail unions. As you rightly know, they are covered by the Federal system. We will continue our dialogue and our openness. Our door is open.

**The Hon. DAMIEN TUDEHOPE:** They don't seem to think so.

**Ms SOPHIE COTSIS:** They're frustrated because they had to deal with your lot for 12 years.

**The Hon. DAMIEN TUDEHOPE:** They're dealing with you now.

**The CHAIR:** Order!

**Ms SOPHIE COTSIS:** We're trying to clean up your mess.

**The CHAIR:** Order! Minister, on 1 July 2024 a national ban came in for all Australian jurisdictions on the manufacture, supply, processing and installation of engineered stone benchtops, panels and slabs that contain 1 per cent silica or more. I thank you for your work in that area. In New South Wales there is a transition period for engineered stone contracts entered into before 31 December 2023 that include installation prior to 31 December 2024. For engineered stone already installed, a person conducting a business undertaking is required to notify SafeWork NSW when processing installed legacy engineered stone.

Processing means using a power tool or other mechanical plant to crush, cut, grind, trim, sand, abrasive polish or drill the stone. This is done through an online notification form that can be found on SafeWork NSW's website. Minister, how many notifications have SafeWork received of processing engineered stone? You might want to take that on notice. I don't expect you to know that off the top of your head. More importantly, how are workers who are removing engineered stone being advised of the harmful nature of silica dust?

**Ms SOPHIE COTSIS:** Chair, I thank you for your very strong advocacy with respect to banning engineered stone. It's been a very long process and we got here. Yes, in New South Wales we do have a transition period. More importantly, a ban did come in on 1 July. We also have \$2.5 million for additional inspectors who will be supporting our compliance work. I hear what you're saying with respect to the operational matters. I will ask Mr Curtin if we know of that figure and that process.

**TRENT CURTIN:** I will come back with that figure in the afternoon session. We've got the number of registrations that we've received. As the Minister said, the ban on engineered stone came in on 1 July. We've also had a further change to regulations from 1 September which provides stronger regulation around the processing of materials containing crystalline silica across all industries. We've been doing a range of work in terms of sending information directly out to industry. We're hosting webinars and providing fact sheets and other information, in collaboration with the Commonwealth and other jurisdictions, to make sure industry right across the country has got the information they need to transition to those new, stronger requirements.

**The CHAIR:** The time being 10.45, and in the absence of any Government questions, we will have a short recess and be back at 11.15.

**(Short adjournment)**

**The CHAIR:** Thank you everyone for returning. We will now turn to questions from the crossbench. Mr Latham, you have 20 minutes.

**The Hon. MARK LATHAM:** Minister, I made reference at the beginning of the hearing to the question I put on the *Notice Paper* in December last year, and I itemised—I don't remember that the list was this long but it obviously is—29 political programs and activities engaged in in the New South Wales public sector. You can recall the list and you know how extensive it is. Are any of these items on the agenda for public servants actually doing their job instead of engaging in this multitude of political activities that obviously eat up a lot of time that would otherwise be engaged in serving the public? There are critical race theory meetings, white privilege walks, de-gendered pronoun training, training on how to do a welcome to country—29 of them. I won't read them all out, but they do appear to be growing in number and are obviously time consuming. Is the Government worried that there is politics in the public sector instead of customer service?

**Ms SOPHIE COTSIS:** Mr Latham, I think that the matters you're referring to, I do have a copy of those in front of me. You asked the question of me. If you're referring to matters like wellbeing and mental health sessions for example, I think for something like that, that's an important part of any workplace. As the Minister for Work Health and Safety, it is my absolute priority, whether it's in the public sector or whether it's in the private sector, that in light of the number of psychological claims that are being made we as an employer provide the support to people who are currently facing issues, whether it's mental health or wellbeing. You've outlined that in your question. With respect to the other matters, I'm happy to refer you to the secretary who's responsible for the employees.

It is very important that in any workplace, particularly in our diverse workplace that we have, whether it's particular days or cultural days—I think that's very important in terms of respecting the diversity of people. But also our main priority, working in the public service or in the private sector, is to the people that we serve and to the people that we deliver services to. I can say to you from being in opposition for many years, for 12 years, and having travelled across our great State, there are brilliant public servants across our State, whether they're in Dubbo or Wellington or in the Tweed or working in remote areas, who are delivering service. I think that it's important that we listen to our public servants in terms of particular cultural matters. It's important for us, as flexible workplaces, to respect that. Our main priority—and you're talking to public servants—is delivering service to the community.

**The Hon. MARK LATHAM:** But to answer my question, respectfully, if you can, Minister, none of these items are on the table at the mutual gains bargaining process to say, "No, you shouldn't be doing sessions learning about Bruce Pascoe's book in the planning department. It's a waste of time. It's fictitious and it's a waste of time and you should be actually doing some planning for the people of New South Wales rather than a book club."

**The CHAIR:** Order! I just remind members that adverse mention of—

**The Hon. MARK LATHAM:** You reckon Bruce Pascoe is fair dinkum? I suppose you can have an opinion.

**The CHAIR:** The principle remains that we are to desist from adverse reflections on people who aren't at these hearings to defend themselves.

**The Hon. MARK LATHAM:** It's about a book.

**Ms SOPHIE COTSIS:** I can say to you with respect to icare's imaginarium, I understand that no longer exists.

**The Hon. MARK LATHAM:** Good.

**Ms SOPHIE COTSIS:** Both our Treasurer and yourself with your advocacy are very successful in ensuring that, particularly for icare, the priority is focused on injured workers.

**The Hon. MARK LATHAM:** But to answer my question, are any of the 27—we're down to 27 now—on the table for the mutual gains bargaining?

**Ms SOPHIE COTSIS:** No, but these are not—I'll refer to Mr Draper.

**The Hon. MARK LATHAM:** I'm just trying to get an answer as to whether there's an attempt to cap this type of activity and maximise the service to the public.

**SIMON DRAPER:** I've never looked at the list, I'm sorry, Mr Latham. But I guess all I would say is that, first of all, public servants don't engage in political activities. We have a culture, we have values that are very explicit against that, and we reinforce that all the time. It's a very strong vocational value that we uphold in the public service. That's the first thing. The second thing I'll say is that we are very focused on servicing the public. We're focused on servicing all members of the public and making sure that this public service understands their interests and their perspectives, and that we provide services to all members and also attract all people in society to come and work in the public service. That's our approach.

**The Hon. MARK LATHAM:** That wasn't my question. My question was: Are any of these items part of the mutual gains bargaining process to restrict them, abolish them, put a cap on these quasi-political activities? I'll take the answer as no. But can I just bring you to your point about wellbeing and health sessions, Minister. They run them at schools, for instance. There is not a single person at the school who is trained in mental health and wellbeing. They're teachers; they've been trained to teach. Isn't that a worry in terms of public health and safety that people who aren't qualified are running these sessions? We have a pretty big health system in New South Wales where after work you'd normally go and get the help that you need. Should we have people who aren't trained in mental health running mental health sessions in the public sector?

**SIMON DRAPER:** That's very contrary to best practice in dealing with any health issue. A lot of agencies—and I don't have a list of all of them—would generally try and provide mental health first aid, we would refer to it as, people who are on the spot, who are in the workplace, who can observe those colleagues around them and provide support on the spot. That doesn't require a medical degree to do that; it requires some level of training and support.

**The Hon. MARK LATHAM:** These are organised sessions, you see?

**SIMON DRAPER:** Yes, absolutely.

**The Hon. MARK LATHAM:** It's not on the spot because of an emergency. These are organised sessions.

**SIMON DRAPER:** We regard mental health in the workplace as a high priority, and I think most people who work in that space would think that was a good idea.

**The Hon. MARK LATHAM:** Could I go to a SafeWork issue. Whatever came of the serious problem of asbestos at Castle Hill High School? What has been the outcome there?

**Ms SOPHIE COTSIS:** Mr Curtain, can I ask you to respond to that? I'm very aware, Mr Latham, about that matter. I'll get a note for you, but if Mr Curtain has additional information that would be really good.

**TRENT CURTIN:** Mr Latham, SafeWork NSW has filed charges against the Department of Education in relation to that incident. The matter is currently before the court, so I wouldn't want to provide too many details of that case.

**The Hon. MARK LATHAM:** When was it first listed in the court?

**TRENT CURTIN:** On 15 February SafeWork filed charges in the District Court.

**The Hon. MARK LATHAM:** Is it just against the department or certain individuals as well?

**TRENT CURTIN:** I would need to check. I can come back to you, but I'd be pretty sure it's just against the department.

**The Hon. MARK LATHAM:** Has the remediation at the school been achieved?

**TRENT CURTIN:** Yes, SafeWork has been closely engaged with the Department of Education. We had issued notices at a point in time, and I understand that those things have been remediated.

**The Hon. MARK LATHAM:** Minister, there are a range of organisations in the public sector that have sort of a limbo status in terms of government authority. They've been established by the Parliament so you might think of them as statutory bodies, but they're not responsive to a Minister. What jurisdiction do you have regarding their workplace practices?

**Ms SOPHIE COTSIS:** What do you mean, sorry?

**The Hon. MARK LATHAM:** There are a range of organisations. The three racing codes, for instance, have independent bodies—controlling bodies—established by this Parliament under legislation, but the sole role of a Minister is to appoint people to a board and not to have any ministerial oversight. So they're not accountable

to the Parliament, they don't come to budget estimates, they're not subject to SO 52s and they're not subject to ministerial directive, most importantly. What jurisdiction does the Government have over their workplace practices if something goes wrong?

**Ms SOPHIE COTSIS:** All workplaces are governed by work health and safety laws. So if there are matters of concern with respect to safety, people can contact SafeWork if they have concerns about safety. If you have any specific matters, I know that we don't want to air any private matters, but happy to take those on board—or Mr Draper or Mr Curtin—

**The Hon. MARK LATHAM:** Is there an investigative capacity beyond SafeWork within your department?

**Ms SOPHIE COTSIS:** Mr Latham, it depends on what the matter is. If it's a matter that's covered under the Work Health and Safety Act, if it's a duty with respect to work health and safety, obviously SafeWork have the legal capacity. They have to go through the process of inquiry investigation. I think I understand what you're talking about in terms of particular bodies. If there's a work health and safety matter, it would go to SafeWork. If there are other matters—Mr Draper.

**SIMON DRAPER:** The bodies you've referred to, those people are not employees of the Government. They may have a role sanctioned by Parliament, but they're not part of the government sector.

**The Hon. MARK LATHAM:** So they're not public servants as such?

**SIMON DRAPER:** No.

**The Hon. MARK LATHAM:** So what do you recommend to a staff member at Racing NSW where trade union membership is discouraged, if not banned? There's no HR department; there's no complaints process; there was no inductions process. There's surveillance of staff, compulsion and coercion to show their private WhatsApp messages, a high staff turnover, management ignoring complaints about atrocious working conditions and also pretty strong evidence of cronyism and favouritism. What does a worker do in that circumstance, working at an agency established by this Parliament?

**SAMARA DOBBINS:** If I may answer that question on behalf of the Minister—

**The Hon. MARK LATHAM:** Because workers are asking me this question: How can they have been placed in this situation when there's a lot of public money involved and a statute involved to establish the body?

**SAMARA DOBBINS:** I understand. I'd need to look into the particular circumstances, but they're likely to fall into the jurisdiction of the Fair Work Ombudsman. Employees with those kinds of issues should make inquiries of the Fair Work Ombudsman.

**The Hon. MARK LATHAM:** If they make those inquiries, it's pretty well understood within the organisation that they'll be sacked.

**SAMARA DOBBINS:** Again, that would be under the jurisdiction of the Commonwealth. But if you were sacked, for example, for membership of a union, that would be contrary to Commonwealth law.

**The Hon. MARK LATHAM:** So there's no State industrial relations coverage of any of these employees?

**SAMARA DOBBINS:** Not unless they're, as the secretary said, within the New South Wales government sector or an agency of the public sector.

**The Hon. MARK LATHAM:** Minister, are you happy with that general situation—I won't go into the specifics—in terms of workers' rights, that the Parliament has established some agencies and funded them extensively and the State Government has no practical way of assisting them when they're subject to atrocious work practices?

**Ms SOPHIE COTSIS:** Mr Latham, any worker that's covered, whether it's by—as I mentioned to you earlier, if there are safety matters, of course they can go to the regulator. As Ms Dobbins previously answered about going to the Fair Work Ombudsman with respect to rights of workers, every employer has an obligation with respect to the duty of care that they have for workers. These workers, I assume, come under the Federal jurisdiction. In terms of workers' rights, those apply as per the Fair Work Act, in terms of no intimidation, victimisation or harassment. There are also other Federal bodies that workers can go to with respect to the Ombudsman. Also there's the, I understand, human rights, equal opportunity—there are other bodies as well. In terms of the matters that you're referring to, I can't give you exact details. We've provided you—

**The Hon. MARK LATHAM:** Some of these workers say, "There's a racing Minister but what use is that to us when, if we write a letter to the racing Minister, it can't have any impact because he's got no oversight of the



organisation?" Mr Draper, does that change? If there was ministerial oversight of an organisation, does that mean the workers become public servants?

**SIMON DRAPER:** No, the—

**The Hon. MARK LATHAM:** What does it take?

**SIMON DRAPER:** The Government Sector Employment Act defines what is the government sector, so it would have to fall within the definitions within that Act.

**The Hon. MARK LATHAM:** And those definitions are?

**SIMON DRAPER:** I'll have to refer you to the Act that this Parliament passed.

**The Hon. MARK LATHAM:** Sorry, say that again?

**SIMON DRAPER:** It's in the Act. I can pull out the Act for you.

**The Hon. MARK LATHAM:** But, generally, can you just inform the Committee what makes for a public sector employee?

**SIMON DRAPER:** I might have to get Graeme Head to help me out because he was actually the Public Service Commissioner in the past. I think it includes the public service and other services in the government sector, such as the teaching service, the police service and the transport service. But Mr Head might want to add to that.

**GRAEME HEAD:** No, that's pretty much right. There's the departmental staff, the public service, the transport service, the health service, the teaching service, the New South Wales police and what are called "other services of the Crown", which are typically statutory entities where the Parliament has set up enabling legislation and that enabling legislation makes clear that the people who work for that organisation are employees of the Crown. So there are some public sector entities that are constitutionally prohibited from employing staff and their staff would be provided by the department of the portfolio they're in.

**The Hon. MARK LATHAM:** So it needs to be written into the statute that this body is answerable to the Crown and this body has employees who are part of the Crown?

**GRAEME HEAD:** Usually that's the case, yes.

**The Hon. MARK LATHAM:** That's the way in which it's usually done.

**The Hon. CHRIS RATH:** Thank you, Minister, for appearing today. Minister, on 9 May 2012, you moved an amendment in the Legislative Council specifically to prevent a Minister appointing an administrator for the CFMEU and dismissing its leadership. Back then you said:

Although the Opposition objects to the Minister having that power, it is appropriate that an independent court be able to appoint an administrator to an industrial organisation that has become dysfunctional.

What changed your mind so that you gave yourself as Minister that power that you opposed giving to a Minister in 2012?

**Ms SOPHIE COTSIS:** Mr Rath, that's a very important question. As you know, the Government and the Parliament—not The Greens party—supported the appointment of the administrator to the CFMEU Construction and General, supporting the Federal Parliament. With respect to what you've raised with respect to 2012, I did respond in the Chamber a few weeks ago when we put forward our legislation. The matter that you're referring to is about appointing the administrator to the HSU. Is that what you're referring to?

**The Hon. CHRIS RATH:** Yes, your quote specifically in 2012 opposing administrators to be appointed to unions because it was an overreach—which you have now done in government.

**Ms SOPHIE COTSIS:** It was the concern that the shadow Cabinet had, and as the shadow Minister that had to reply, it was a shadow Cabinet decision at the time. I don't know if you worked for a Minister at the time, but your former Government, the track record of the 2011 destruction of workers compensation, the introduction of wages cap—what the former O'Farrell Government did in 2011, people are paying the price for that, whether it's injured workers, whether it's our public sector workers who are frustrated and taking to the streets because of the wages suppression. So we did support the administration; we did support that legislation in 2012. But the reality is we didn't trust your Government that you would be—and at the time, I don't know if you remember but there were many concerns with respect to the way that you were treating working people.

**The Hon. CHRIS RATH:** Basically, your answer is that you shouldn't trust a Liberal Government to appoint administrators but it's good when you do it; we should trust a Labor Government to appoint administrators. That's essentially your answer, isn't it, Minister?

**Ms SOPHIE COTSIS:** No, no. You have to read it all in context, and you're just taking bits and pieces out of the speech that I made. We supported your Government putting an administrator into the HSU; we supported that. The concern of unions at the time, particularly after what you had done, destroying the workers comp system—you may not have been around at the time. It was a very anti-union, anti-worker government at the time. Now, these concerns, with respect to what we have done—we have put in an administrator, and it is specific to this union. It is specific to the CFMEU Construction and General.

**The Hon. CHRIS RATH:** It's a good idea. We supported it. We supported the legislation. I'm just trying to figure out if it's a good idea now, why wasn't it a good idea in 2012?

**Ms SOPHIE COTSIS:** But we supported your legislation in 2012.

**The Hon. CHRIS RATH:** Well, it's not what your comments say, but anyway, Minister, I'll move on. Obviously, you've been involved in the union movement for a long time. How long have you been involved with unions in New South Wales?

**Ms SOPHIE COTSIS:** I've been in Parliament, Mr Rath, for—

**The Hon. CHRIS RATH:** You're a member of a trade union I assume?

**Ms SOPHIE COTSIS:** Two.

**The Hon. CHRIS RATH:** You're a member of two. What are the two trade unions you are a member of?

**Ms SOPHIE COTSIS:** I'm an equal opportunist, so I'm a member of the UWU and USU.

**The Hon. CHRIS RATH:** You have been involved for a long time in the union movement, but when did it first occur to you that the CFMEU is corrupt? Was it any time before July 2024?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. CHRIS RATH:** We have all read the headlines and the news reports; we saw the *60 Minutes* piece. Was there any time before July 2024—the recent media that's come out—where you were concerned about CFMEU conduct and, in particular, the possibility that they were indeed corrupt?

**The Hon. STEPHEN LAWRENCE:** Point of order: I'm just not sure how a question so broad—it seems to go back in time, presumably through the Minister's whole life—could be relevant to the task of the Committee.

**The Hon. CHRIS RATH:** To the point of order: This is a very topical issue of conduct of the CFMEU. This is the Minister for Industrial Relations that we're currently questioning. I think it is appropriate to understand if the Minister had concerns about the CFMEU prior to the media coverage that we have had in the last couple of months.

**The CHAIR:** No, I won't uphold the point of order. It is relevant to the carriage of the Minister's works and it is—

**The Hon. PETER PRIMROSE:** Point of order: Sorry for interrupting, Chair. It appears to me that the honourable member is seeking a legal opinion from the Minister.

**The Hon. CHRIS RATH:** To the point of order: I'm not seeking a legal opinion.

**The CHAIR:** No. Clearly it is not seeking a legal—

**The Hon. CHRIS RATH:** I'm asking about concerns.

**The Hon. PETER PRIMROSE:** The honourable member's saying, "When did it occur to you? When did you think that a particular organisation was corrupt?" That is clearly asking for a determination about whether or not they believe that it was corrupt.

**The Hon. MARK LATHAM:** To the point of order: The line of questioning is essentially to establish the Minister as a long-time, proud trade unionist. Trade unionists talk about other union activities and when would she have first heard of these problems with the CFMEU. I would have thought that's a legitimate line of inquiry at estimates. The Minister might say, "I didn't really know anything about it." It's up to her.

**The Hon. PETER PRIMROSE:** That was not the question: "When did she first hear about it?"

**The CHAIR:** Yes. I understand the point that the member is making and my reading of the question was not of the legal definition of corruption, rather of concerns about the administration of the union and the reference to "corrupt" capturing that. I allow the question.

**The Hon. CHRIS RATH:** Were you ever concerned about CFMEU conduct prior to July 2024?

**Ms SOPHIE COTSIS:** Mr Rath, I don't know what you're getting at. The Government has taken very strong action with respect to the CFMEU, as you already know, and I'll reiterate it: We have taken immediate steps to suspend the New South Wales CFMEU Construction and General Division affiliation to the NSW Labor Party. We have asked the Commonwealth Government to review EBAs in New South Wales which the CFMEU is party to, and any allegations of inappropriate behaviour on New South Wales construction sites to the CCU within the IR branch of the Premier's Department.

As you know, more importantly, there is an administrator now. We all agree, these are very, very serious allegations. You, us, no-one wants to see criminal behaviour on these worksites, this alleged criminal activity, bikies. I know from your side of politics, you do mock me about being a unionist. I come from a non-English speaking background, and the unions help people like my parents. My dad's a painter, my mum's a cleaner and cook and what have you, and it was because of that activism, at the time, that you saw people like my parents who had, because of that, better safety. My dad worked at different construction sites as a painter, someone of non-English speaking background, and I think that unions played a purpose.

**The Hon. DAMIEN TUDEHOPE:** Point of order—

**Ms SOPHIE COTSIS:** I know that you—

**The Hon. DAMIEN TUDEHOPE:** This is not remotely responsive.

**Ms SOPHIE COTSIS:** No, but what I'm trying to say is that I think that the nobility—

**The CHAIR:** Order! A point of order has been taken.

**The Hon. DAMIEN TUDEHOPE:** I let the Minister go for some time but this is not remotely responsive to the—

**Ms SOPHIE COTSIS:** I'm answering Mr Rath. For me—

**The CHAIR:** I will rule on the point of order. The member has asked some questions about the Minister's involvement in the trade union movement, but the answer now wasn't related to that. I ask the Minister to come back to that.

**The Hon. CHRIS RATH:** Concerns about the CFMEU's conduct prior to the recent media coverage.

**Ms SOPHIE COTSIS:** I have answered that, Mr Rath.

**The Hon. CHRIS RATH:** I'll move on. The CFMEU—when did you first become aware that they were protecting and promoting scaffolding companies associated with Mohamad El Jarrar and Hussein "Sam" Soukie, former directors of Synergy Scaffolding Services, which was fined \$2 million in relation to the death of Christopher Cassaniti? When did you first become aware of that?

**Ms SOPHIE COTSIS:** Of these two directors?

**The Hon. CHRIS RATH:** Of the CFMEU protecting and promoting the scaffolding companies that were associated with those?

**The Hon. BOB NANVA:** Point of order: I think these questions are seeking an adverse reflection on the CFMEU on matters that are not tested with respect to the CFMEU's conduct in relation to those contractors.

**The Hon. CHRIS RATH:** I would not want to tarnish the CFMEU's good reputation, Bob.

**The Hon. BOB NANVA:** And I would suggest that that would be in breach of paragraph 13 of the procedural fairness resolution with respect to adverse reflections on third parties who are not here to address those concerns.

**The Hon. CHRIS RATH:** To the point of order: The issues regarding the CFMEU are well ventilated in the media, in particular a scaffolding company that was fined \$2 million for the death of an innocent 18-year-old tradie. If I'm not allowed to ask the Minister about that in her capacity as the Minister for Industrial Relations and work health and safety, then I don't know what the point of budget estimates actually is.

**The Hon. STEPHEN LAWRENCE:** To the point of order: I would suggest that there is a way of asking those sorts of questions and it's about how you preface the suggestion or the allegation. To insert it in the question as some sort of conclusion—I don't know about this particular matter. I don't know whether it's true or not.

**The Hon. CHRIS RATH:** They've been fined \$2 million.

**The Hon. BOB NANVA:** It's the assertion about the CFMEU here.

**The Hon. STEPHEN LAWRENCE:** To assert complicity is the problem and there's a way of prefacing the question, I would suggest, that removes that problem. It's not about not having that particular question asked, it's about crafting the question in a way that complies with the resolution of the House.

**The CHAIR:** I do uphold the point of order. I don't think it's necessary to ask the question and name an individual or individuals. That is what we were asked to desist from doing in these Committee proceedings, especially when you're mentioning them adversely. If the member could reframe his question and avoid naming individuals, that would be of benefit.

**The Hon. CHRIS RATH:** Are you aware of the CFMEU protecting and promoting the scaffolding companies that have been fined \$2 million in relation to the death of Christopher Cassaniti?

**Ms SOPHIE COTSIS:** Mr Rath, I became aware when it was reported in the media. In terms of the scaffolding company, I can refer you to Mr Curtin. But you're right, Synergy Scaffolding was fined back in 2022 in the District Court. There are some issues around the payment of the fine and I just think in this instance—yes, we just became aware of it when it was reported in the media.

**The Hon. CHRIS RATH:** What steps has SafeWork NSW taken to ensure that no successor or associated company related to Synergy Scaffolding Services is working on building sites in New South Wales?

**Ms SOPHIE COTSIS:** Can I refer that?

**TRENT CURTIN:** SafeWork NSW has been working with NSW Fair Trading and the Building Commission to look into parties that might be related to Synergy Scaffolding. We have reviewed those organisations and we're not aware of any particular safety issues concerning those organisations at this point in time.

**The Hon. CHRIS RATH:** So they're still conducting business with the New South Wales Government?

**TRENT CURTIN:** As I understand, there's a range of related entities that are—I'm not sure about in relation to the New South Wales Government—related to Synergy Scaffolding that are in existence.

**The Hon. CHRIS RATH:** Is one of those Yaga Corp? That is providing safe access platforms to Fort Street Public School.

**TRENT CURTIN:** Not to my knowledge.

**The Hon. CHRIS RATH:** Minister, under section 4.4 of the New South Wales Industrial Relations Guidelines: Building and Construction Procurement, for which you are responsible, it explicitly prohibits any New South Wales Government construction project from discriminating against independent contractors. With that in mind, what action is the Construction Compliance Unit taking to ensure compliance with the guidelines at Shellharbour Hospital where the main contractor has an EBA with the CFMEU as a party?

**Ms SOPHIE COTSIS:** Mr Rath, I understand that this question was asked yesterday of the Minister for Health. I refer you to his response. I can also ask Ms Dobbins to outline what the CCU is currently doing with respect to these matters. And if I've got anything further to say, I'll add.

**SAMARA DOBBINS:** We're monitoring the correspondence to the Minister and media reports constantly. What the unit is doing is Mr Draper has written to the Fair Work Commission and the Fair Work Ombudsman and asked them to undertake, as the Minister mentioned before, a review of all the CFMEU enterprise agreements operating on New South Wales Government construction sites, and we're working closely with those regulators on that review. Outside of this, the New South Wales Government doesn't have control over federally registered agreements and our guidelines are subordinate to the provisions of a federally registered agreement, so the provisions of those agreements at this stage, on our observation, are not in conflict with the guidelines. However, we are conducting investigations on all actionable intelligence regarding potential breaches of our guidelines or our legislation.

**The Hon. CHRIS RATH:** Minister, have you heard of Incolink?

**Ms SOPHIE COTSIS:** What is it, sorry?

**The Hon. CHRIS RATH:** It's an entity that has recently started to conduct business regarding redundancies or a redundancy fund. You're not aware of it?

**Ms SOPHIE COTSIS:** Sorry, what's the name of the fund?

**The Hon. CHRIS RATH:** Incolink.

**The Hon. DAMIEN TUDEHOPE:** Never heard of it?

**Ms SOPHIE COTSIS:** Incolink? Providing service to government?

**The Hon. CHRIS RATH:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Has Ms Dobbins heard of Incolink?

**SAMARA DOBBINS:** No, I'm sorry, I haven't.

**The Hon. DAMIEN TUDEHOPE:** Have you heard of EBA agreements which contain requirements for redundancy payments to be paid to a fund?

**SAMARA DOBBINS:** Not personally. But, as I say, those are enterprise agreements in the Commonwealth system, so I can't say that my team is not aware or that the Fair Work Ombudsman is not aware.

**The Hon. CHRIS RATH:** Are you aware of Construction and Building Industries Training Limited?

**SAMARA DOBBINS:** I'm not, no.

**The Hon. DAMIEN TUDEHOPE:** ACIRT?

**The Hon. CHRIS RATH:** Or any of the officials?

**SAMARA DOBBINS:** No.

**The Hon. CHRIS RATH:** I might ask some of those as supplementary questions because I've got some questions on that that would be good to come back to. Minister, your administrator, Mark Irving, has criticised the New South Wales police for a lack of action in addressing criminal activity by the CFMEU, its officials and its associates. Do you support this criticism by Mr Irving?

**Ms SOPHIE COTSIS:** Mr Irving has made his views. The New South Wales police are brilliant—excellent men and women of the force—and I have enormous respect for our New South Wales police. They do some extraordinary work and I want to give a shout-out to them for the extraordinary work that they do. With respect to Mr Irving, I assume that he'll have discussions with the relevant authorities.

**The Hon. CHRIS RATH:** Have you met with Mr Irving?

**Ms SOPHIE COTSIS:** Have I met him? No, I haven't.

**The Hon. CHRIS RATH:** You haven't met with him. So you've appointed him as the administrator, but you haven't had a conversation?

**Ms SOPHIE COTSIS:** The Federal Government, with us, have appointed Mr Irving. He has made a couple of appointments here in New South Wales and we're establishing the contacts with the two people that are currently here in New South Wales.

**The Hon. DAMIEN TUDEHOPE:** Can I return to the RTBU. In mutual gains bargaining, do you expect that the employer's position would be put on the table as part of that process?

**Ms SOPHIE COTSIS:** Mr Tudehope, I think we've just got to be really careful in terms of what—there are currently discussions at hand, and very comprehensive, very considerate discussions. There's a lot of work that's currently underway in terms of negotiations, from my understanding. It's all without prejudice, but I'm not really sure what you're trying to extrapolate from me. I'm happy to help you and the Committee, but with respect to the negotiations that are currently at hand—and you would know this; you're a lawyer—there are discussions that are without prejudice and I don't want to prejudice any of those discussions that are currently being undertaken in good faith, and I encourage the good-faith discussions.

**The Hon. DAMIEN TUDEHOPE:** I was asking about the process. Would you expect in mutual gains bargaining for the employer's position to be put on the table?

**Ms SOPHIE COTSIS:** That's what's happening. The employer and the employees are sitting down and working through—we put forward items, the union will put forward items. I mean, every sector is different. I don't know how many discussions or negotiations you were involved with in terms of the RTBU.

**The Hon. DAMIEN TUDEHOPE:** Too many.

**Ms SOPHIE COTSIS:** I know you had a lot. I don't want to bring PTSD to two members of the Committee here today, but you're talking about items that have been—

**The Hon. DAMIEN TUDEHOPE:** But you've introduced a new system, Minister. In fact, you trumpet the fact that your new system, because of the introduction of mutual gains bargaining, is designed to lessen industrial disputation because you are going to get people in a room and get outcomes as a result of this new mutual gains bargaining position. I'm wanting you to explain, from an employer's point of view, as the Minister, what you say a good-faith mutual gains bargaining approach is. Are you putting the Government's position on the table so that it can be properly considered by the representatives of the workers who are the subject of award negotiations?

**Ms SOPHIE COTSIS:** As you know, the government agencies will put forward their various items on the table. You have to remember that this process hasn't been done for a very long time. You're talking about people having to come together in this process of bargaining. There is a lot of work that is required and a lot of trust that has to be built to work through issues. It's not that you just sit around the table. It's not, "Let's sit around the table. Here are five things that I've got; here are five things that you've got. Let's thrash it out." It's a lot more work. There is a lot more work. You know, as a former Minister, when claims were put to you—a whole log of claims—that those claims would be a whole range of matters that are brought forward to the particular unions that are put forward by union members. They go through a process.

**The Hon. DAMIEN TUDEHOPE:** It's designed, though, to reduce industrial disputation. On 8 September, the RTBU described a mutual gains bargaining session that they had with the New South Wales Government as the Government being "happy to tread water in the absence of any accountability". Is that the approach that the Government is taking to mutual gains bargaining?

**Ms SOPHIE COTSIS:** This process is going to take time. It's going to take time because we have got a system in place now that hasn't been in place for 12 years. You can't expect it overnight. I'm impatient. We want to get this done and we want to see transformation, but you're talking about a whole lot of processes that are necessary. A lot of conversations are being had. But it's also building up the trust. It's building up the confidence of all sides to make sure that we get a good outcome. The good outcome, at the end of the day, is about improved wages and conditions, reforming awards and reforming work practices. Ultimately, it's about providing and delivering a service to the public.

**The Hon. DAMIEN TUDEHOPE:** And preventing industrial disputation. Chair, I notice that Ms Boyd has just arrived.

**The CHAIR:** We'll go to Ms Boyd.

**Ms ABIGAIL BOYD:** Thank you so much. Circling back to the discussion we were having previously, Minister, is it your understanding that the work health and safety regime in New South Wales has any different operation for workers currently engaged in EBA negotiations?

**Ms SOPHIE COTSIS:** What do you mean?

**Ms ABIGAIL BOYD:** Should there be a different work health and safety regime and response where there is a worksite with EBA negotiations ongoing to where there is not?

**Ms SOPHIE COTSIS:** What are you trying to—

**Ms ABIGAIL BOYD:** I have heard that CFMEU organisers, as I was saying before, have been informed by the Newcastle SafeWork manager that the presence or absence of EBA negotiations on site are "relevant and impacts what I do on the site". Does that sound appropriate to you?

**Ms SOPHIE COTSIS:** I'll refer to Mr Curtin. If there are concerns by union officials with respect to the relationships of government agencies, my door is always open, as you know. With respect to this particular matter, I'll refer to Mr Curtin.

**TRENT CURTIN:** I'm not aware of any particular details that you're referring to in that matter, but SafeWork inspectors will take an impartial approach to the application of the WHS laws that is independent of any industrial negotiations that might be underway in any workplace.

**Ms ABIGAIL BOYD:** Safety is safety, and you would assume that there should be no extra levels of suspicion or not taking a complaint seriously because there might—

**Ms SOPHIE COTSIS:** Sorry, can I interrupt? If it's a CFMEU organiser that currently has identified safety concerns, please let SafeWork know. If it's any other union official, if it's any other HSR, or if it's a worker

that has safety concerns, please let the safety regulator know. If there are concerns by CFMEU organisers on building sites who have concerns about safety, we want to know about them.

**Ms ABIGAIL BOYD:** Will you give a clear direction right now—just to avoid doubt—to SafeWork that the presence or absence of EBA negotiations is not relevant in determining their response?

**Ms SOPHIE COTSIS:** I need to see the exact memo or direction—what has actually been put. We need to investigate this. I'm not going to make a policy—

**Ms ABIGAIL BOYD:** But as a matter of principle.

**Ms SOPHIE COTSIS:** I'm not going to make a policy decision on the run. I need to see what this is, and we need to follow it up.

**TRENT CURTIN:** From my perspective, it's not necessary to provide any further advice to our inspectors, other than their training and the application of our policies and procedures, which is that they'll take an impartial approach to the application of the WHS laws. If there is a particular incident that you're talking about, I'm happy to receive those details and look into that, certainly.

**Ms SOPHIE COTSIS:** We'll take that on notice.

**Ms ABIGAIL BOYD:** Given that the CFMEU is now in administration, are you concerned, Minister, that you may not be getting some of the systemic issues brought to you that otherwise would've been brought to you through the union's normal processes because the rank and file don't necessarily feel as confident going to the administrator to let them know about these issues? If so, what are you doing to ensure that you can be made aware of those systemic issues directly from the rank and file?

**Ms SOPHIE COTSIS:** It's very clear that employers have to follow the law. Employers have an obligation. The regulator, if it is contacted with respect to safety issues, will take it seriously and go and inspect those worksites. The workers in construction do very important work. I appreciate the work that they do in construction, particularly over the next many years, when the Premier has said that we need more housing and we need to accelerate our housing developments. It's really important that we have skilled construction workers. More importantly, safety is number one. I want everyone, whether it's a union official or whether it's a worker across New South Wales, to know that safety for SafeWork is a priority. When they have issues, they should come to the regulator and raise those concerns.

**Ms ABIGAIL BOYD:** I understand that for the Hunter Power Project there have been 50 improvement notices issued but no infringement notices or prohibition notices, and that there have been incidents that should have been investigated by SafeWork that weren't. Perhaps I will ask you, Mr Curtin. Is SafeWork committed to addressing the safety issues and the culture on that project?

**TRENT CURTIN:** Yes, SafeWork is regularly engaged in those projects. We have teams that work on State Government infrastructure projects that work quite closely with health and safety representatives, union organisers and PCBUs and address the issues as they fall. There are times when various matters are raised and an improvement notice or a prohibition notice might be issued and that matter will be resolved and a further matter comes in and another notice is issued. If there are concerns in relation to particular worksites, we have a high-risk workplace protocol where we have a team that looks into those systematic issues and works with those PCBUs to improve their systems of work.

**Ms ABIGAIL BOYD:** There was an incident recently where a load was being landed on a scaffold while workers were inside the scaffold trying to ensure it was stable. This was notified to SafeWork but SafeWork, I am told, refused to do any investigation because the workers took too long to hand in their statements. Does that sound like the inspectors have followed proper process?

**TRENT CURTIN:** I am not aware of that particular matter. I will have to look at that one and come back to you this afternoon.

**Ms ABIGAIL BOYD:** Does it strike you as odd that there have been 50 improvement notices and never any kind of prohibition notice? There is just improvement notice after improvement notice but no actual infringement notice or prohibition notice on a site.

**TRENT CURTIN:** Where we identify that there are systemic issues on those types of sites, then we will initiate our high-risk workplace protocols.

**Ms SOPHIE COTSIS:** To that point, what we will do is, after today, I will make sure that I get a formal briefing and come back to you on that and also that the relevant officials go out onsite and talk to the entity involved. I just want to make that very clear to these large entities because they continue to do this and it's very

frustrating. I don't want to name any, but I want to make it very clear that they need to follow the work health and safety obligations and the law here in New South Wales and they need to make sure that safety is a priority but also that they have amenities, for example.

I know that, Ms Boyd, you are very interested in this issue of amenities. Since your question last time, we were able to get a fact sheet out to worksites but also make it a part of our checklist for inspectors. When they go out onsite, they have to walk around and do their job but also ensure that there are appropriate, clean amenities, particularly for women that are working onsite. I am happy to brief you further. I don't want to take up your time. With respect to some of these large entities, I understand that they have staged processes but they have to take their work health and safety obligations seriously. Where they do get these improvement notices—and we are doing our best to follow through—on the large entities we do have our inspectors that are working around there pretty much full time. Don't we, Trent?

**TRENT CURTIN:** For some projects, yes.

**Ms ABIGAIL BOYD:** I'm glad you mention amenities because that is one of the other bits of feedback I've had from the organisers in Newcastle, that Newcastle SafeWork is not requiring amenities on every site if the workers can utilise amenities at another site down the road. Does that sound like they are complying with the rules for that?

**Ms SOPHIE COTSIS:** They need to comply. If you tell me offline who these companies are, we will make sure that they have amenities. I am sick and tired of it. We are in 2024 and worksites need to have amenities for women. It's as simple as that. Women can't go driving down to Maccas or a petrol station so they can go and deal with what they have to deal with. I am sick of getting these complaints about women who have got UTIs because there are not enough amenities or no appropriate amenities onsite. Since you have raised this, I have written to SafeWork. I have made it a priority. This is general health and wellbeing but it's also about women's health in the workplace. Women's health in the workplace is everybody's business. These bosses have to do the right thing and make sure that they have clean and appropriate amenities onsite. If I have to take further action, I will.

I have got a report from SafeWork that from the January prior to us coming into government to June 2024 we have received 244 requests for service within the construction industry where at least one of the top three hazard categories related to amenities. It's a disgrace, and we are doing our best to change it. As of 30 June, SafeWork had conducted 176 site visits in response to these requests for service. SafeWork has also done 2,253 proactive project visits. I am very pleased that our inspectors are doing this. Those visits included the inspection of amenities for construction sites. It is part of the amenities facility checklist process, but we still have more to do. I agree. It is actually a disgrace what is happening. If this doesn't change, we are going to have to take tougher action. Women should have proper amenities on worksites.

**Ms ABIGAIL BOYD:** I am very glad to hear you say all of that. We will follow up with you afterwards about the inspectors who aren't requiring it. Do you know that icare currently doesn't have a policy on how to manage claims involving sexual assault or harassment?

**Ms SOPHIE COTSIS:** I am not aware. I can take that on notice. I can speak to Mr Wessling or Mr Farquharson.

**TONY WESSLING:** We are in the process of developing a specific policy on the matter. We do have processes and policies in regards to high-risk disclosure claims, but we are responding to that feedback and putting in place a policy.

**Ms ABIGAIL BOYD:** It's pretty extraordinary. I know that you have only just taken the role so I appreciate it's not your fault. But I have seen a letter from 29 August saying that icare currently doesn't have guidelines on how to manage claims involving sexual misconduct or how you can support sexual assault injuries. It strikes me as extraordinary for an organisation like icare not to have had that already. How quickly can you now put that in place?

**TONY WESSLING:** I believe we will have one in place shortly—in a matter of months. We will have to work through the considerations for specifically handling those sorts of claims. But I'll have to take it on notice to give you a precise date.

**Ms ABIGAIL BOYD:** Does that concern you, Minister? Were you aware of that?

**Ms SOPHIE COTSIS:** It does concern me. I take what Mr Wessling has said very seriously and I know that he will do his very best to try and get that done as soon as possible.



**The Hon. DAMIEN TUDEHOPE:** I just want to finish off a couple of questions on the RTBU, Minister. I think I put to you that one of the aims of mutual gains bargaining was to prevent industrial disputation. In fact, the RTBU is so frustrated by the actions or the failure of the bargaining process that they have commenced protected industrial action. Minister, the RTBU's claim is for 8 per cent per year for the next four years. You are never going to agree to that, are you?

**Ms SOPHIE COTSIS:** Mr Tudehope, I know what you are trying to do. I said this to you earlier. They are in the process of bargaining. Under your Government, you lost hours and hours of industrial action.

**The Hon. DAMIEN TUDEHOPE:** The same is now occurring, Minister.

**The Hon. STEPHEN LAWRENCE:** Point of order—

**The Hon. DAMIEN TUDEHOPE:** Tell them now. You are not going to agree to that, are you?

**The CHAIR:** Order! A point of order has been taken.

**The Hon. STEPHEN LAWRENCE:** It's not very courteous to put such an argumentative proposition and then give the Minister no more than 10 or so seconds to respond to it.

**The Hon. DAMIEN TUDEHOPE:** That's not true.

**The CHAIR:** I uphold the point of order. It is true. You have previously complained that the Minister should not speak at length on matters outside the remit of the question. But the Minister had 12 seconds before you were interjecting with commentary. Please desist from that, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Minister, you're not going to agree to that 8 per cent, are you?

**Ms SOPHIE COTSIS:** Mr Tudehope, we're currently going through a process of bargaining. As frustrating and as challenging as it may be for some, there is a process at hand. I don't want to prejudice any of the bargaining negotiations. At least we're talking, as opposed to your Government, which didn't talk. You shut down the whole system. You've put these people through—

**The Hon. DAMIEN TUDEHOPE:** What advice have you received in relation to the protected industrial action and its impact on the rail system? Have you received advice about the potential impact on commuters of the industrial action which has been taken?

**Ms SOPHIE COTSIS:** Mr Tudehope, my understanding is that these applications are made in the context of the Fair Work Commission or the IR Commission, which will independently look at and consider their reasonings. They'll make the decision with respect to protected industrial action. Those are the legal processes.

**The Hon. DAMIEN TUDEHOPE:** For the purposes of the people of New South Wales and the impact on their commuter system, you'd be concerned about industrial action which impacted the daily lives of people.

**Ms SOPHIE COTSIS:** Mr Tudehope, the Government will do all it can to make sure that we're all at the table and we're all working together.

**The Hon. DAMIEN TUDEHOPE:** But that's not happening now, is it?

**Ms SOPHIE COTSIS:** We're working in good faith for the people of New South Wales and for the commuters of New South Wales—as opposed to your Government, where thousands of productive hours were lost to industrial action. In terms of my role, I want to make sure that there are good-faith negotiations. That takes time and patience. Just consulting—

**The Hon. DAMIEN TUDEHOPE:** But would the industrial action be taking place if, in fact, you were acting in good faith in relation to those negotiations? They're saying to you through this industrial action, "This is just taking too long. We're just treading water here. There is no give or take by the Government." All the indications are that the Government treats mutual gains bargaining as just a delay process to stop an outcome of a wages claim.

**Ms SOPHIE COTSIS:** No, that's not true. Of course we want to see these hardworking public servants and our transport workers and other essential workers who deliver important services receive a wage rise—absolutely we do.

**The Hon. DAMIEN TUDEHOPE:** Three per cent now?

**Ms SOPHIE COTSIS:** Mr Tudehope, our system is very different to yours. You closed the door to any negotiation.

**The Hon. DAMIEN TUDEHOPE:** Three per cent now, Minister?

**Ms SOPHIE COTSIS:** You closed the door to any negotiation or bargaining. These things take time. You have to be patient and you have to build trust. Just going through award reform and modernising awards takes a very long time because it's not just one size fits all. It's not what your Government did, which was put in the wages cap and that was it.

**The Hon. DAMIEN TUDEHOPE:** Minister, you've explained that to us numerous times. I'll ask you this: Will the proposed industrial action delay the conversion of the Bankstown-Sydenham line?

**Ms SOPHIE COTSIS:** I just became aware of this recently.

**The Hon. DAMIEN TUDEHOPE:** So you're not aware whether the industrial action will cause a delay to that conversion process?

**Ms SOPHIE COTSIS:** We're talking to the relevant transport unions. I've seen this in the media. We're at the table; they're at the table. Of course there's frustration. We've got open dialogue.

**The Hon. DAMIEN TUDEHOPE:** But you haven't received a briefing on the consequences of that industrial action?

**Ms SOPHIE COTSIS:** I've just become aware. I'm happy to refer it.

**SIMON DRAPER:** The Minister's quite right, Mr Tudehope. We've only been advised in the last few days. It hasn't previously been a matter included in any of the logs of claims from the RTBU. It has come quite out of the blue—although, as you know, the project was initiated in 2016. This was part of the scope. The contracts were signed for the augmentation of the operations in 2019. This is quite out of the blue. The Government remains totally committed to converting the line between Sydenham and Bankstown to a metro operation.

**The Hon. DAMIEN TUDEHOPE:** But you wouldn't want it delayed, would you, Mr Draper?

**SIMON DRAPER:** Of course not, no. Delays cost taxpayers money.

**The Hon. DAMIEN TUDEHOPE:** Indeed.

**SIMON DRAPER:** I'm sure we have the support of everybody in hoping that there is no delay as a result of this action.

**The Hon. DAMIEN TUDEHOPE:** There is potentially an economic impact on the economy by virtue of this industrial action, should it in fact cause delays to the delivery of that line.

**SIMON DRAPER:** There's an impact, firstly, on the people who live in the Canterbury Bankstown area who utilise that line. They are already having to go through a period of disruption and they have already had periods of disruption through the early works. They're going to experience disruption while the line is being converted. If there was any delay or if the metro didn't proceed and they had been denied access to a modern metro system, it would also have much wider impacts on users of the Sydney Trains network, because the development of the metro line between Sydenham and Bankstown helps alleviate pressure and improves reliability of the whole Sydney Trains network. We have contracts in place that are all signed to commence with the conversion, which are ready to go.

**The Hon. DAMIEN TUDEHOPE:** Minister, if there is an impact on the delivery of that infrastructure, would you take action to set aside that protected industrial action?

**Ms SOPHIE COTSIS:** I defer to what Mr Draper said. I'm a State member for one of the seats where the conversion is currently happening. Our community cannot take any further delay. Our community has, over the last few years—whether the line shuts down on the weekends or particular dates—and particularly now or in the next year, where the line will be closed, my community is going through a process of looking at their routes. They're also excited about what is to come in place with this fantastic metro. We've seen the opening and we've seen over a million commuters have gone on the metro. We're going to do everything we can to be at the table, in good faith, with good-faith bargaining, to work together with the rail unions. This is an important project. But, as I said, the Government is at the table.

**The Hon. DAMIEN TUDEHOPE:** Do you think the conversion will in fact impact on the quality of life of the people who are impacted by the conversion process?

**Ms SOPHIE COTSIS:** Sorry?

**The Hon. DAMIEN TUDEHOPE:** You made a submission about opposing the conversion when it was initially mooted by the previous Government, didn't you?

**Ms SOPHIE COTSIS:** As the local member, I did.

**The Hon. DAMIEN TUDEHOPE:** You didn't want it to go ahead, did you?

**Ms SOPHIE COTSIS:** I had concerns about the proposal that you had put forward in terms of the business case.

**The Hon. DAMIEN TUDEHOPE:** Do you still hold those concerns?

**The Hon. BOB NANVA:** Point of order: My point of order goes to relevance. I don't know how this is relevant to the Minister's portfolio responsibilities—of what views she holds or doesn't hold with respect to a metro as the local member for Canterbury.

**The Hon. CHRIS RATH:** To the point of order: It's highly relevant because there's industrial action and there are industrial disputes regarding this process. These are questions regarding the RTBU. I think the comments that the Minister previously made in 2019 are relevant now in her job as the Minister for Industrial Relations.

**Ms SOPHIE COTSIS:** No, they're not.

**The CHAIR:** I uphold the point of order because the original line of questioning was about industrial disputes. This line of questioning—

**The Hon. DAMIEN TUDEHOPE:** I'll make the link.

**The CHAIR:** I'll finish ruling. This line of questioning was about the Minister's position in her capacity as a local member some time ago. If you can make the link, Mr Tudehope, please do.

**The Hon. DAMIEN TUDEHOPE:** You'd be on a unity ticket with the RTBU, wouldn't you, in delaying the process of the conversion of the Sydney-Bankstown line?

**Ms SOPHIE COTSIS:** No.

**The Hon. DAMIEN TUDEHOPE:** You're not?

**Ms SOPHIE COTSIS:** My view and the Government's view is that we are going ahead. Our community is looking forward to the metro. As we speak, there are processes in place to make sure that our community is transported to their places of work and their medical appointments. All of that work is being undertaken and we're at the table with those unions. I'm looking forward to the metro.

**The Hon. CHRIS RATH:** In terms of the RTBU, are you on a unity ticket with them on their policy to levy union fees on non-union members?

**Ms SOPHIE COTSIS:** We've already responded to that.

**The Hon. CHRIS RATH:** What's the position?

**Ms SOPHIE COTSIS:** We've already responded to that in the upper House in response to questions that have been asked. You're talking about bargaining fees. It's been ruled out.

**The Hon. CHRIS RATH:** You're ruling out bargaining fees. Are you ruling out any push towards compulsory unionism?

**Ms SOPHIE COTSIS:** We've responded to that. I'm a big freedom-of-association person.

**The Hon. CHRIS RATH:** Hear, hear! That's good to hear, Minister.

**Ms SOPHIE COTSIS:** Freedom of association is very important.

**The Hon. CHRIS RATH:** I agree. You're making me very happy, Minister. That's a good response. I want to turn now to one of your first acts as a Minister. On 20 May 2023, you halted what you called a "wasteful" review of the building and construction industry. You said then, "We won't be wasting precious taxpayer funds to undertake an unnecessary review that may place a significant burden on industry." With everything that we now know about the CFMEU on construction sites right across the State, were you wrong to make those comments on 20 May 2023?

**Ms SOPHIE COTSIS:** I have already responded to that, Mr Rath. I've already responded to that question in the Parliament. I've made my views very clear. The Construction Compliance Unit does very important work. It was established under Mr O'Farrell's Government. As I said, that work is very important. As a new Minister, you're going to look at your agency and you're going to look at things. That is a priority for us. That agency is a priority for us, in particular with the work that it is undertaking and continues to undertake. We haven't made changes.

**The Hon. CHRIS RATH:** Do you stand by rescinding the review into the building and construction industry, which you announced in May 2023?

**Ms SOPHIE COTSIS:** The guidelines are still in place. It's still there. No change has been made. It still operates. It is the same outfit that you guys established in 2013.

**The Hon. DAMIEN TUDEHOPE:** Is that correct, Ms Dobbins?

**SAMARA DOBBINS:** Yes, that is correct. The funding and the personnel remain as they were.

**The Hon. CHRIS RATH:** Why then did you do a media statement if it is exactly the same—except for a headline? Why then did you do a media statement on 20 May 2023 talking about wasting precious taxpayer funds and an unnecessary review into the construction industry if nothing has actually changed? Why on earth did you do a media release if everything is staying exactly the same? What was the point of the media release?

**Ms SOPHIE COTSIS:** I don't understand your point.

**The Hon. CHRIS RATH:** You're saying that nothing has changed since our time in government, but you released a media statement on 20 May—one of your first acts as Minister—that said you were rescinding a wasteful review into the building and construction industry.

**Ms SOPHIE COTSIS:** That was the review into the guidelines.

**The Hon. CHRIS RATH:** It is either one or the other. Either nothing has changed and it's the exact same policy that we had when we were in government, or something has changed; you've watered it down and you stand by that media release.

**Ms SOPHIE COTSIS:** I haven't watered it down. A few weeks out from the caretaker period, I think it was the former Treasurer—

**The Hon. DAMIEN TUDEHOPE:** Mr Draper, did you have something you wanted to add?

**SIMON DRAPER:** No, sorry, I was just stretching my neck.

**The CHAIR:** Order! The Minister was in the middle of answering a question.

**The Hon. CHRIS RATH:** You've got bikies and shadowy underworld figures. You've got all of these problems that we are seeing on construction sites right across the State. You're saying that we don't need a review into the building and construction industry.

**Ms SOPHIE COTSIS:** That's not true. You're talking about the guidelines.

**The Hon. CHRIS RATH:** I'm talking about your media release on 20 May 2023.

**Ms SOPHIE COTSIS:** The guidelines are in place. It was the review. The guidelines are in place.

**The Hon. CHRIS RATH:** But you rescinded the review.

**Ms SOPHIE COTSIS:** That's right, but not the guidelines.

**The Hon. CHRIS RATH:** But why did you rescind the review? Given all the problems in the construction industry that we now know about, why did you rescind the review? Was it a mistake?

**Ms SOPHIE COTSIS:** What did you do?

**The Hon. CHRIS RATH:** I'm here to ask you the questions, Minister, unless you want to change places. I'm happy to be the Minister for Industrial Relations. I'm asking you why you rescinded the review?

**Ms SOPHIE COTSIS:** We've just appointed an administrator.

**The Hon. DAMIEN TUDEHOPE:** Minister, I will ask you questions about the ETU. You are aware that they are conducting industrial activity that is impacting numerous worksites, numerous housing opportunities, numerous businesses, and workers and apprentices. That protected industrial action is ongoing. Are you aware of that?

**Ms SOPHIE COTSIS:** I am, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Have you received any briefing on the impact on the New South Wales economy as a result of that activity?

**Ms SOPHIE COTSIS:** You're talking about four entities here. You're talking about four entities that are currently negotiating or are before the Fair Work Commission. My understanding is that all of these matters are

before the Fair Work Commission. There are different protected industrial actions that are currently being undertaken by—

**The Hon. DAMIEN TUDEHOPE:** The four entities you are talking about are?

**Ms SOPHIE COTSIS:** Transgrid, EnergyAustralia, Essential Energy, Endeavour Energy, Ausgrid.

**The Hon. DAMIEN TUDEHOPE:** They are the employer groups.

**Ms SOPHIE COTSIS:** Remember, you privatised them.

**The Hon. DAMIEN TUDEHOPE:** But are you aware of the potential impacts on the New South Wales economy? It was spelled out in some detail in a *Daily Telegraph* article earlier this week, was it not?

**Ms SOPHIE COTSIS:** Mr Tudehope, those four different entities are at different stages of bargaining with the ETU. I don't know if you are already aware of this—Transgrid has gone through to the Fair Work Commission. My understanding—and I might be wrong—is that they have gone to the commission for an intractable bargaining process. With the other two, I understand that Essential Energy and Ausgrid are in the early stages of the bargaining process.

**The Hon. DAMIEN TUDEHOPE:** Ausgrid, in fact, put in an offer to workers, which was rejected yesterday. Let me ask you, Minister, in relation to the protected industrial activity, if it is having an impact on the New South Wales economy, you have various powers that you could use, don't you?

**Ms SOPHIE COTSIS:** Yes, that's right.

**The Hon. DAMIEN TUDEHOPE:** You could make an application under section 424 for the lifting of that protected industrial action, could you not?

**Ms SOPHIE COTSIS:** Mr Tudehope, my understanding is that Endeavour Energy has—are you aware of that?

**The Hon. DAMIEN TUDEHOPE:** I'll ask the questions.

**Ms SOPHIE COTSIS:** But I am asking you, what was the outcome?

**The CHAIR:** Minister, please don't ask any questions.

**The Hon. DAMIEN TUDEHOPE:** Minister, you have the ability to make an application if there is a significant impact on the New South Wales economy, and we have had it listed earlier this week—the impact on RPA hospital, a thousand apartments at Macquarie Park, the Port of Newcastle, the Snowy Hydro Kurri Kurri power station, the M1 motorway upgrade, the M7-M12 upgrade. What that has done, in fact, has impacted on almost 80 per cent of—for example just one entity—Ausgrid customers. Where is the point that you get a briefing on the impact on the New South Wales economy and make an application under 424 to stop the protected industrial action?

**Ms SOPHIE COTSIS:** As you know, Mr Tudehope, these four entities are at different stages of their bargaining, so Transgrid is at a different stage. It is far advanced and is in the Fair Work Commission, and I understand it is going to an arbitration process. My understanding with Ausgrid and Essential Energy is that they are at early stages of their bargaining process. With respect to Endeavour Energy, I understand that the company has made a number of applications to the Fair Work Commission with respect to terminating protected industrial action, and my understanding is that on each occasion Fair Work has found that the threshold has not been met and therefore declined to grant an order.

I'm just giving you the facts. They are at different stages, and I urge the ETU and the four entities to sit down and bargain in good faith. That is the expectation that we all have and the expectation of the workers and the public and those who receive the service. These are hard workers, particularly those people who work for Essential Energy for example. Many of those workers live in rural and regional communities and they are advocating very strongly of course for better wages and conditions, and we have to respect that.

**The Hon. DAMIEN TUDEHOPE:** I respect exactly where that process is up to. But you are the Minister. There are certain powers which exist with you in circumstances where the impact on the New South Wales economy is impacted in the way that it is being impacted, regardless of where those other proceedings are up to. You have to make an assessment about the impact on the New South Wales economy of this protected industrial action. Have you received a briefing and have you done an assessment about the impact on the New South Wales economy?

**Ms SOPHIE COTSIS:** Mr Tudehope, of course we are closely monitoring developments. Absolutely we are. Every government would do the same. But you have to understand that these four entities are at different

stages of their bargaining. Look at Essential Energy. It is mainly rural and regional communities who are served by Essential Energy, but the workers of Essential Energy live in their rural, regional and remote communities. They are putting forward their log of claims and they are going through a process, and that process has to be respected. Essential Energy is at the early stages—

**The Hon. DAMIEN TUDEHOPE:** So the answer is, no, isn't it, Minister, you will not take action?

**Ms SOPHIE COTSIS:** Mr Tudehope, Ausgrid is again in the early stages.

**The Hon. DAMIEN TUDEHOPE:** It's not early stages.

**Ms SOPHIE COTSIS:** What I'm saying in terms of Ausgrid and Essential Energy, Transgrid and Endeavour Energy are at different stages to Ausgrid and Essential Energy. My understanding is that with Transgrid—and we know about Endeavour Energy where it has gone to Fair Work—

**The Hon. DAMIEN TUDEHOPE:** We have canvassed this, Minister. You have explained this to me.

**Ms SOPHIE COTSIS:** Fair Work has declined its application.

**The Hon. DAMIEN TUDEHOPE:** Minister, what about you making an application?

**Ms SOPHIE COTSIS:** Mr Tudehope, both the Treasurer and the Premier were asked the same question. I refer to their responses. We are closely monitoring.

**The Hon. DAMIEN TUDEHOPE:** So the answer is "nothing".

**Ms SOPHIE COTSIS:** No, Mr Tudehope, I hear—

**The Hon. DAMIEN TUDEHOPE:** The question is about—

**The Hon. STEPHEN LAWRENCE:** Point of order—

**Ms SOPHIE COTSIS:** These entities are at different stages of their bargaining.

**The CHAIR:** A point of order has been taken.

**The Hon. STEPHEN LAWRENCE:** The Minister is attempting to answer the question and she is having words put in her mouth and being spoken over.

**The Hon. DAMIEN TUDEHOPE:** To the point of order: The Minister has given the same answer on about three occasions already. I understand the point she is making about the various stages the entities are up to. She has given that explanation three times. I want an answer to: Will she as the Minister take that action?

**The Hon. PETER PRIMROSE:** To the point of order: The honourable member keeps repeating the same question, so the Minister is being very appropriate and I'm interested in hearing the answer.

**The CHAIR:** I uphold the point of order. The Minister is responding repeatedly to the repeated questions, which I have been listening closely to.

**The Hon. DAMIEN TUDEHOPE:** But she doesn't answer it.

**The CHAIR:** Order! And that's what Mr Tudehope can expect. It is disorderly to speak over the top of a witness giving an answer. Please ask a question, Mr Tudehope.

**The Hon. CHRIS RATH:** Have there been any changes to the industrial relations guidelines for construction since you came into government?

**Ms SOPHIE COTSIS:** The construction guidelines? I'll take that on notice.

**The Hon. CHRIS RATH:** Ms Dobbins or Mr Draper?

**SIMON DRAPER:** I'm not aware of any changes, but we can confirm that.

**SAMARA DOBBINS:** Yes, this afternoon.

**The Hon. DAMIEN TUDEHOPE:** What about in August?

**The Hon. CHRIS RATH:** On 8 August?

**SIMON DRAPER:** We'll come back to you after lunch, if that's okay, and confirm.

**The Hon. DAMIEN TUDEHOPE:** Finally, if I can take you to a question which I put to the health Minister yesterday about the CFMEU involvement, I think you gave evidence earlier that you were reviewing each of the EBAs where the CFMEU was involved. Is that right?

**SIMON DRAPER:** We've asked the Fair Work Ombudsman to do so.

**The Hon. DAMIEN TUDEHOPE:** When you asked for that review, what are you specifically asking the Fair Work Ombudsman to do?

**SIMON DRAPER:** We haven't restricted the scope of that inquiry. We've just said where they were—CFMEU involvement in those EBAs—to examine those EBAs for compliance.

**The Hon. DAMIEN TUDEHOPE:** If a term of an EBA gave the CFMEU power to veto a particular subcontractor, what would be the submission you would make in relation to that provision in an EBA?

**SIMON DRAPER:** If we received a complaint—and Ms Dobbins might want to add to this—about something like that, we would investigate it ourselves and potentially refer that specific thing to the Fair Work Ombudsman. In this particular case we've made a general reference to them, because of all of those allegations. That's the approach that we would take. Ms Dobbins may want to add to that.

**SAMARA DOBBINS:** No, the secretary is quite right. We're assisting the Ombudsman where we can with that review. Where specific allegations, complaints or intelligence comes to the Construction Compliance Unit, where we have regulatory authority we would undertake investigations in relation to those complaints.

**The Hon. DAMIEN TUDEHOPE:** In circumstances where the Federal Government had abolished the ABCC, you would have thought, Minister, that you would take steps to beef up the Construction Compliance Unit, would you not?

**Ms SOPHIE COTSIS:** Mr Tudehope, the Construction Compliance Unit is operational. It's doing its job. It's out there. It's checking the work plans.

**The Hon. DAMIEN TUDEHOPE:** But have you given it any more resources?

**Ms SOPHIE COTSIS:** I'll have to take that on notice.

**SAMARA DOBBINS:** The resources have been maintained, as they were historically.

**The Hon. DAMIEN TUDEHOPE:** So no additional resources for the—

**Ms SOPHIE COTSIS:** I'll say this to you. There's an administrator in the CFMEU Construction and General, and the administrator has already made some statements in public with respect to what he has seen. Of course there will be conversations between the administrator and the Government, and through Mr Draper. If there are things that are necessary—

**The Hon. DAMIEN TUDEHOPE:** Would Darren Greenfield be given access to sites?

**Ms SOPHIE COTSIS:** Sorry?

**The Hon. DAMIEN TUDEHOPE:** Would Darren Greenfield be given access to New South Wales government construction sites?

**SIMON DRAPER:** He's been removed as an official of the union.

**The Hon. DAMIEN TUDEHOPE:** So he would have no access to a New South Wales government construction site?

**SIMON DRAPER:** As an official of the union, that's the case, because he's no longer an official of the union.

**The CHAIR:** Thank you, Mr Draper. The time being 12.45 and in the absence of Government questions—

**The Hon. STEPHEN LAWRENCE:** No Government questions.

**The CHAIR:** —that concludes the questions for the Minister. Thank you very much, Minister, for attending the hearing. The secretariat will be in contact with you in due course with any matters taken on notice. Once again, thank you for attending and for the answers you gave. For everyone else, we will be returning at 2.00 p.m. for further questioning.

**Ms SOPHIE COTSIS:** Thank you, Chair, and thank you to members of the Committee. Thank you to Government and Opposition members, and to our officials as well. Hansard, our attendants, staff—thank you.

**(The Minister withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** We have no-one to swear in, so we will recommence the hearing with questions from the crossbench. Ms Boyd.

**Ms ABIGAIL BOYD:** I want to come back to the questions I was asking this morning. Is there an update of any kind on that?

**TRENT CURTIN:** Yes. In relation to the John Hunter incident, the incident occurred on 17 August and came through to our after hours manager, who assessed the information provided to the after-hours manager at the time and determined an administrative response. In the days after that, on 20 August, it was then reviewed by our local management team and determined that an inspector response was appropriate. The following day, on 21 August, an inspector attended the site. An improvement notice was issued to GVK New South Wales in relation to systems of work that related to that incident and a whole range of steps are being taken by Multiplex and GVK in relation to improving safe work method statements, their high risk construction workshop and toolbox talks with their workers, and a whole range of issues have been dealt with as a result of that process.

**Ms ABIGAIL BOYD:** Did they tell you that when an inspector did eventually attend the site on 21 August that the cage had already been dismantled, which then basically has hampered any kind of effective investigation?

**TRENT CURTIN:** Yes. On the information provided to the after-hours manager, the determination was made to release the site at that time.

**Ms ABIGAIL BOYD:** Yes. Because of that mistake, we have now got no potential for an effective investigation into that matter.

**TRENT CURTIN:** This matter hasn't been referred for investigation. That is my understanding.

**Ms ABIGAIL BOYD:** Any other updates on the other aspects? I can't remember what I asked you and what I didn't. The Hunter power project we covered, and just generally the SafeWork inspection at Newcastle. I'm giving you a chance to tell me anything else if you've got something.

**TRENT CURTIN:** No, not specifically. In relation to UGL, we haven't had any interaction or request for service since July, so it's been reasonably quiet from our perspective. But any requests for service from that site—SafeWork inspectors are used to attending there and we'll treat that with the same impartiality of any normal matter that they would deal with there.

**Ms ABIGAIL BOYD:** Mr Wessling, I understand there have been reports of redundancies or a restructure in icare with 236 roles being removed, 104 new ones being made and there being some sort of overlap there. Can you tell us what's happening with that restructure?

**TONY WESSLING:** Can I refer that to Mr Farquharson?

**Ms ABIGAIL BOYD:** Yes.

**STUART FARQUHARSON:** I'm very happy to answer that question. That is correct. We are working through an organisational restructure currently. It's part of the broader savings plan initiatives that we've been working on with Treasury over the course of this year, following a directive from our Minister to work with Treasury to review the expenses of the organisation. We're fairly well progressed in that. We're making changes to all levels of the organisation. It's in line with the Government guidance, reducing senior levels. We have completed our consultation process, and we're working to an effective date of 4 October. It's quite an important time in the process for us, and is quite wide reaching, far reaching, as I mentioned.

**Ms ABIGAIL BOYD:** Does that mean that there are particular teams or departments that are going to be lost, or is there an across the board—

**STUART FARQUHARSON:** Yes. That is right. Proportionately speaking, there's a large impact in the more senior levels within the organisation, the group executive. We had eight group execs. That's been reduced to six, which means that we've got fewer functions, larger scale executive functions and then that flows through to the structures that flow in from that. Generally, it's an approach to centralise expertise so that we can leverage the scale and capacity across the organisation.

**Ms ABIGAIL BOYD:** Successive Auditor-General reports have identified that incorrect payments are still not being picked up by icare's peer review processes, and I have read at least two Auditor-General reports that have called on icare to ensure it's got better processes in place to ensure that correct payments are being made to people. To your knowledge, what has icare done to respond to that recommendation, appreciating that you are new?



**STUART FARQUHARSON:** That's fine. We are, and we have been working on improving our systems and processes and we continue to do that. Specifically in regard to those issues, I think Tony might be in a position to provide a bit more input.

**TONY WESSLING:** You're right. Over the last several years there have been issues raised around payments to workers—the weekly payments. We have had a program of improvement around weekly payments. We have also completed the remediation program for those historical and Guidewire issues that have been raised previously. Over and above that, we have also implemented more system controls to ensure the right pre-injury average weekly earnings payments are made—that they're indexed properly. We have introduced other quality assurance where we have put in place health checks for indexation, for example, that occurs twice per year. We have continued to have ongoing dialogue with SIRA as they have continued to audit those processes as well.

**Ms ABIGAIL BOYD:** I know that when we had this issue with PIAWE a couple of years back, there was then quite an expenditure on consultants to try and correct things. Is icare still using consultants in relation to some of this work or no?

**TONY WESSLING:** Not to my knowledge, in regards to payments remediations. We did engage consultants earlier on in that process, as I understand it, to help determine the best way of remediating, particularly for those complex, older errors. To my knowledge we don't have consultants helping us on those programs today.

**Ms ABIGAIL BOYD:** I just have a couple of other things coming out of that Auditor-General report from April 2024. The first was the Auditor-General noted that there's been this overlap in research being undertaken by icare and SIRA and has asked somebody to sort of sort that out. Do you know where that recommendation is sitting and whether that's been agreed?

**STUART FARQUHARSON:** What I can tell you is that we have a tripartite arrangement with SIRA and SafeWork where we're looking to make sure that we have a sensible approach to those types of matters. I know we've got a group that's been focusing on those discussions. I don't think there's a final structure that's been set up but we are working to make sure that there aren't any overlaps and we do it in a sensible way.

**Ms ABIGAIL BOYD:** The other recommendation was that—basically there's a lack of clarity over the responsibilities between icare and SIRA and I think that's been noted a few times in different reports as well.

**STUART FARQUHARSON:** Yes. That's right.

**Ms ABIGAIL BOYD:** What is the structure of that process then that you're going through to work out better delineation of responsibilities?

**STUART FARQUHARSON:** We've got, as I said, a tripartite arrangement where the three CEOs meet on a regular basis and we have a number of working groups that feed into that to address those specific issues. That's the approach that we are taking to work with that.

**Ms ABIGAIL BOYD:** In terms of there being something new to respond to this, has that tripartite arrangement with these working groups been looking at that particular issue?

**STUART FARQUHARSON:** The research issue?

**Ms ABIGAIL BOYD:** Yes, or any of the others?

**STUART FARQUHARSON:** That is absolutely one of the areas that we are focusing on, yes.

**Ms ABIGAIL BOYD:** Does anyone from the department want to add to that, if there's work being done to delineate those responsibilities?

**GRAEME HEAD:** Mr Curtin could talk about the SafeWork bit. SIRA, of course, is within Minister Dib's administration. I'm ex-officio on the board of SIRA but not part of the organisational structure. But what Mr Farquharson said is, as I understand it, to be from my regular meetings with Ms Young, who's the new CEO of SIRA. But I'm sure on notice we could provide you with a bit more information about that.

**Ms ABIGAIL BOYD:** I'm particularly interested in a timeline as well as to when these issues are going to be resolved. I think this might be my last one. Just a quick one for you, Mr Curtin. I know that the Respect at Work Strategy for SafeWork sets out a number of activities to undertake to implement that strategy. I just wanted to see where those activities were at and what the status is.

**TRENT CURTIN:** Let me just find my notes while I run through that. The strategy was released in October last year. In the time since we've been holding advisory council meetings, bringing together various agencies at a Federal and State level to make sure we've got a coordinated approach to our response to that strategy. There's a whole range of work that has been underway. You might know the code of practice was released earlier

this year around sexual harassment, which provides really strong guidance to PCBUs and industry about expectations around sexual harassment and gender-based violence in workplaces. The Respect at Work team has also been undertaking a whole range of engagement activities and specifically held a number of webinars—three particular webinars—to help industry and businesses to understand expectations around compliance with the code of practice and compliance with the laws.

We are restructuring SafeWork at the moment, as you might know. As part of that process we've reviewed the composition of the Respect at Work team. Given the time that we've had now to raise awareness, build a code of practice, undertake webinars and provide some guidance on our website, there's quite a lot of information on the website—fact sheets, a mapping of the regulatory environment and a whole range of reporting options on the website—we're now moving to increase the number of inspectors in that team so that we can have a stronger focus on building capability across our broader inspectorate, but also to respond to some of the serious matters that we're seeing being reported through to SafeWork where sexual harassment or gender-based violence is the focus of the psychological harms in workplaces across New South Wales.

**Ms ABIGAIL BOYD:** Have you been playing a role then—I think I know the answer, so it's a bit of a leading question—in the recent allegations around the night-time economy and sexual assault and harassment in clubs, restaurants and things? I did ask Commissioner Rodriguez the other day. What is SafeWork's role in that process?

**TRENT CURTIN:** You might know the three focus areas based on the data of the Respect at Work Strategy are around retail, hospitality, and the health and social assistance sector. When we've identified those serious concerns that we've seen reported in the media, we've initiated responses of inspectors into some of those organisations—into the hospitality organisations and into the media organisations that we've seen reported recently. Those inquiries and investigations are underway at the moment, so I can't talk about the particular details of each of those. It's a very, very serious issue, a very pervasive issue across a whole range of industries. We can see the serious harms that are happening in these particular industries. It is of great concern to us and we'll be taking a really active approach and working with the industry to come up with some strategies to raise awareness and to build compliance in those industries so that we can keep people safe.

**Ms ABIGAIL BOYD:** Will that cover not just the experience the employees are having from other employees and bosses but also the experiences that employees are having in those environments? I've been talking about this a lot in these estimates, but there is a bit of tension between the customer always being right and also being able to say, "No, that's not appropriate conduct", and still keeping your job. Is that going to be part of the focus of that work?

**TRENT CURTIN:** Yes, absolutely. Businesses and PCBUs have a responsibility to provide a safe workplace for those who are workers and other people in workplaces, and they absolutely need to take all measures appropriate to keep people safe and comply with the code of practice and therefore comply with the regulations in relation to sexual harassment, gender-based harm, psychosocial risk—all those sorts of violence and aggression matters.

**Ms ABIGAIL BOYD:** A final, cheeky question: I think we've spoken before about the Parliament being a workplace. We are in a workplace where people sue each other, where statements are made, whether in the Parliament or outside the Parliament. It's well known not to be a normal sort of workplace, and I understand that. But in terms of who is responsible for ensuring the psychosocial safety of everybody, not just MPs in this place, caused by other MP behaviour, has there been any work to better assess who is the person in charge and who is responsible for psychological harm done to people in this place?

**GRAEME HEAD:** I might take that, if that's okay, Ms Boyd. Certainly Mr Curtin and I have been talking about this. Parliaments are extremely complex environments from the point of view of a regulator because, in general, the Crown—I think lawyers like to use the term—in one of its emanations would be the PCBU for the Parliament. But proceedings of the Parliament are a very broad construct and, of course, much of what is captured by the proceedings of Parliament is subject to privilege. Why I'm saying that is while the duties of the PCBU would be the duties of any PCBU, the role of the regulator is very seriously constrained in the environment where Parliament reserves the rights to do things in its own way.

There would be circumstances where people who are not members but who are employed under the GSE Act or the MOP(S) Act et cetera, might be experiencing things where the regulator could exercise its functions. There would be other circumstances which were closer to being captured by the proceedings of Parliament, where it would really be, I think, a matter for the Presiding Officers, the Clerks and members themselves to determine what to do. That's a longwinded way of saying it's very complicated, but also that we're actively thinking about it in order to be able to provide good guidance to anyone who raises a question with us about how this works. But it's not straightforward.

**Ms ABIGAIL BOYD:** It is not.

**GRAEME HEAD:** And it is not for me to advise the Parliament on how it should think about these things, but it is not straightforward.

**Ms ABIGAIL BOYD:** I guess a perfect example is if, say, you are a queer person who is employed as a staff member in an office. In any other office you would be protected by a bunch of anti-discrimination provisions and all sorts of things, not just going into how you personally are treated but also what you might see in your workplace. But, as part of your job, you're required to watch privileged statements made in Parliament that in any other workplace would offend those laws. What is the responsibility of that person's manager in terms of preventing psychosocial harm to them? I'm not sure that we have an answer, but it seems to me that there's a lot more that needs to be done to sort of unpick those issues.

**GRAEME HEAD:** I guess I was attempting to be helpful in characterising some of the complexity here rather than offering anything. Firstly, I'm not a lawyer. Secondly, I think this is a very complex environment around the way the law applies and much is different for different parties in these scenarios, depending on whether they are members, whether or not the issues are connected to those things that might broadly be picked up by the concept of proceedings. I know that there is case law around in analogous situations that deal with judicial immunity et cetera. It's probably relevant to people thinking about this. But much of this is not the role for SafeWork in the same way it would be for many other environments. That is not to say SafeWork never has a role. It would depend on who it related to, the nature of the behaviour, whether or not it was an employee—either a MOP(S) Act employee or a GSE employee—or a staff member of the parliamentary services division, whether or not the behaviour itself was in some way captured by things that are determined to be proceedings, even if they're not proceedings inside the Chamber.

**Ms ABIGAIL BOYD:** Fascinating.

**GRAEME HEAD:** I hope that was a little bit helpful.

**Ms ABIGAIL BOYD:** It's very useful. Thank you.

**The Hon. DAMIEN TUDEHOPE:** I don't know, Mr Head, whether this is a question for you or for Mr Draper, but what date did Mr Harding finish as the CEO of icare?

**GRAEME HEAD:** It's not a question for me, because icare is independent of the department.

**The Hon. DAMIEN TUDEHOPE:** Mr Draper?

**SONYA CAMPBELL:** That would be me, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** It always falls to you, Ms Campbell.

**SONYA CAMPBELL:** It does. Mr Harding vacated the role of CEO on 5 July this year.

**The Hon. DAMIEN TUDEHOPE:** Was there any separation payment made to him at the time of his leaving icare?

**SONYA CAMPBELL:** That's a matter for the board. I don't have that information.

**The Hon. DAMIEN TUDEHOPE:** If there was to be a separation payment, where would that be recorded? Where would I find information about that?

**SONYA CAMPBELL:** I'm not sure that you would find information about that. As I said, it's a matter for the board.

**The Hon. DAMIEN TUDEHOPE:** Has the position of CEO been advertised?

**SONYA CAMPBELL:** I believe it has not yet currently been advertised, but the board, which is responsible for that process, is in the process of finalising the role description and advertising that role.

**The Hon. DAMIEN TUDEHOPE:** That will also, no doubt, include a remuneration package which would attach to the role.

**SONYA CAMPBELL:** Of course it would, yes.

**The Hon. DAMIEN TUDEHOPE:** Perhaps this is also for you, Ms Campbell. There is a policy position to abolish the net asset holding policy. This is information gathering on my part. What will be the new requirements to ensure the Treasury Managed Fund always has sufficient assets to cover its liabilities? What is the new model?

**SONYA CAMPBELL:** I'm aware that you asked this question in the Treasurer's estimates, to which my colleague Ms van der Walt provided an answer. The department is still working on the policy position to replace the NAHLP.

**The Hon. DAMIEN TUDEHOPE:** Whatever the policy is, it would have to ensure that it was a policy which enabled the fund to obtain comprehensive reinsurance, wouldn't it?

**SONYA CAMPBELL:** I would expect that would need to be an objective, yes.

**The Hon. DAMIEN TUDEHOPE:** Can I come back to you, Ms Dobbins, as you probably expected I would. There was a media release in May where the new wages policy was announced by the Minister and the Treasurer. Do you recall that announcement? The announcement was that a fair and reasonable wage offer would be 10.5 per cent.

**SAMARA DOBBINS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** Is there any other document that evidences that policy position by the Government?

**SAMARA DOBBINS:** As you know, there's a fair pay and bargaining policy, but it doesn't re-describe that wages offer. However, Mr Draper, as the head of the Premier's Department, did send letters to all of the secretaries of the public sector unions outlining the terms of that offer. Those documents exist, yes.

**The Hon. DAMIEN TUDEHOPE:** It's not contained in the fair pay and bargaining policy document?

**SAMARA DOBBINS:** No, the fair pay and bargaining policy document just refers to the Government's wages policy, which is, as you described, the 10.5 per cent, inclusive of superannuation. That also incorporates half a per cent as a discretionary payment for unions that sign up in a timely manner.

**The Hon. DAMIEN TUDEHOPE:** You're anticipating me, aren't you?

**SAMARA DOBBINS:** I'm afraid I am, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** I was coming to that. When the FBEU complains about the offer that has now been made in its arbitration proceedings, they are right, aren't they, in saying that it has been reduced to 10 per cent?

**SAMARA DOBBINS:** I wouldn't say that, no. I would say that the letter that went to the secretary of the FBEU was very clear that of the 10.5 per cent, a component was discretionary, based on the union signing up in a timely manner. When they did not accept that offer before the matter was listed for arbitration, then when the application was lodged in the commission, the offer was reduced by half a per cent because they had not yet agreed. However, my understanding is that if they do come to an agreement before that first day of arbitration, that half a per cent may be payable.

**The Hon. DAMIEN TUDEHOPE:** It's discretionary.

**SAMARA DOBBINS:** At this point, Fire and Rescue's award application, as you say, was for 10 per cent.

**The Hon. DAMIEN TUDEHOPE:** Correct. So there is room to move by the Minister or the Treasury, depending on who makes the decision, to increase the current offer before the commission from 10 per cent to 10.5 per cent, in accordance with that discretionary expenditure?

**SAMARA DOBBINS:** If they consider that the union has agreed to the offer in a timely manner, yes.

**The Hon. DAMIEN TUDEHOPE:** When will the Government put on its evidence in relation to that arbitration?

**SAMARA DOBBINS:** I'm sorry. I don't have that detail in front of me. As you know, the matter is listed for next calendar year. Let me see if I've got a note of when evidence is due. It wouldn't be until later in the year. My understanding is that the president of the commission is keen to hear the Crown employees matters prior to the Fire and Rescue matter. Also, the Fire and Rescue matter is very wideranging, as you know.

**The Hon. DAMIEN TUDEHOPE:** How many matters are currently listed before the IRC for arbitration?

**SAMARA DOBBINS:** There are currently 53 award applications before either, including the Industrial Relation Commission in New South Wales or the Fair Work Commission in the Commonwealth. A lot of those applications are grouped together. For example, the Crown salaries award application includes a total of 11 different awards.

**The Hon. DAMIEN TUDEHOPE:** In relation to wages, I anticipate that the situation is that the Government evidence relating to its wages offer will be fairly similar, will it not?

**SAMARA DOBBINS:** In relation to the fiscal and economic position of the State, yes, I would imagine it would be very similar evidence in each of those cases.

**The Hon. DAMIEN TUDEHOPE:** Because a component that the IRC will have to determine is the economic circumstances. I think that's contained in the legislation, is it not?

**SAMARA DOBBINS:** Yes, that's right. It's in the objects.

**The Hon. DAMIEN TUDEHOPE:** There are 53 matters either before the IRC or the Fair Work Commission. Some of those, you have just told me, are grouped. How many are subject to conciliation before either the IRC or the Fair Work Commission?

**SAMARA DOBBINS:** All of those matters are subject to conciliation, with the exception of the FBEU matter. With the Crown employees matters, the commission is about to timetable for arbitration.

**The Hon. DAMIEN TUDEHOPE:** Just repeat that for me.

**SAMARA DOBBINS:** The Fire and Rescue matter has been timetabled for arbitration. In relation to the Crown matters, the commission is about to formally timetable those for arbitration.

**The Hon. DAMIEN TUDEHOPE:** So the conciliation process has completed?

**SAMARA DOBBINS:** The formal conciliation process in relation to Fire and Rescue has completed, yes. The formal conciliation process for the Crown matters is close to completion. However, the Government's fair pay and bargaining policy does not preclude—

**The Hon. DAMIEN TUDEHOPE:** Further conciliation at any time, really.

**SAMARA DOBBINS:** That's correct. There are still ongoing, productive discussions with those public sector employers and those unions, no matter what stage those applications are at in front of the commission. My understanding is that the Government is still hopeful of resolving some of those matters before they go to arbitration but, as the Premier has said, if they do need to go to arbitration before the independent umpire, that's okay as well.

**The Hon. DAMIEN TUDEHOPE:** Since 1 September this year, how many awards to which the New South Wales Government or its agencies are party expired before that date?

**SAMARA DOBBINS:** Sorry, ask that again.

**The Hon. DAMIEN TUDEHOPE:** How many awards have expired prior to 1 September 2024?

**SAMARA DOBBINS:** It's the 53 that are in before each of the commissions.

**The Hon. DAMIEN TUDEHOPE:** If I can differentiate, there is a process before you potentially lodge an application with the IRC where there is mutual gains bargaining, which is occurring?

**SAMARA DOBBINS:** That's right.

**The Hon. DAMIEN TUDEHOPE:** Are there awards that are still the subject of mutual gains bargaining where no application has yet been made to the IRC?

**SAMARA DOBBINS:** No, because either government agencies or public sector unions in New South Wales made applications to the State commission to preserve the date. Mutual gains bargaining doesn't stop when those applications are made, but those applications were made—of the instruments that expired on 30 June, applications were made en masse to preserve the date.

**The Hon. DAMIEN TUDEHOPE:** In other words, to get them in line. If I can understand the process, before an award expires, negotiations have already commenced, have they not?

**SAMARA DOBBINS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** So a mutual gains bargaining process has already been occurring before the award expires. That's part of the timeline.

**SAMARA DOBBINS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** And then, generally, when the award expires, either the Government or the union will lodge an application with the IRC to preserve its rights under a timetable or whatever that timetable is that the IRC would impose. Is that correct?

**SAMARA DOBBINS:** That's correct. The reason the applications are lodged to preserve the date is—the benefit to the unions is to preserve the date and, therefore, protect the possibility of being back paid to that date. The benefit to public sector agencies is that, administratively, it would be very difficult if all the agreements had different commencement dates. It's easier to administer if they commence largely on the same date.

**The Hon. DAMIEN TUDEHOPE:** Has the Nurses and Midwives' Association lodged an application with the IRC?

**SAMARA DOBBINS:** I can't remember off the top of my head if NSW Health lodged the application or if the Nurses and Midwives' Association lodged the application, but an application was lodged, yes.

**The Hon. DAMIEN TUDEHOPE:** What do you tell me is the date on which they will be appearing?

**SAMARA DOBBINS:** Sorry, bear with me. I just need to find it in my handy table. The Nurses' and Midwives' State Award is listed for conciliation on 18 September.

**The Hon. DAMIEN TUDEHOPE:** That's next week.

**SAMARA DOBBINS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** That's for conciliation?

**SAMARA DOBBINS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** And then a date for arbitration?

**SAMARA DOBBINS:** That hasn't been set.

**The Hon. DAMIEN TUDEHOPE:** In respect of questions on notice which are directed to the department in relation to industrial relations matters, who prepares the answers for the Minister's office for those questions?

**SAMARA DOBBINS:** If the questions are directed to the Premier but relate to industrial relations or are directed to the Minister for Industrial Relations, we would prepare drafts on behalf of the Premier and the Minister but the final answers are the answers of—

**The Hon. DAMIEN TUDEHOPE:** So there is an answer which is prepared by your office—or I'm assuming someone in your office—and it's signed off by you?

**SAMARA DOBBINS:** Yes, usually.

**The Hon. DAMIEN TUDEHOPE:** I'm pretty familiar with this process. And that would be then submitted to the Minister's office for approval.

**SAMARA DOBBINS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** You have provided me with a series of answers to various questions I have asked you this afternoon. One of them was how many matters are currently subject to arbitration before the IRC or the Fair Work Commission. You gave me an answer to that, did you not? I asked you the question how many are currently the subject of conciliation before the IRC and the Fair Work Commission. You gave me an answer to that. I asked how many are currently the subject of active mutual gains bargaining, and you've given me an answer to that. When I asked that question and sent it to the Minister, the answer I received was "The Government continues to have productive negotiations with the public sector unions." Did you provide that answer? Did you approve that answer?

**SAMARA DOBBINS:** I'll have to take that on notice because I don't recall. But I would say that may have been true at the time and now we're at a different point in the process.

**The Hon. DAMIEN TUDEHOPE:** I put it to you that you have given me quite detailed answers in respect of each of the matters that I have put to you which, in fact, are uncontroversial. There's no controversy attached to that. If you want a note of the question we asked, it is question 2673. I must say I was surprised by the answer because I expected an answer very similar to what you have provided me with. Is it the case that answers that are provided by your office to the Minister's office in answer to questions on notice are changed by the Minister's office?

**SAMARA DOBBINS:** I need to be clear. The answers are the Minister's answers.

**The Hon. DAMIEN TUDEHOPE:** I accept that. He or she signs them. But does the ministerial office often change the recommendations or the drafts as supplied by your office to the Minister's office?

**SAMARA DOBBINS:** I'm sure they do from time to time, and that's their prerogative.

**The Hon. DAMIEN TUDEHOPE:** It is certainly their prerogative. Would you agree that the answer, "The Government continues to have productive negotiations with the public sector unions" is non-responsive to the questions I asked? Given your caveat that that would depend upon the time that the question was asked, if it was asked in the last fortnight, would it have been a non-responsive answer—

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** Yes. Mr Tudehope, you're asking the official to provide an opinion and it's also a hypothetical.

**The Hon. BOB NANVA:** That was precisely going to be the point of order that I raised, Chair.

**The Hon. DAMIEN TUDEHOPE:** I have asked the same questions. How is it hypothetical that the—

**The CHAIR:** You said "if".

**The Hon. DAMIEN TUDEHOPE:** Assuming that the question was asked in the last fortnight, would you agree with me that that answer would be unresponsive to those questions, given the answers which you're given today?

**SAMARA DOBBINS:** I can only repeat what the Chair just said. That would be asking for my opinion, which, as a public servant, is not for me to give. Also, the question wasn't asked in the last fortnight so it is a hypothetical.

**The Hon. DAMIEN TUDEHOPE:** I'll get the date on which it was asked in a moment so we can be entirely clear. Are there any circumstances or any awards since 30 June where the offer being made has been over and above 10.5 per cent?

**SAMARA DOBBINS:** No formal offers that I am aware of. Actually, that's not quite true. Without labouring the point or going over the Minister's evidence this morning, the way mutual gains bargaining works is that there are ongoing discussions where positions are put on a without-prejudice basis by both the public sector unions and the agencies. For each of those discussions on those industrial instruments, there may have been positions and counter positions put that may have canvassed productivity enhancements, service improvements and other enhancements that may have led to an offer above the wages offer. But, as at today, none of those have been agreed by the parties.

**The Hon. DAMIEN TUDEHOPE:** I'll return to my further questions because you'll appreciate that I have received an update. The answer which you gave was 9 September this year—a week ago.

**SAMARA DOBBINS:** But it wasn't my answer; that's my point.

**The Hon. DAMIEN TUDEHOPE:** The FBEU arbitration schedule allows nearly seven months between the filing of the draft award and the closing of legal submissions. You've just outlined that to us. Why does it take this long to get to an arbitration?

**SAMARA DOBBINS:** It's probably a question best directed to the new president of the commission, but obviously he's not here to answer the question. My understanding is that the FBEU application is very broad and goes to all aspects of the award. I imagine the president is considering what other matters are on foot and how long they think it will take for each party to give evidence and be cross-examined. But the timetabling of arbitration is entirely a matter for the commission and the court.

**The Hon. DAMIEN TUDEHOPE:** How many matters are going to come on before that one? The Crown employees one, you've indicated that the commission has indicated they want to hear it earlier.

**SAMARA DOBBINS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** When do we expect that matter? In many respects, the commission's attitude towards the Government's wages offer will give rise to a circumstance where mutual gains bargaining might be more successful if, in fact, some guidance has been provided by the Industrial Relations Commission.

**SAMARA DOBBINS:** Yes. I wouldn't want to speak for the president, but my understanding is that they consider the Crown Employees (Public Sector – Salaries 2022) Award to be a benchmark award for other public sector instruments. That's possibly why the president and the deputy president would want to hear that first. The commission is also going to consider the wage-fixing principles prior to some of these arbitrations.

**The Hon. DAMIEN TUDEHOPE:** Are they doing that by way of some sort of practice note?

**SAMARA DOBBINS:** They've invited submissions from all stakeholders in relation to the relevance and currency of the wage-fixing principles.

**The Hon. DAMIEN TUDEHOPE:** And then they'll just issue some sort of practice note in respect of it? Is that how it works?

**SAMARA DOBBINS:** I believe that's how it works, yes—to give further guidance to parties appearing before the court and the commission in relation to those issues. Sorry, I'm just trying to find the exact dates. During the final or most recent conciliation in relation to the Crown awards, His Honour Justice Chin said that he would set arbitration dates for that matter, with the hearing commencing on 26 November.

**The Hon. DAMIEN TUDEHOPE:** One of the things you would have heard me ask the Minister before lunch was that the offer by the Government certainly is the 10.5 per cent over three years, and I think in the first year it is 3 per cent or 3.5 per cent, depending on the acceptance or otherwise of the terms which have been offered. There's nothing to stop the Government from immediately implementing the 3 per cent, is there? The Government could say, "As part of our good faith bargaining we will immediately offer the 3 per cent, because we don't believe it will be lower than that."

**SAMARA DOBBINS:** That is within their gift, yes.

**The Hon. DAMIEN TUDEHOPE:** Could that happen, Mr Draper?

**SIMON DRAPER:** It would be a matter for the Government to consider whether that was an appropriate thing to do in the context of a process that was ongoing, and then for the union to express their views about it and for the IRC to validate that through a consent.

**The Hon. DAMIEN TUDEHOPE:** I anticipate an objection. In circumstances where there is a cost-of-living crisis that families are facing, at any particular time the Government could immediately at the award's expiry pay the 3 per cent, which it says is the fair and reasonable amount.

**SIMON DRAPER:** I think that is another one of those hypotheticals.

**The Hon. DAMIEN TUDEHOPE:** I don't expect them to, but it could be done. Just in terms of each of the 53 awards which you identified earlier, some of which are grouped, do the grouped ones have the same bargaining parameters attached to each of them?

**SAMARA DOBBINS:** They have the same wages offer for each of them, but under the current Fair Pay and Bargaining Policy it's not a matter of bargaining parameters. It's a matter of mutual interests—interests put by the employer, interests put by the union. Then, as you know, there is a process within government of the senior officials group first considering those, to use your word, parameters; or, if they're outside the delegation of that committee, going to the Expenditure Review Committee of the Cabinet.

**The Hon. DAMIEN TUDEHOPE:** Wouldn't the process be that the agency would in fact seek approval for bargaining parameters which would be considered by the senior working group—

**SAMARA DOBBINS:** The SOAC?

**The Hon. DAMIEN TUDEHOPE:** Yes, the SOAC, the senior officers advisory—

**SAMARA DOBBINS:** I think we might have discussed this at the last hearing, but it's a two-stage process. Agencies put to either the SOAC or the ERC interest areas to commence those mutual gains bargaining processes. The second stage is that they are required to seek the approval of either the senior officials or the ERC before a final offer is made.

**The Hon. DAMIEN TUDEHOPE:** I'll just confirm that, in relation to each and every one of them, the wage offer is the same?

**SAMARA DOBBINS:** Yes.

**The Hon. CHRIS RATH:** I just wanted to turn to the media release that I was talking about before, from 20 May 2023, about the review into the building and construction industry. I just wanted to get a bit of clarification as to the difference between the guidelines that the Minister said haven't changed and the review that had been halted. What's the difference between those, or what exactly was changed on 20 May 2023?

**SAMARA DOBBINS:** There are two issues. First of all, the previous Government announced a review of the guidelines and we commenced that review. When the current Government came in, they determined that we were not to continue with that review. I believe the decision was based on feedback that they had received that there wasn't widespread interest in a review and there'd only been a scant number of submissions for that review, so that review was halted. The second issue—and I must apologise for my mental blank this morning; of course, my wonderful team did give me a note on that—is that the guidelines themselves, which remained in force but were not reviewed, were amended by a practice direction on 8 August 2023. The reason for that practice direction



was that we had received advice identifying an issue with the guidelines with respect to the workplace instrument-based conduct changes to the Fair Work Act. In relation to the abolition of the ABCC, we had received advice that our guidelines required a clarification.

**The Hon. CHRIS RATH:** So the Feds abolished the ABCC and, as a result of their changes, we needed to change our guidelines?

**SAMARA DOBBINS:** We needed to clarify our guidelines. That clarification was primarily to say that the guidelines are subordinate to any provision in a federally registered enterprise agreement.

**The Hon. CHRIS RATH:** Right, so it was basically a tidy-up to harmonise it with the Feds?

**SAMARA DOBBINS:** I'm not sure I could characterise it that way. It was to make abundantly clear the hierarchy of the guidelines in relation to federally registered enterprise agreements.

**The Hon. DAMIEN TUDEHOPE:** Would you construe it as a watering down?

**SAMARA DOBBINS:** Again, I think that asks for my opinion. As I said, the advice was based on the identification of an issue. We took steps to clarify that issue by issuing a practice direction.

**The Hon. DAMIEN TUDEHOPE:** Can the CCU do anything other than report issues that arise to the Fair Work Commission, the Fair Work Ombudsman or the police? Can it institute prosecutions itself?

**SAMARA DOBBINS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** And has it?

**SAMARA DOBBINS:** Yes. Sorry, let me just turn to the data in relation to the CCU. The inspectors undertake approximately 200 site inspections and assess more than 100 workplace relations management plans every year. Since 2017 the CCU has reviewed 1,272 plans, with 561 being approved without revision. They also conduct site inspections to ensure compliance with the guidelines throughout the life of a construction project. Since 2017 they have conducted 1,304 inspections, with 402 letters requiring remediation action from the contractors.

**The Hon. DAMIEN TUDEHOPE:** But no prosecutions? There is no mechanism for prosecution, is there?

**SIMON DRAPER:** I don't think our capacity to undertake prosecutions has changed at all. The remit of the CCU is across government projects, as you know. The primary mechanism that we have to enforce the requirements under the guidelines is through the contractual relationships on our projects.

**The Hon. CHRIS RATH:** Going back to what you said before, before this practice—is it note?

**SAMARA DOBBINS:** Practice direction.

**The Hon. CHRIS RATH:** Yes, the practice direction on 8 August. Before that the guidelines came first over the EBAs.

**SAMARA DOBBINS:** I think they were just unclear.

**The Hon. CHRIS RATH:** Now the guidelines are subordinate to the EBAs. Is that right?

**SAMARA DOBBINS:** I don't think it reversed anything. It was just unclear in the past.

**SIMON DRAPER:** The guidelines would never have any industrial standing as a law. It was a guideline for the New South Wales Government to use on its own projects. It couldn't overrule Federal law. Ms Dobbins is right that it was just a clarification.

**SAMARA DOBBINS:** That's right. Provisions of the guidelines that referenced what was then obsolete legislation would have no practical effect, so the clarification was needed.

**The Hon. CHRIS RATH:** I want to ask a bit more about SafeWork and the scaffolding issue. I think you said that the issues with Synergy Scaffolding are currently being investigated. Is that right?

**TRENT CURTIN:** No, Synergy Scaffolding has gone into liquidation.

**The Hon. CHRIS RATH:** Their associated entities, I should say.

**TRENT CURTIN:** What we've done is we've looked into the relationships of current or prior officeholders of Synergy Scaffolding. A number of organisations were flagged. We had a look at those organisations in our system. For all of those, we've not had any interactions or requests for service for workplace incidents in the past 12 months.

**The Hon. CHRIS RATH:** What measures were in place to ensure the safety of workers at Synergy Scaffolding sites at the time of Christopher Cassaniti's death and how did those processes fail?

**TRENT CURTIN:** At the time of that incident in 2019—there were extremely tragic circumstances in relation to that scaffolding—the two workers were working on the multi-storey mixed-use construction in Macquarie Park when the scaffolding collapsed. As a result of prosecutions led by SafeWork for both Synergy Scaffolding and GN Residential Construction, they were both found guilty of offences under the WHS Act and fined. In the time since, SafeWork has done a whole range of things to improve opportunity and access to similar workers to provide advice to SafeWork through our Speak Up Save Lives app. We host a whole range of building construction industry conferences and forums. We have a range of conferences running in regional New South Wales in the coming months. We recently held a biannual conference in Sydney last month. We've also been doing compliance visits around scaff safety and making sure that scaffolding safety is a priority area for our compliance visits. There is a whole range of compliance activities that are in place to improve compliance in that part of the industry.

**The Hon. CHRIS RATH:** The main rule or regulation that was breached was essentially that—I assume—there is a limit on the amount of scaffolding that can be used. Essentially that was overloaded above what the maximum is. It was too heavy and it collapsed. It wasn't that the law or the regulation was faulty. It was that the workers and people on the site overloaded it and it collapsed and killed Mr Cassaniti. Is that a fair assessment?

**TRENT CURTIN:** I understand there was some noncompliance in terms of the tie downs on the scaffolding and then it was overloaded. Unfortunately, it collapsed.

**The Hon. CHRIS RATH:** Who signs off on the scaffolding? I assume SafeWork can't possibly be on every worksite across the State. Obviously you do some audits and there are rules that you put in place. But who signs off on the safety of these worksites?

**TRENT CURTIN:** You'll have to forgive me, I am not an inspector and don't have experience in the construction industry. Our inspectors in that area typically come with backgrounds in trades and the construction industry. As I understand it, there is a whole range of obligations for the principal contractor and also for the scaffolders and all the PCBUs involved to make sure they are compliant with codes, Australian standards, regulations and codes of practice to make sure they're compliant with the laws.

**The Hon. CHRIS RATH:** I have a question about the Indigenous construction firm Marda Dandhi. Have you come across that? It's about a worker at an Indigenous construction firm who committed suicide—a 19-year-old Indigenous man—after his first day on a CFMEU building site. Is anybody able to help me with that or should I put that on as a supplementary question?

**TRENT CURTIN:** It might be better to take that as a supplementary.

**SIMON DRAPER:** I've only heard of dealings with that firm in Victoria, not New South Wales. But there may have been.

**The Hon. CHRIS RATH:** I will put in a supplementary question.

**The Hon. DAMIEN TUDEHOPE:** I heard some questions before lunch about the ETU and the potential impact on the New South Wales economy. Has any modelling been done in relation to that impact?

**SAMARA DOBBINS:** Not that I'm aware of, but possibly within Transport or rail.

**The Hon. DAMIEN TUDEHOPE:** I'll ask Ms Campbell. Have you done any modelling?

**SONYA CAMPBELL:** Mr Tudehope, I can confirm that we have not done any modelling on that. I am aware that you asked this question also in the Treasurer's estimates to which Mr Gellibrand, the CEO of INSW, provided you with an answer around the fact that we are monitoring that, the complexity of it, and obviously there is a large number of variables in terms of where those projects are up to. I can tell you that I, in capacity as investment managers for our shareholdings in some of those businesses and discussions—

**The Hon. DAMIEN TUDEHOPE:** Essential Energy.

**SONYA CAMPBELL:** Correct, and residual interests in Ausgrid and Endeavour Energy. I am speaking with the chairs of those boards about the conversations the boards are having around catching up on major project work across the New South Wales Government infrastructure program.

**The Hon. DAMIEN TUDEHOPE:** Do you have to wait for a direction from the Minister before you would actually undertake that work?

**SONYA CAMPBELL:** I don't think we would need a direction from the Minister necessarily, but I believe that there is some work being done within the Treasury department.

**The Hon. CHRIS RATH:** Also probably SafeWork—the Swillhouse sexual assault issues. You're aware of this?

**TRENT CURTIN:** Yes.

**The Hon. CHRIS RATH:** What steps do you propose or are currently being undertaken to the hospitality industry to address some of these issues?

**TRENT CURTIN:** In relation to Swillhouse and the other organisations that have been in the media, we have some inquiries underway at the moment. In relation to the broader industry, we have been reaching out to industry to start some discussions and having them come to some discussions about what could be done more broadly to improve compliance and work health and safety in those environments. It will be a good opportunity for us, through looking at Swillhouse and a couple of these other organisations and to work with them really closely, to understand what the key drivers are and what the opportunities are that we can seek from these particular examples and bring back to industry and work with the peak industry bodies and some of the larger organisations. That will have quite a big impact on the industry and we can see other parts of the industry follow. There will be a range of activities that we will bring forward in our program of works in relation to the hospitality industry specifically and some in relation to retail that will help us provide much better guidance as a result of these circumstances. But in relation to those particular PCBUs, those inquiries are underway and we will look at those specifically.

**The Hon. CHRIS RATH:** Anything you could provide in terms of what SafeWork is doing to look into the Swillhouse case in particular, maybe if you wanted to come back to us on notice on that, and also what steps could be taken in the future to sort of reduce the prevalence of sexual assault, particularly in the hospitality industry. I think you mentioned some of that in terms of what lessons can be learnt from this terrible case.

**TRENT CURTIN:** I would highly recommend any organisation that has experienced sexual harassment or gender-based violence, particularly those high-risk industries with vulnerable workers, young workers, migrant workers, people working alone, anyone in retail and hospitality—those organisations should be getting onto the SafeWork website today, downloading our webinars and looking at the information that's on our website, particularly the code of practice. If particular organisations have experiences with sexual harassment and they don't have the right systems in place, we will be enhancing our compliance approach for those organisations. They should get ahead of that and make sure they have in place all of the right systems and processes, that they are consulting with their workers on the risks they are facing and that they have a documented approach to how they are dealing with sexual harassment and gender-based violence.

It is a very complex area of work health and safety, you might imagine, and at various times we can be quite sensitive in the way we approach these things. We are providing a whole range of advice and education to industry, but this is such a pervasive harm and there is so much that people can be doing in workplaces to help solve this community problem. We would like to see action by associations, large organisations leading the way and supporting SafeWork and all of the other organisations like the Australian Human Rights Commission, Anti-Discrimination NSW and other peak bodies to support significant improvements in this area.

**The Hon. CHRIS RATH:** I want to ask about gig workers as well. Is that to you, Mr Curtin? Now that there is a Federal scheme in place on gig workers, how is that going to relate to where we were at in New South Wales in terms of the safety of gig workers?

**TRENT CURTIN:** In relation to the safety aspect, I can cover that, but my other colleagues might be able to give you some more content in relation to gig workers more broadly. We are working with Safe Work Australia at the moment to progress codes of practice for gig workers. As you know, it is a very difficult industry that is moving and evolving so quickly in the way that people are engaging in, you would say, non-traditional work environments and the way people use platforms and other ways to access work and to undertake their access to the workplace. We are doing a whole range of things, as you might know, around food delivery riders, and we have a focus on the healthcare and social assistance sector. We are trying to make sure we provide as much information as possible so that workers have access to information but also so that PCBUs are able to comply with our laws in relation to gig workers.

**The Hon. CHRIS RATH:** In terms of the minimum rates and conditions for gig workers, Ms Dobbins, can you help me with that?

**SAMARA DOBBINS:** That would be me, Mr Rath.

**The Hon. CHRIS RATH:** There is a safety aspect; there is also a pay and conditions aspect. I suppose to both of you, now that there is a Federal scheme in place, what problem are we trying to fix in New South Wales? Is our work now almost redundant in terms of looking at pay and conditions of gig workers now that the Feds have gone their own way and developed their own set of regulations in the space?

**SAMARA DOBBINS:** I don't believe so, no. Chapter 6 of the Industrial Relations Act regulates the terms and conditions of engagement for owner-drivers and the taxi industry. New South Wales is the only Australian jurisdictions with an existing regulatory regime for gig workers. The Government made an election commitment to extend the provisions of chapter 6 to other gig workers, so this Government still has a commitment to addressing issues of exploitation in this space.

**The Hon. CHRIS RATH:** The Feds are sort of a minimum and then we can add to it—is that the best way of looking at it?

**SAMARA DOBBINS:** That's right. The current chapter 6 is limited, and this Government is looking to remove historical exemptions for workers delivering bread, milk and cream; establish a mechanism for giving gig workers who have been deactivated from a platform an avenue to challenge the decision, similar to unfair dismissal provisions; create a new offence for accessorial liability so all those involved in the contract chain that may impact on behaviours leading to noncompliance with a determination can be held to account; and expand the existing deeming provisions to limit or mitigate potential litigation and legal battles. However, before the Government finalises the details of those new provisions, there is going to be an extensive consultation with stakeholders to seek their views and feedback, and the feedback will be incorporated into a final form of amendment legislation.

**The Hon. CHRIS RATH:** In terms of those stakeholders, I assume working with the business community will be part of that in terms of the implementation of the changes, transition provisions for the industry and communicating the new regime and rules to them. Has any work been done on that yet or is that still to come in terms of consultation with business stakeholders?

**SAMARA DOBBINS:** The Government intends to draft an exposure draft bill, and while the comprehensive stakeholder engagement strategy is still being developed, it will involve consultation with unions, employers, local government, government agencies—the full gamut of stakeholders.

**The Hon. DAMIEN TUDEHOPE:** Do you need the Federal Government approval to change chapter 6?

**SAMARA DOBBINS:** No, we don't. This Government has been working closely with the Commonwealth to make sure there are no conflicts in those laws. But, no, we don't need their approval to extend our chapter 6 of the Industrial Relations Act.

**The Hon. CHRIS RATH:** Obviously in New South Wales we are responsible for workers compensation, but how does that fit in with any Federal arrangement? When it comes to gig workers, is it entirely our remit on workers compensation or is there a role for the Federal Government as well? I don't know if icare wants to chip in on this.

**SAMARA DOBBINS:** Could I answer in the general—I don't know anything, sorry, about the workers compensation side. The Commonwealth Fair Work Legislation Amendment (Closing Loopholes No. 2) Act does cover gig workers, as you rightly say. That legislation recognises and maintains chapter 6 instruments in New South Wales to varying degrees, but to the extent that they don't conflict with Commonwealth laws. In the event that there were a conflict, the chapter 6 instruments would be overridden by Commonwealth instruments. But it's unlikely that any Commonwealth instruments under that new legislation will be made for at least 12 to 18 months, so the chapter 6 gig workers instruments remain in force until relevant Commonwealth instruments are made. How those two sets of laws coexist and interact hasn't been tested yet. I'll have to turn to my colleagues on your specific—

**The Hon. DAMIEN TUDEHOPE:** In relation to that, the Independent Contractors Act 2006, "Exclusion of certain State and Territory laws"—does it not provide that "subsection (1) does not apply in relation to a law of a State or Territory, to the extent"—and perhaps you might like to take this on notice. It does specifically say, "Chapter 6 of the Industrial Relations Act 1996 of New South Wales to the extent that it relates to,"—and I think you've given this evidence—"or has effect for the purposes of, a provision of Chapter 6." It does specifically say that it would need Commonwealth approval.

**SAMARA DOBBINS:** I'll need to take that on notice.

**The Hon. DAMIEN TUDEHOPE:** I'll draft a supplementary question rather than you having to take that on notice.

**The Hon. CHRIS RATH:** Did icare want to add anything on this?

**TONY WESSLING:** Mr Rath, it's probably a question for either SIRA or the Minister. We obviously honour claims where there's a policy in place or where an injured worker is deemed a worker. The matter of the full coverage of gig workers is probably a question for SIRA.

**SONYA CAMPBELL:** Mr Rath, I might be able to help you in that regard. Under the New South Wales Workers Compensation Act 1987, both Minister Cotsis and also the customer service Minister have responsibilities. The Government has made commitments around providing workers compensation benefits to gig workers in New South Wales. SIRA is leading that work, as my icare colleagues have pointed out. That work is to ensure that the gig economy workers have the same workers compensation protection currently provided to employees injured in New South Wales workplaces. That advice is being prepared for government consideration. As to how it works with the Commonwealth level, we'd have to take that on notice and come back to you specifically around that.

**The Hon. CHRIS RATH:** How do we avoid confusion and duplication on workers compensation for gig workers, now that the Feds are involved, and New South Wales. How does that fit in? How do they complement each other or contradict each other? Any information you could provide to us on that would be helpful. I know it's early days.

**SONYA CAMPBELL:** I think that's the work that is currently being done. I'm not sure if Mr Head wanted to add anything, but obviously that would fit under the remit of the customer service Minister.

**The Hon. CHRIS RATH:** You don't envisage that businesses would have to pay premiums to, say, the New South Wales Government entity icare, or whatever, and then also to a Federal entity?

**SONYA CAMPBELL:** Correct.

**The Hon. CHRIS RATH:** That would be absurd. I think that's pretty much it on that.

**The Hon. DAMIEN TUDEHOPE:** Ms Campbell, I think your answer is you have done some work in relation to the ETU and its impact on the economy. I'm not elevating it to a body of work. It's best styled as a watching brief.

**SONYA CAMPBELL:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Is there a point where advice is provided to the Minister or do you have to wait for the Minister to ask you for advice?

**SONYA CAMPBELL:** What I would say is, Mr Tudehope, as a Treasury our job is to monitor financial risks. Obviously, within the infrastructure program there will be a range of financial risks. Delays on major projects would be one of them. It would be prudent of a Treasury department to be monitoring those risks without needing any direction from a Minister to do so, in terms of how we head into both our half-year review and our next budgeting process.

**The Hon. CHRIS RATH:** I know the Chair asked these questions before, but I might turn to manufactured stone. Could somebody provide an update on where the transition for the industry is at—an update on the impacted businesses and how that transition is going?

**TRENT CURTIN:** The ban on engineered stone containing more than 1 per cent silica came in place on 1 July. The transition period in New South Wales extends through to 31 December of this year for all contracts entered into prior to 31 December of last year. Those transitional arrangements are in place at the moment. We have been meeting with and hearing from industry about those transitional arrangements. We also understand that industry has responded extremely well and been providing alternate products into the market. We're not hearing any major concerns or serious issues at this point in time about the transitional arrangements.

**The Hon. CHRIS RATH:** Have you found that most of the businesses have now essentially pivoted, so they've phased out their use of engineered stone and they've taken up other products, whether it be natural stone—if I can call it that—or other types of products? Is that how they've transitioned, or have some of them just essentially gone bust as a result?

**TRENT CURTIN:** Broadly, I understand, industry has pivoted to replacement products.

**The Hon. CHRIS RATH:** Is there any assistance for those businesses transitioning? Or is it more just information and communication from SafeWork to communicate the changes, rather than any financial assistance or anything like that?

**TRENT CURTIN:** In terms of the transitional arrangements, they were signalled quite early that those arrangements—the ban would come into place on 1 July. New South Wales made the decision to provide a six-month transition process. In terms of assistance to business, the key opportunity for business in transition is the Small Business Rebate that's available through SafeWork, so many businesses have been accessing that.

**The Hon. CHRIS RATH:** This may be a strange question but what happened to all of the engineered stone? Did they just dispose of it all?

**TRENT CURTIN:** I haven't heard too many stories of large-scale disposal. But if there are stocks remaining that aren't used through the transitional period, they will be disposed of, yes.

**The CHAIR:** But the engineered stone that has been used is still in place.

**TRENT CURTIN:** Of course.

**The CHAIR:** Like in this building.

**The Hon. CHRIS RATH:** Yes, if it's already been put in.

**The CHAIR:** Installed.

**The Hon. CHRIS RATH:** That's right.

**The CHAIR:** There was no requirement to remove it.

**TRENT CURTIN:** Correct. It's perfectly safe unless it's being cut or grinded or modified, and the notification system we were talking about previously covers off on that.

**The Hon. CHRIS RATH:** A different issue—the case management system upgrade for SafeWork. When will that be equipped with a fit-for-purpose case management system? I think the current system is quite old, maybe about 20 years old. Is that right?

**TRENT CURTIN:** The current system is about 20 years old. We received funding this year of \$4.4 million to undertake a project to scope a business case for a replacement system. So as not to replace an existing legacy technology with a new technology that looks quite similar to the old one, part of that business case is to undertake some business process re-engineering and to understand what a contemporary approach would be for a regulator of this type so that we can make sure we have got the good business processes in place and efficiencies to then design a technology around that. That process will be undertaken this year and we will have a strong business case to go back to the Government to seek further funding, as necessary, for a new system.

**The Hon. CHRIS RATH:** So there might be further appropriation requests to upgrade the system. I assume it is a big piece of work. In my previous employment, I know how hard it is to change some of these systems and how expensive it can sometimes be. What about standardised incident reporting forms? Does SafeWork NSW require employers to submit written notices in standardised forms, as allowed under sections 38 (4) and (5) of the WHS Act, to obtain meaningful information about specific harms, incident categories and worker categories?

**TRENT CURTIN:** That is not an area I am so familiar with. I would have to take on notice that question.

**The Hon. CHRIS RATH:** That is fine. If it hasn't been adopted as an approach, if maybe you could provide some information about why not and what might be the impediment to that, that would be quite helpful. Another question—I don't have much more to go and some of these will probably be supplementaries. Why does SafeWork NSW not mandate the recording of contractor or supervisor Home Building Act licence numbers during incident notifications involving apprentices in Home Building Act specialist trades?

**TRENT CURTIN:** SafeWork NSW inspectors obtain a whole range of information necessary to make determinations around compliance with WHS legislation. I can take on notice whether it is part of our practice to collect those licences. But as you recall just a moment ago, the systems that we have got in place to record those things are not sufficient to do that in a meaningful way that we can recall all of those post-event. We need to do some system upgrade to enable our inspectors to be able to do that if we chose to do that. I will need to take on notice whether that is standard practice for our inspectors to collect those licences.

**The Hon. DAMIEN TUDEHOPE:** Mr Farquharson, icare currently is subject to the return to work direction from Mr Draper, is it not?

**STUART FARQUHARSON:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Have you got a baseline figure of number of employees currently working from home?

**SIMON DRAPER:** Not returning to work, I should say, with respect. People have always been working.

**The Hon. DAMIEN TUDEHOPE:** Working from home—I beg your pardon. I stand corrected. I will ask you a question about return to work in a minute.

**STUART FARQUHARSON:** What I can say is that we have a "gather together" policy, which requires our staff to be in the office the majority of time—on average, three days a week—and that is what we work to currently. We will, over the next while, make sure that we align and comply with the Government guidance.

**The Hon. DAMIEN TUDEHOPE:** Do you say you already comply with the direction that Mr Draper has issued?

**STUART FARQUHARSON:** Well, I think the spirit of the predominance in the office, we comply with. But we will make sure that we comply with all of the requirements.

**The Hon. DAMIEN TUDEHOPE:** Can I ask you about return to work rates? It is a perennial question, always asked at estimates.

**STUART FARQUHARSON:** As in return to work rates within our worker compensation schemes?

**The Hon. DAMIEN TUDEHOPE:** Within your two schemes, yes—the TMF return to work rate?

**STUART FARQUHARSON:** Yes.

**The Hon. DAMIEN TUDEHOPE:** I suppose, 30 days, 90 days, 120 days?

**STUART FARQUHARSON:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Can you give me what the figures are?

**TONY WESSLING:** I have got those numbers. I'll give you the numbers that are published on the SIRA website, the most recent numbers. The 13-week is the one that we look at probably most intensely. For the TMF, the SIRA data—that is 12-month rolling, so it's averaged across 12 months—is 81 per cent in TMF; and in the NI it is also 81 per cent for 13 weeks.

**The Hon. DAMIEN TUDEHOPE:** That is a significant improvement, is it not?

**TONY WESSLING:** If I gave you the same data for a year earlier, the TMF was 82 per cent, so it is a 1 per cent decline in the TMF, and the NI was 81 per cent, so it is about neat. That is on a 12-month rolling basis. We look at a range of different figures. There are definitely headwinds that we have at the moment with the growing volumes of site claims, but return to work has been broadly stable.

**The Hon. DAMIEN TUDEHOPE:** In terms of the headwinds, what are they identified as?

**TONY WESSLING:** With regards to return to work, the biggest headwind is the growing number of psychological claims. As you are aware, the psych claims have a much lower return to work rate. In the Nominal Insurer we have seen a 45 per cent increase in volume of psych claims over a 12-month period. That has been quite a challenge as a headwind in the Nominal Insurer. In the TMF the site claims, as you are aware, have always been much higher; they have been more stable in terms of volumes. Aside from that, we are also seeing, since the presumptive COVID coverage, we have had fewer and fewer COVID claims coming through, particularly in the last 12 months. The COVID claims that we were having tended to be quite short duration, so they sort of lifted return to work rates, in essence, because they were so quick to get back to work. Over the last, probably, two years or so they have really come out of the system as well. There has been quite a bit of noise and headwinds with site claims, the changing nature of COVID claims as well.

**The Hon. DAMIEN TUDEHOPE:** In terms of the competitive claims management, how are you assessing the manner in which the new claims management regime is operating and, I suppose, the success of the opportunity for other claims managers? What percentage of claims are still being handled by EML and what percentage are being handled by other claims managers?

**TONY WESSLING:** The new claims model commenced, as you are aware, in 2023; in fact, we brought our last two new claims managers to bring it up to six, I think, through the back end of 2023. I think the last one, DXE, came into effect in about October. It is still very early days, Mr Tudehope, in regards to the new model. We also took a conservative approach to shifting policies that had open claims as well, so as not to disrupt sort of an existing injury at work experience with case managers. EML still has the majority of claims. The stats I have got throughout, or that we expect to end 2024, EML would still have in the order of about 60 per cent market share.

**The Hon. DAMIEN TUDEHOPE:** And the other—

**TONY WESSLING:** The other five—

**The Hon. DAMIEN TUDEHOPE:** Who is the predominant claims manager taking work from icare?

**TONY WESSLING:** If I understand your question, the predominant claims manager is—there isn't really one. We are trying to get as level a playing field as we can as quickly as possible. We always set aside a three-year transition period—

**The Hon. DAMIEN TUDEHOPE:** I understand.

**TONY WESSLING:** —to carefully migrate away from the incumbent and build up scale in the other five providers. They are roughly equal, the other five providers.

**The Hon. DAMIEN TUDEHOPE:** Are any of the other providers specialists in mental health claims?

**TONY WESSLING:** Four of our providers are generalists with specialist capabilities in mental health, so yes. That is EML, as well as DXE, Gallagher Basset and Allianz.

**The Hon. DAMIEN TUDEHOPE:** Chair, I have no further questions if you wish to conclude.

**SONYA CAMPBELL:** Before we conclude, may I please make one correction for the record?

**The CHAIR:** You may, indeed.

**SONYA CAMPBELL:** Mr Tudehope, you asked me earlier if the icare CEO role has been advertised. My team have updated me that it is now in the public domain. You can find that on I Work For NSW or the icare website.

**The Hon. DAMIEN TUDEHOPE:** Is it on LinkedIn as well? It may be.

**SONYA CAMPBELL:** I can't answer as to whether it's on LinkedIn.

**The Hon. DAMIEN TUDEHOPE:** I think it is on LinkedIn.

**SONYA CAMPBELL:** It is in the public domain.

**The Hon. DAMIEN TUDEHOPE:** Are you on the interviewing panel?

**SONYA CAMPBELL:** That is a matter to be determined by the board.

**The CHAIR:** Thank you, everyone. Thank you to the Opposition for your questions today. Thank you to the officials for your attendance and answers. The secretariat will be in contact in due course about any matters taken on notice.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**