SPARK AND CANNON

Telephone:

Adelaide	(08) 8212 3699
Hobart	(03) 6224 2499
Melbourne	(03) 9670 6989
Perth	(08) 9325 4577
Sydney	(02) 9211 4077

TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO NATIONAL WORKERS COMPENSATION AND OCCUPATIONAL HEALTH AND SAFETY FRAMEWORK

PROF M. WOODS, Presiding Commissioner

TRANSCRIPT OF PROCEEDINGS

AT ADELAIDE ON THURSDAY, 12 JUNE 2003, AT 8.45 AM

Continued from 10/6/03 in Hobart

PROF WOODS: Welcome to the South Australian public hearings for the Productivity Commission inquiry into National Workers Compensation and Occupational Health and Safety Frameworks. I'm Mike Woods. I am the presiding commissioner for this inquiry.

As most of you will be aware, the commission released an issues paper in April, setting out the terms of reference and some initial issues. The inquiry explores the opportunities to develop national frameworks for workers compensation and occupational health and safety. Our full terms of reference are available from our staff. The commission has already travelled to all states and territories, taking in a wide cross-section of people and organisations interested in workers compensation and occupational health and safety. We have talked to groups from a diversity of backgrounds and have met directly with government organisations, unions, employers, insurers and service providers, listening to their experiences and their views on future directions.

We have also received over 20 submissions from interested parties at this point in time. I would like to express our thanks and those of the staff for the courtesy extended to us in our travels and deliberations so far, and for the thoughtful contributions that so many have already made in the course of this inquiry.

These hearings represent the next stage of the inquiry. A draft report will be issued by the end of September and there will be an opportunity to present further submissions and attend a second round of hearings. The final report is to be signed by March 2004. I would like these hearings to be conducted in a reasonably informal manner, and remind participants that a full transcript will be taken and will be made available to all interested parties. At the end of the scheduled hearings for the day, I will provide an opportunity for any persons present to make an unscheduled oral presentation should they wish to do so.

I would like to welcome to the hearings our first participants, Dr Dino Pisaniello and Dr Richard Gun. Could you give your names and positions that you hold for the purpose of the record, please?

DR PISANIELLO: Thank you, chair. Dr Dino Pisaniello, the Department of Public Health, University of Adelaide. I am the chairman of the Congress of Occupational Safety and Health Association Presidents, which is an organisation formed just over a year ago to represent the professional associations in health and safety in Australia.

DR GUN: I am Dr Richie Gun. I've recently retired as senior lecturer in occupational and environmental health at the University of Adelaide. I'm still there as a visiting research fellow. I'm an occupational physician. I am representing the

Australasian Faculty of Occupational Medicine on Dr Pisaniello's group which is formulating some research proposals to the federal government on occupational health and safety, and I'm also one of the contributors to the document which the Australasian Faculty of Occupational Medicine will be submitting to this inquiry. In fact, it may already have been submitted. I'm not sure.

PROF WOODS: Thank you very much. Do you have an opening statement you wish to make?

DR PISANIELLO: The opening statement from the point of view of COSHAP is that we would like to comment specifically on the area of research.

PROF WOODS: Please feel free.

DR PISANIELLO: Thank you. The Congress of Occupational Safety and Health Association Presidents, including the faculty of occupational medicine has formed a view about health and safety research in this country, and its assessment of the situation is pretty grim. The area of research coordination is basically non-existent. Research training is very much undermet in terms of need. We have great difficulty in filling research and teaching positions, academic staff, so there is a problem in the university sector in filling academic health and safety positions, and I think the overall area of research is very poorly funded, given that it's a $21 billion a year problem in Australia.

The National Occupational Health and Safety Commission has responsibility for research coordination and there has been appropriated in recent years a figure of some $4 million to deal with research coordination. There has been no clear direction on how that is to be done. The only area in which we believe there has been innovation has been the creation of a national research centre for occupational health and safety regulation based at the Australian National University. That is funded completely by the National Occupational Health and Safety Commission, although there is some support from ANU and other groups with regard to infrastructure.

We believe that whilst that centre is very effective and is a useful model for how research should be facilitated in this country, we think there need to be more centres, specifically in the area of disease prevention, hazard control and occupational human performance. There is some debate about whether those titles are appropriate, whether the number is appropriate, but certainly we believe that moving towards a series of centres is the best approach.

We believe that the national occupational health and safety strategy is a fairly broad document and will support the concept of the development of these centres.

It's pretty clear that state governments and the federal governments are committed towards a national strategy. Unfortunately the area of research has been neglected, and we believe it is time for the National Occupational Health and Safety Commission and the state governments to commit to research developments, and particularly the formation of research centres.

One of the missing elements in all of this is occupational health, as represented by the Department of Health and Ageing. We believe that what has happened in recent years is that the Department of Health and Ageing has decided that it's somebody else's responsibility, occupational health and safety is not something that they need to be involved with, and I think that is a hangover from the days when there existed a national institute of occupational health and safety.

Although in other countries national strategies for health and safety have explicitly included occupational health, this country has decided that it won't deal with occupational health and safety in a way which is explicit. There is a lot of anxiety amongst people involved with health and safety about this situation, and I refer you to a document that was published in the Journal of Occupational Health and Safety by Prof Michael Quinlan, addressing the problem of health and safety research.

In our view, the Department of Employment Workplace Relations, although given the portfolio responsibility of health and safety, is incapable of dealing with this area of health and safety research. It needs to have the involvement of the Department of Health and Ageing. So what we propose is that the Department of Health and Ageing, in conjunction with the National Occupational Health and Safety Commission and the state governments formulate an approach to dealing with health and safety research, and particularly occupational health. A model that has been available for many years is the United States model, where the National Institute for Occupational Safety and Health is funded by the federal Department of Health.

We suggest - although this can be debated on how it might be formulated - that national centres be created, with a 50 per cent funding ownership by the states, and that is partly because they need to commit collectively to the national strategy, and if they have ownership of an area, then they can feel that they have contributed effectively in that particular area. The problem with the past system, with a national institute, was that it was funded by the federal body, and state jurisdictions felt that that was in competition with what they were doing.

On the other hand, if there is an arrangement whereby they lead the research areas with a 50 per cent contribution, and other contributions particularly from the commission and DHAC, that will see a long-term strategy which will be effective and allow for the priming of research for the life of the national strategy. We believe

that these centres should be based in universities to provide independence, and at least 50 per cent of the funding should be unencumbered to allow for dealing with complex occupational health issues.

In summary, the Congress of Occupational Health and Safety Association Presidents believes that health and safety research has not been addressed properly in the last five or 10 years, and certainly there is a need to inject funds, particularly in collaboration with the states and the Department of Health and Ageing.

PROF WOODS: Thank you very much. I appreciate you putting that point of view. We have a one-page document on the basis that that constitutes a formal submission. That will also go up on our web site. If I could ask a couple of points on that, and then if we can broaden out the debate a little from just purely research. You mentioned that academic departments at universities were having trouble filling positions.

DR PISANIELLO: Yes.

PROF WOODS: That sounds more like difficulty in attracting the right people rather than having the dollars there. Presumably these are funded positions already? I'm just not quite sure where the balance is between the availability persons interested in moving into this field versus the dollars to support and attract people to come into the field.

DR PISANIELLO: Historically these positions were funded on a short-term basis because of the interest in the mid-1980s for health and safety, and over a period of time, from about the mid-1980s to the mid-1990s, where there was a robust health and safety strategy at the national level with a national institute, the universities and their academics in health and safety have consolidated the positions such that they are academic positions on their establishment profile. In other words, they are tenured positions. At the moment they are seeking to refill the tenured positions, but if they can't fill those tenured positions the area will lapse. That's the problem. We don't have people coming into the health and safety area with the necessary track record and research to fill those positions, so administrations will feel that they can't attract the right persons, they have tried on multiple occasions to get the right people, therefore the area suffers, therefore the area disappears.

DR GUN: Can I just add a point on that?

PROF WOODS: Please.

DR GUN: We have a reasonably good model of what ought to happen in the general public health area, where the federal Department of Health and Aged Care

funds what's called the PHERP scheme, the Public Health Education and Research Program and, apart from directly funding research, they actually fund the development of a research infrastructure, including people, so that there's a reasonable body of trained graduates able to enter the area of public health research. I think one of the things we would argue for is that we need a similar scheme in occupational health, either that or to broaden the scope of the Department of Health and Aged Care's program in the PHERP scheme so that it can also cover the occupational health area because, as Dr Pisaniello has said, it's just an area where the postdocs are just not coming through. There are just not enough people available to fill those positions. So I think that's very much the answer to your question.

PROF WOODS: So you are looking for research funding - more of the short-term but focused research, but will build a body of expertise from which you could then ultimately draw suitably qualified, tenured academic positions, which is one model, but the other which I find of interest also: the idea of broadening out the medico model because in the course of this inquiry, a number of people have put to us that the understanding of the GPs on occupational health and safety matters and their interest in becoming involved in workers comp claims, and so on, in some cases leaves a little bit to be desired.

DR GUN: Yes, the medical people are really only part of the personae in this area, I think that is true.

PROF WOODS: It could just be another strand that you could build.

DR GUN: Yes. Certainly there is that problem, and I think one of the other problems is that I think there is difficulty in getting medically qualified people to fill these posts. They are not all - by no means - seeking just medically qualified applicants.

PROF WOODS: No, no.

DR GUN: But when we actually try to seek medically qualified applicants to enter this area, there are just not those with sufficient experience or the training to undertake the type of research that we do in this area.

DR PISANIELLO: I think the key words here are "research training", which is different from research. You need time to develop people with research skills. They need to develop a track record in order to be competitive in university positions. Whilst research itself may be fairly broad across Australia, research training is virtually non-existent, and that's the biggest problem in filling these academic positions. We have no shortage of overseas people who want to do PhDs in health and safety. The number of local people doing health and safety research for a PhD is

nearly zero.

PROF WOODS: The trouble is those that we train from overseas usually take their experience back with them.

DR PISANIELLO: They do. That's the whole idea. That's the point.

PROF WOODS: That doesn't always occur, but - - -

DR PISANIELLO: Yes.

PROF WOODS: You put forward a target figure of 5 million to develop these centres and related activity. How far short of that figure are you at the moment?

DR PISANIELLO: Well, the figure that we've got directly apportioned to health and safety research is $400,000 per annum. That's to fund the National Occupational Health and Safety Commission. That's all that I'm aware of. That's the Centre for OHS regulation.

PROF WOODS: That's the ANU centre.

DR PISANIELLO: That's the ANU centre, yes.

PROF WOODS: That's a little short of the figure that you're aiming for.

DR PISANIELLO: Well, I think most of our colleagues would argue that a figure of something like 30 million is appropriate.

PROF WOODS: Your moderation is noted.

DR PISANIELLO: Thank you.

DR GUN: I was appointed by the Hawke government to chair the interim National Occupational Health and Safety Commission, which led to the establishment of Worksafe Australia, which has more recently been renamed. It's now called the National Occupational Health and Safety Commission, which has subsequently been run down fairly drastically. It's really been pretty sad to see what's happened, because when they started they did have their own in-house research structure and there's quite a lot of active research taking place inside Worksafe Australia's own laboratories and facilities. In addition to that, they ran quite a - compared with NH and MRC and health generally, not much, but for those days it wasn't a bad sort of extramural research program as well, which our department, amongst other universities - enabled us to carry on quite a lot of significant research.

Both of those have now gone. They now don't have any in-house research facilities at all. Then abruptly about five years ago they shut down completely, without warning, their extramural funding research program. Really about the only government or quasi-government funding now tends to be from the workers compensation authorities or, occasionally, specific ad hoc measures by some government bodies. The trouble with those - they are generally very applied forms of research. I think, naively, they want answers to great big questions. They want the answers very quickly, and I think that's just not a realistic way to conduct research.

Researchers need to be able to pursue areas where they are interested. Research needs to be incremental. If you try and answer all the problems of the universe at once, you're not going to get anywhere. When an industry says, "We want something which will reduce the occurrence of manual handling in the baking industry and we want it by next Thursday," you know, the chances of getting anything really very productive are fairly remote.

I think we really need to have some sort of facility for a basic research program, in which people compete in areas of their interest, just as we do - I mean, that's what the NH and MRC does. They do have their areas of priority where people can apply, but they also have an area where people apply for funding for areas where they've acquired some expertise and experience, and that's competitive on the grounds of quality. I think the achievements of the health research program funded by the NH and MRC speaks for itself, so why not do it in health and safety?

PROF WOODS: I might tap your views on the direction of the national commission in a moment, but if we can just complete the issue on research specifically, you identify some areas that would warrant new centres and you talk about occupational disease prevention. Certainly, through the course of this inquiry, disease - particularly long-term - is an area that warrants close attention. We've spent a lot of time on lifts and repetitive use and all sorts of other areas, but I think disease is waiting there to be a significant problem.

Hazard control, I understand now. Human performance: are you referring to sort of the biomechanics of human performance or some of the psychosocial-type issues? It seems to me that stress and the make-up of people when they come to the work environment and their response to pain and injury and all of those sorts of areas are, again, warranting some attention, but I'm just not quite sure what you are thinking of where you refer to human performance.

DR PISANIELLO: That is meant to embrace both the biomechanical aspects of the tasks and also the cognitive and psychological areas. Obviously, there are limits

to our human performance in a physical sense and there are limits to our human performance in a cognitive sense as well. It's meant to embrace both those areas. The commission should be aware of a centre based in Queensland, Key Centre for Human Factors and Applied Cognitive Ergonomics. It's an ARC-funded centre. It's struggling. That's the sort of thing that needs to be supported in the longer term.

PROF WOODS: Very good. If I could broaden out then a little, drawing on your individual and collective experiences, there was some reference to the approach from the mid-80s to current day, going from Worksafe Australia down through to the current national commission. What are your views on whether the National Health and Safety Commission is taking the right approach in its guideline based focus, the fact that it has managed to achieve a national strategy to which all ministers of all jurisdictions have signed and things? I mean, are they marks of progress or of a different approach or of a more restricted approach?

DR PISANIELLO: They're certainly a hallmark of some vision in the area, and there has been a fairly good analogy with what's happened in the UK, for example, with their health and safety strategies. Two of them - revitalising health and safety and securing health, together - preceded our national strategy, and so we've learnt something from overseas organisations, but I think the commission deserves credit for developing a national strategy applicable to Australia.

I've been party to some of this in my role as chair of OH and S Association Presidents, so we've supported this all the way. We've been very critical of the fact that it hasn't been promoted the way it should be compared with the UK, for example, but there are steps being taken now to address that. The problem is that, whereas that provides the framework, it doesn't really provide the engine for doing things. The implementation aspect is the area that we believe really does need to be funded and sourced properly in order to fulfil the objectives of the strategy.

PROF WOODS: The funding there relates more to the individual state jurisdiction occ health and safety administrations and inspectorates and the like?

DR PISANIELLO: At a commission meeting, there was agreement around the table that the states would realign their current arrangements to the national strategy. Certainly, South Australia is seeming to move in that direction. So, whereas the time taken to steer the ship in a different direction may be one or two years, that was the general feeling. That would mean avoidance of duplication. It may mean ownership of certain jurisdictions in certain areas where they feel that they've got the head start or where they've got the infrastructure - or for whatever area they'd think that they've got a leadership role - so it's a partnership. It's not the commission going top down. It's really that partnership that needs to be developed. Unfortunately, the state bodies don't see research as an area that they have great interest in, so really it's been a

problem.

PROF WOODS: You referred to the top-down approach. By that, you're referring to the issuing of guidelines which are then up to individual jurisdictions to implement. Do you have a review as to whether the current approach of each of the jurisdictions to take a guideline and tailor it to their individual circumstances is the most productive approach from a national perspective? Do you see any compelling arguments that individual jurisdictions should adopt the one guideline - or whether it be by way of regulation or however - in a template-type approach rather than adapting it to their individual circumstances? Is there any loss of productivity or momentum or other costs in that approach?

DR PISANIELLO: I think you'll find the classic example of that is in the hazardous substances regulations, where it's taken years to get agreement on what's to be implemented at the state level. South Australia was one of the first to adopt the national model of regulations. I personally don't think there is a need to spend so much time for the states to finetune these areas, because they do contribute in the committee situation to them. I'm at a bit of a loss to know why, particularly in the hazardous substances areas, it's taken so long for states to get this right. I mean, obviously, there are impacts on industry, where you change exposure standards or whatever or where you implement certain kinds of areas, but still I think that, by virtue of the committee structure in advance, they could have thought about that a bit more carefully.

PROF WOODS: Isn't that a matter of defining a series of implementation steps to allow industry and others to adjust, as distinct from modifying the national guideline and then not pursuing some form of harmonisation over a period of time?

DR PISANIELLO: I agree with that. I also believe that what we do in Australia - particularly with occupational health standards - has been modelled on what's happened internationally and, you know, there have been concerns internationally about whether or not there can be a global standard for certain areas. Again, you can look at it from the point of view of national uniformity or you can look at it from the point of view of international uniformity.

PROF WOODS: On the other side of the equation, though, we have to be confident that there is a significant benefit to be achieved from having a single standard nationally. What sorts of benefits would you be able to identify that would promote such an approach?

DR PISANIELLO: I'd like to invite Richard Gun to make a comment on that one, but I think the benefits are that professionals will be able to operate with criteria which are uniform and therefore they will spend less time worrying about the fine

details. The same with industry itself: hopefully they will spend less money investigating what they need to do in one jurisdiction versus another, and allocate resources. So from a productivity perspective, generally speaking there's a lot to be said for having uniform criteria.

PROF WOODS: I will invite Dr Gun to comment in a moment. Is there on the other side some benefit in having creative federalism, where the experience of one jurisdiction and the exploring of further improvements or enhancements can then be copied by another? You could almost argue that if you have one national scheme but it's the wrong scheme, it is worse than having eight or nine schemes which are constantly learning from each other and pursuing improvement.

DR PISANIELLO: This is a good student question, actually.

PROF WOODS: Hopefully I can become a good student!

DR PISANIELLO: I'm not suggesting that you're in that category, but what we preach to our students is essentially plurality. By virtue of looking at the different approaches, one can take the evidence that is associated with those approaches and then determine, on the basis of comparison, whether or not one approach is superior to another approach. You can look at the regulatory system at a number of different levels. You can have broad based enabling legislation, you can have specific regulations, you can have codes of practice and all sorts of other things, and you can also have interventions that are state specific. So if you restrict the gene pool, if you like, to the point where everything is uniform, you're absolutely right: you can get to a situation where you don't know what you don't know, so there's a problem. You really do need to have a plurality of approaches. But having said that, you can have a matrix as well, where there is a general set of criteria that everyone agrees upon, then fine details can be subject to experimentation.

PROF WOODS: Would it be possible for one or two of your students who are interested in this area to actually explore it in some depth and present a paper to the commission? It's a serious question and we can identify some of the productivity benefits of one scheme, but I am also attracted to this idea of creative development, and the trade-off is somewhat complex. If there is some literature that could be assembled or some workshopping, investigation, the commission would indeed be very grateful for your contribution in this area.

DR PISANIELLO: I will make a note of that, and perhaps Dr Gun can comment on it.

PROF WOODS: Dr Gun, would you like to also address these matters?

DR GUN: I think the point you have raised actually has got some merit.

PROF WOODS: Thank you.

DR GUN: When I was on the interim occupational health and safety commission, a number of industry groups argued very strongly for uniformity, but the lack of progress that was made, on particularly the matters that my colleague referred to in relation to achieving uniformity with hazardous substances, makes you wonder how much interest there really was in the area. I wonder really if industry thought it was that important. They didn't manage to knock state governments' heads together and get them to do that. I can see the arguments on both sides. I think there is something to be said for having competitive federalism in that particular area. I think in other areas - for example, the workers compensation jurisdiction: I'm not so sure about that, because there is a temptation with state governments to compete against each other to try and attract industries by having less generous benefits to workers compensation claimants.

PROF WOODS: How would you rank the likelihood of a national occupational health and safety scheme versus a national workers compensation scheme, though?

DR GUN: I don't think you would get a uniform national scheme.

PROF WOODS: On workers comp.

DR GUN: On workers comp? Well, the Whitlam government tried to do that, and I just don't think it's going to happen. We can talk all day about whether we think it's a good or a bad idea. They have achieved certain things in the United States with the OSHA Act and things like that, but they had a civil war - and we haven't had one - that decided some of those matters. It's just not going to happen, I don't think.

PROF WOODS: Is this based on a view that looking at the various interests in each jurisdiction and trying to get some commonality of all of those across jurisdictions is unlikely?

DR GUN: Yes. I think the National Occupational Health and Safety Commission model of trying to get the state representatives to agree implicitly, say, a set of national model regulations, and therefore lock their own jurisdictions into implementing it in their own area of jurisdiction - that's about, I think, the best we can do.

PROF WOODS: And that's on occupational health and safety, but you don't see the same likelihood in workers compensation?

DR GUN: In workers compensation, as I said, I think we can only really go on the history of the scheme attempted by the Whitlam government. I think it's doubtful whether a move in the future would be very successful, and frankly there hasn't really been much political support for it that I've been able to detect anyway.

PROF WOODS: Thank you very much, gentlemen. Are there any matters further that you wish to draw to the attention of the commission in this hearing? You are of course welcome to put in further submissions and participate progressively, and I'd certainly encourage you to go back and ponder the matters that we have just been discussing.

DR GUN: I had a couple of other matters.

PROF WOODS: Yes, please.

DR GUN: They weren't directly related, but they are within your terms of reference. One is the issue of common law liability. It's something we don't have in South Australia. I think it has one constructive purpose, and that is to act as a deterrent. Was it Napoleon who said it's a good idea to shoot a few generals to encourage the others? I think common law does tend to fall a little bit like a lottery, but it does mean that it's there as a deterrent to act as an incentive for employers to provide some sort of safety.

PROF WOODS: Are there a lot of high transaction costs on the way through to that deterrent, and could that deterrent be achieved in other ways such as stronger penalties on occ health and safety?

DR GUN: In my opinion, no - that is just my opinion - for the reason that you are dependent on the factory inspectorate, and factory inspectorates have got to be fairly careful, because if they act in a way that an employer believes to be a little bit capricious or a bit officious the employer might be on the phone to the minister or something like that, and the inspector might have to account for themselves. I think realistically there is a case for, in some cases, more severe penalties and more rigorous prosecution. The axe of the more or less blind justice system of the common law actually has its place as a deterrent.

I think this is less likely, however, to be of benefit in the case of musculoskeletal injuries such as what the statistics call over-exertion injuries, where the source of energy is actually contraction of muscle of the affected individual. Those types of injuries - there's not enough energy. You don't generate enough energy to kill yourself from your own muscle contraction, but they do contribute a high proportion of costs to the workers compensation scheme. The common law benefits are not really likely to have such a great benefit in that case.

If you look at the last 20 years, weight-lifting limits and things like that have been brought down, and we've got manual handling codes of practice, but they haven't really had a huge influence on the cost of manual handling injuries, and I think to some extent the cost of these injuries - it's much more difficult for employers to try and prevent, whereas where the energy source is external, like moving machinery or people falling or things falling on people, I think employers have got the capacity to significantly reduce that. The point I wanted to make is that I think that common law may well have a place in this area but it should be restricted to those types of injuries where the energy source is other than over-exertion on the part of the affected individual.

PROF WOODS: I understand that point.

DR GUN: The second point I want to make is in relation to the jurisdictions with diseases of long latency. We have had a number of cases in this state where there have been some pretty questionable decisions made on the basis of what seems to be evidence presented by people who are actually operating out of their fields. I can think of a number of cases, for example, where people have said that people have been affected by a chemical that belongs to a particular family of chemicals, when it was just plainly wrong. The chemical concerned was just in a completely different family of chemicals, and no-one was there to refute it because one side called somebody as a witness, and somebody who was actually operating out of their field, and the other side didn't think to call an appropriate witness either.

What we require in this sort of situation, particularly in areas like occupation-related cancer, are people who have actually got skills in epidemiological research. You need people who are able to identify and measure exposure levels, such as the area of competence that Dr Pisaniello works in, as well as people that can evaluate biological plausibility. I think all the cases I can think of have got something in common, and that is that the people with the appropriate expertise have not been called by either side in these cases.

You know of the panels they have in Victoria. I'm not necessarily suggesting that panels be entirely medical, because the medical profession doesn't have a monopoly of wisdom on this matter. But I believe that what we require is something like where the jurisdiction itself must take the responsibility of ensuring that people with the proper experience and competence and in the appropriate field of scientific endeavour, are called to act as a sort of friend. I think amicus curiae is the term.

PROF WOODS: Yes.

DR GUN: As it is some rather strange precedents are being set and so I think that is

really important to do that, and they should operate on certain principles. The Australasian Faculty of Occupational Medicine has recently published a - it's about to be released - publication on occupational cancer. It does provide guidelines to people who are responsible for looking after workers who are exposed to carcinogenic substances, but it also contains some guiding principles which I hope the jurisdictions will take some notice of in how to evaluate the evidence that is presented to it.

The final point I want to make on another matter is in relation to privacy. That is, that it's not just in this country, but in the United Kingdom as well - and there's plenty of evidence of it - that privacy legislation is kneecapping research, not just in health and safety but in a lot of other health areas. In fact, the information privacy principles that the federal parliament has approved, do actually allow for research to go ahead providing - for bona fide public health research - but there's no obligation on federal authorities to provide that information. It just says that they may, or that it can be done.

I think what is happening is that a lot of people in those authorities want to sleep peacefully at night, so it's easier to deny the people who are conducting that research, the information that's needed. I think if we could find - - -

PROF WOODS: On that point, are you finding the actions of the privacy commissioner helpful or unhelpful in promoting access and therefore research?

DR GUN: I haven't been involved personally with any representations to the privacy commissioner. My own involvement has been dealing with authorities where we're trying to get information and it just makes life - I think, you know, if we can find evidence of people who are carrying out research who are misusing the data that they obtain, then there will be a very good case to do something about it. But unless and until that occurs, I think that what is happening is that the principles - that they are really impairing research. It's not just that people like me have to spend about three-quarters of their waking hours writing to ethics committees or to various government bodies trying to extract information - it's just that it really is, I believe, having a very deleterious effect. If you can have a look you'll see the same thing is happening in the United Kingdom and I believe that it's gone - it's just gone too far.

PROF WOODS: Thank you very much, gentlemen. I much appreciate the time and I look forward to your further responses.

DR GUN: Thank you.

PROF WOODS: I call forward our next participant, Mr Darryl Turner. Our next participant is Mr Darryl Turner. Could you, please, for the record give your name and the association and your title.

MR TURNER: My full name is Darryl Lewis Turner. I'm manager of the Self Insurers Association of South Australia. However, today I am wearing two hats and I think the commission should note that. I'm also chair of the National Council of Self Insurers. So my submissions today are on behalf of the national council and then on behalf of self-insurers in the state.

PROF WOODS: Thank you very much. Do you have an opening statement you wish to make?

MR TURNER: Perhaps just by way of opening comment, a little bit of background about the National Council of Self Insurers. The National Council of Self Insurers comprises representatives from each state self-insurer organisations. The national council exists to pursue national frameworks and consistencies for self-insurers and to encourage best practice in occupational health safety and welfare, and in injury management in the respective states. The national council's submission at the Productivity Commission will therefore represent the views of the states and particularly national companies. However, there may be some areas in which the states may wish to - and will - make separate submissions.

The other part of my opening comments, I guess, is a bit about self-insurance. To put self-insurance in the context of occupational health, safety and welfare and injury management, it is really about self-management. I think it's about management of people as part of the normal business operation of an organisation. It seems to me that proper management of occ health and safety and welfare and injury contributes to the productivity and sustainability of an organisation. Self-insurers have a direct responsibility to look after their people and it also affects, of course, directly the bottom line. There are significant cost benefits in self-insurance in savings that are reinvested in the economy. Therefore I think it's important to encourage self-insurance in the industry of our economy and to support national frameworks in doing so.

PROF WOODS: Thank you very much. Do I take it that we will be receiving a submission?

MR TURNER: You will be, and in further preliminary comments, I guess, my discussion today is really to make some high level observations. Detailed submissions will follow and - - -

PROF WOODS: Soon?

MR TURNER: Soon. I would expect that probably the aim is by the end of July. Is that soon, in terms of the Productivity Commission?

PROF WOODS: That would be at the outside, because we have a draft report to produce by September and clearly if - - -

MR TURNER: Okay, at the outside. I accept that.

PROF WOODS: If your submission is not available in a timely manner then we can't fully absorb it and understand it and incorporate it therefore in our draft.

MR TURNER: Sure. I guess a reason for the delay is that we're taking this very seriously, so we've actually set about establishing a survey and that survey will be made available to all self-insurers, nationally and by state, so that we can actually pick up their input in some detail and provide some alternatives in our submission. I think when you get it - I know when you get it, it will be a very detailed submission. It will include case studies of several national companies and they are in preparation.

PROF WOODS: We do look forward to it.

MR TURNER: But for today, it's just those general observations.

PROF WOODS: Do you have a particular agenda you wish to follow for this morning?

MR TURNER: I do.

PROF WOODS: Please proceed.

MR TURNER: Would you like a copy of what I'm going to talk about?

PROF WOODS: That would be helpful, if you have a spare copy. I could follow where you are at. Thank you very much.

MR TURNER: What I did for the purposes of the presentation was actually to prepare a power point presentation. I was going to put that up, but without the facilities what I'll do is just cover the points.

PROF WOODS: Sorry, if we had known we would have been happy to have done that.

MR TURNER: But I do have a disk which I can give you and you can take.

PROF WOODS: Thank you, we'll accept that.

MR TURNER: So my issues really today are to discuss what might be a preferred model. This is all in the context of self-insurance, of course. To discuss issues concerning accessing, maintaining and exiting of self-insurance, to look at some inconsistencies between the states, to look at contribution fees and levies for self-insurers, to look at self-insurers in occ health and safety in detail, and again, to look - and then to look and make some comment about rehabilitation and redemptions and commutations. I guess these are all things that we're proposing as headings and will be part of our submission, but again in more detail in the submission.

We believe that current regimes do not reflect the changing nature of business, including globalisation. They're not adaptable to mergers, demergers and other predictable business changes and they do not enshrine the principles of regulatory efficiency. The national council therefore supports any model that would allow choice of regime, national application, external international standard setting and auditing, and consistent prudential regulation within mainstream Australia.

PROF WOODS: That's an interesting word "any" model. I am sure you'd qualify that with various parameters at some stage.

MR TURNER: In our submission?

PROF WOODS: Yes.

MR TURNER: Yes. I guess, just picking that up a little bit and going on to the next point - it was raised by the previous speaker interestingly - when I think you put to him, did he believe that a national workers compensation model could be possible. Pretty much I think he said no, because it was tried before but it didn't go anywhere. The heads of workers compensation authorities some years ago promoted a national workers compensation scheme but it didn't go anywhere - and I guess quite properly - because the particular states were concerned that their benefits would be changed to suit the benefits of a national scheme. So I guess it didn't go anywhere.

However, I guess in our submission we'd be saying that there is no reason that we shouldn't revisit it and relook at it again. Our preferred model would be a model which would cover occupational health and safety and workers compensation right across the country and that companies with common ownership should have one licence. At the present time we have companies operating in different states with the same parent ownership, but subject to different rules and regulations. We believe that if there is common ownership then they should be able to have one common

licence.

PROF WOODS: Just on that point, clearly you're making the point that if their prudentials are sound and it's common ownership then those prudentials apply wherever their employees are, so that point is readily observable. The occ health and safety performance, though, by common ownership we're picking up not only single industry national bodies, whether they be retailers or miners or wholesalers, we're also picking up some conglomerates who have very different industry activities in different jurisdictions, and in those cases you can't necessarily assume that the one occ health and safety standard that's applying in one part of their ownership group necessarily applies to other activities that they may commonly own. How do you get around that problem?

MR TURNER: No, but I think it's about risk management, and I think it's about having performance standards and occupational health and safety standards which apply to that particular industry.

PROF WOODS: Sure, but if in a particular industry they are not one of the better performers and in fact are below par, does that mean therefore that their whole company structure should therefore be excluded from self-insurance? I mean, presumably they're the twin tests, though - prudentials and occ health and safety performance.

MR TURNER: Yes.

PROF WOODS: So if they fall down on occ health and safety performance in one part of their conglomerate existence, should that - and it's below industry standard for that particular industry, et cetera - would that therefore carry right through and they be denied self-insurance right across their - - -

MR TURNER: I think they should meet the standards for that particular part of their industry.

PROF WOODS: And otherwise bear the consequence? Very good, thank you.

MR TURNER: I guess, if we're talking about national compensation and taking the points that we have started to discuss about should there be a national compensation scheme, to us and to self-insurers if we do agree that a national compensation scheme, if indeed it's going to happen - might be some way away - then there are some things under that that could be pursued, such as mutual recognition for self-insurers such as consistent licensing agreements and consistent licensing arrangements, consistent auditing and consistent standards of performance. So that it seems to me that mutual recognition would provide the ability for an organisation, if

it was a national company, if it were to a self-insurer subject to the terms and conditions so far as the legislation is concerned in each particular state.

PROF WOODS: So in fact you could have a part national model that said that you're prepared to accept the benefit structures and other characteristics - whether they have common law or not, whether they have a journey to work or not - of the individual jurisdictions provided that if you meet the prudentials and the occ health and safety standards, you can be a self-insurer in all jurisdictions but that you have identified a series of components of the schemes where you would like to prioritise for national harmonisation, such as audit and other characteristics.

MR TURNER: As an interim step, perhaps.

PROF WOODS: If you could spell those out in your submissions in terms of which ones are of the most importance to you and what you observe as being the impediments so that in effect you could have a series of implementation steps, because again I consider that this inquiry may not come down with a single answer that says, you know, "Here is the new perfect scheme that will last forever" - such an approach I suspect is fairly naive - but an implementation path that prioritises the more important issues is worth considering in some detail.

MR TURNER: Our survey to self-insured organisations is such that it will certainly identify the various options and the various steps but I take on board the implementation path.

PROF WOODS: Thank you.

MR TURNER: Some of the key problems now are access to self-insurance, and one of the frustrations certainly for national employers and for employers wanting to invest in the country is that access is different in each state and problematic in terms of changes. For example, the licensing criteria for self-insurance is such that in Queensland an organisation needs to employ 2000 people and yet in South Australia, it needs to employ 200 people. So we see some inconsistencies there: whether that figure would go up or down if we look at a pure employee-number model. We really believe that employment numbers as a criteria is really an arbitrary hurdle and that the true measure should be prudential capacity only. This could be overseen by APRA or ASIC.

PROF WOODS: Prudential only or is occ health and safety performance relevant in there as well?

MR TURNER: And occupational health and safety performance, yes, and I'll come to standards of performance. But the rest really should be a business decision for a

company. In other words, if the company is prepared to make the commitment to managing its occ health and safety, then it should be able to self-insure. One issue, and I'll talk about it in a bit more detail when I come to my presentation for SISA in South Australia - - -

PROF WOODS: Why is that?

MR TURNER: - - - is that we don't believe that the minister should have power to withhold a licence to self-insure.

PROF WOODS: Other than in accordance with the act?

MR TURNER: Other than in accordance with the act, and there has been an issue for us recently in South Australia where we were concerned at the minister's involvement. This involved a large national company that had met all the performance standards as were prescribed. We have problems with audits. Some states require a renewal of self-insurers' licences subject to audit - in some states; I believe most states - but there are issues with how the occ health and safety audits are conducted. Duplication is endemic, both between the internal auditors and external audits, so it's that question about if self-insurers need to be subject to audit or have to be subject to audit for occ health and safety - and I believe they should be - then who should be doing those audits and where is the appropriate area for that?

PROF WOODS: Presumably management would be compiling the data and managing on the basis of that anyway, so we may be talking about what is the appropriate risk-management approach of external audit to minimise intrusion but maximise its effectiveness?

MR TURNER: Yes, and there is significant cost to organisations of having to meet different criteria in different states.

PROF WOODS: I don't think it's an either/or. It's just a matter of what's the most efficient way of pursuing it and any further view you've got on that in your submission would be helpful.

MR TURNER: One of the key problems for self-insurers nationally, and certainly for South Australia, is our contribution to levies. As self-insurers we understand and accept that we are required to pay a levy. We meet the cost of our own claims. But we're also required to pay a levy towards the administration costs of our particular regulators.

PROF WOODS: Including contributions to occ health and safety through those levies?

MR TURNER: Through those levies.

PROF WOODS: Presumably you have no difficulty in meeting an appropriate level of contribution on occ health and safety?

MR TURNER: No. No, we don't. The difficulty is, what is an appropriate level and how is that assessed? I think that if we look at the respective states and again speaking from a self-insurer aspect obviously, the self-insurers in all the states are frustrated. So we would see that one very important thing for us would be to have a consistent method of calculation and transparent method of calculation of that levy, which could be done under a national compensation scheme and would be done in effect under a national compensation scheme.

PROF WOODS: Transparency being part of best practice?

MR TURNER: Part of best practice. Occupational health and safety - our members, our self-insurers are telling us that in some states these are intrusive and costly and it seems that some self-insurers say that they spend so much time and money in complying with specific occ health and safety requirements that they do little more than that.

PROF WOODS: Presumably though a self-insurer would want to ensure that its practices are at least the minimum if not more than the minimum of the individual jurisdiction's regulations. I mean, it's in your self-interest to be better than average.

MR TURNER: Absolutely, and we believe we are and we believe we should be and we would always aspire to be.

PROF WOODS: So why does it become intrusive then, if you're always achieving better than - - -

MR TURNER: Well, because I think the various regimes take little notice of best practice safety systems which have been introduced by self-insurers.

PROF WOODS: Is that because there is some debate as to whether what's in the regulation versus what is the practice of the company - - -

MR TURNER: Versus what is the - and what is risk management and whether or not the particular occupational health and safety system is relevant to that particular organisation, so it's really about risk management and it's really about assessing the risks and putting in place systems to address the risk for your organisation.

PROF WOODS: I think the workers may redefine that not so much as risk management but as in protecting the health and welfare and safety of workers. Are the two necessarily synonymous?

MR TURNER: It's most important.

PROF WOODS: Or could there be a suggestion that risk management is sort of some economic concept rather than fundamental occ health and safety.

MR TURNER: No. I think compliance is part of risk management. Compliance is part of risk management but we need to establish systems which apply to our particular organisations.

PROF WOODS: Do I take it from that that you'd promote guidelines that are outcome oriented?

MR TURNER: Very much.

PROF WOODS: As distinct from regulations that are prescriptive in terms of heights of rails and weights of loads and - - -

MR TURNER: As I believe we have done in South Australia with our exempt employer performance standards. I believe they could be used as a model because they are based very much on the Australian standards and we would promote national standards based on Australian or international standards.

PROF WOODS: At the moment we have a national framework - in fact, we have a national strategy that's been signed up by all jurisdictions. We have the national commission, which produces guidelines. Yet when it gets to the individual states, we find each - not in all cases but in some cases - then interpret those in accordance with local conditions or trade-offs or whatever is the reason - and there are very many - as to why they then tend to differ. To some extent - and we had this debate with the previous participant - if that leads to a dynamic efficiency of striving to improve and each jurisdiction learning from the other, then there's a positive. If it merely is a source of cost and diversity then we'd be interested in your views as to which of those two models it more closely represents but also what are the actual costs that you incur as a consequence of the different occ health and safety regs and the like, because maybe if they're not high, then the diversity argument wins.

MR TURNER: Obviously I can't give you specific costs today.

PROF WOODS: Not yet, no.

MR TURNER: But certainly we would support the NOHSC strategy. We think it is going in the right direction and we would support a strategy that aims for continuous improvement. What we want to see is that occ health standards are rationalised right across the country.

PROF WOODS: But do they necessarily need to be exactly the same or do they need to be consistent?

MR TURNER: They need to be consistent.

PROF WOODS: Is there then a quantum increase in efficiency and cost reduction if they are the same - ie, that there's template legislation so one state introduces the new wine industry based occ health and safety standards - eg, South Australia, or Tasmania with forestry or abalone diving or whatever it is - and then that's rolled out, template form, across all other jurisdictions?

MR TURNER: For that particular industry.

PROF WOODS: So that's one approach.

MR TURNER: That's one approach.

PROF WOODS: But what I don't understand is what is the cost differential between that and the current system where you get a national guideline and then there's interpretation of that in each of the jurisdictions. If it's a big cost it's an issue, if it's not a big cost then we need to look elsewhere.

MR TURNER: Exit criteria are just as ad hoc for self-insurers as entry criteria and they raise some cost issues. We'll be commenting on criteria to exit. It seems to us that every time a scheme is in financial trouble and the pressure is applied to self-insurance to be constricted and potential premiums are looked at to overcome difficulties. We believe that schemes are not in trouble because of self-insurers and that if the liabilities of self-insurers were to be taken up by the schemes, then the schemes would probably be in more difficulty. So we're managing our own liabilities.

PROF WOODS: You are. Presumably when a newly self-insuring body does leave a premium pool scheme that it takes its liabilities with it.

MR TURNER: Exactly, yes.

PROF WOODS: You've got no problem with that concept.

MR TURNER: Yes.

PROF WOODS: But no doubt there will be representations made to us, particularly in some of the smaller pool states, that if all of those bodies do exit, what's left is not necessarily a viable pool.

MR TURNER: Sure, and I think that's an issue.

PROF WOODS: A fundamental one.

MR TURNER: A fundamental issue, but I think it's not - as I hope I've indicated - just as clear as saying if you take a lot of income out of the pool - a lot of levy out of the pool - you've got to balance that by saying you also take a lot of liabilities out of the pool because your liabilities affect the fundings.

PROF WOODS: But there would be a self-selection process; that those who think that they can win against the pool leave; those who are in there because of their performance are prepared to take the premium instead. I mean, I can see a spiralling situation where self-selection takes out the better performance, leaving the poorer performers in the pool which adds to the cost of the pool and - - -

MR TURNER: Then there's some work to be done with the poorer performers, I guess, but as self-insurers we believe that we are the better performers and so self-management is part of the normal business of our operations.

PROF WOODS: Okay.

MR TURNER: So we believe that inconsistencies arrive and the submission will detail the inconsistencies in a fair bit of detail; however, mostly they relate to aspects of workers compensation and OHS. National companies are confronted with a patchwork of compliance requirements which seem to be justified just by the regime they fall under, rather than a rational and national approach. Interestingly, just the other day one large national transport company, obviously operating across states - in different states - has its employees wear a different colour according to what state they're employed under, so that they can be easily identified in the event of a claim. We think there are some issues there. We have some concerns with - and this is probably in excess of loss insurance - obtaining that excess of loss cover - - -

PROF WOODS: Is that getting any easier, or is the market hardening further?

MR TURNER: It's not getting any easier at the present time. Of course, cover for acts of terrorism - there are some states who have agreed to an approach whereby they will underwrite acts of terrorism on the basis that they would be reimbursed in

the event of an act of terrorism occurring. Other states seem to say it's a federal government issue and the federal government doesn't seem to want to recognise or to take into account workers compensation. It's an issue for us.

I wanted to say something about rehabilitation and just make a point that early intervention and return to work are the cornerstones of successful self-management. I think there's no doubt about that and everyone would agree with that. But if a claim is made and that person is not looked after and given immediate rehabilitation attention, then if it goes on too long, then the outcome is not going to be there. Self-insurers, I believe, respond quickly to injured workers' needs through the provision of in-house vocational rehabilitation. It's in our best interests to do so. Where necessary we do work well with private rehabilitation companies.

PROF WOODS: What is the general opinion of your workforce, though? Could that be interpreted by some parts of your workforce as undue pressure to return to work - ie, you are employing company doctors who are receiving their remuneration? I mean, I know everyone has access to their own doctor as a matter of course, but nonetheless if the company doctor is there and is also involved there are some benefits in that they understand the industry and they understand the particular circumstance that the employee works in. But is there a possible perception by some workers that this leads to bias and undue pressure on them for earlier return to work than is appropriate?

MR TURNER: There may well be, but I don't think we're talking - I'm not referring to company doctors here, I'm referring to vocational rehabilitation. It seems to me that if, as part of the management process, the employer is prepared to make all reasonable steps immediately to return the worker to work, then that's got to be the best outcome for both the employer and the employee.

PROF WOODS: All right.

MR TURNER: Having said that, the view of our national organisations is that redemptions are desirable if properly arranged and ensuring that workers are fully aware of the consequences and advised appropriately. I guess from a business perspective, to us it's important that redemptions are readily available provided all the appropriate steps in the rehabilitation process have been taken before that particular stage.

PROF WOODS: Can I just go back to this other point, though: presumably you have employee involvement in various levels of management consultation in the various self-insuring companies.

MR TURNER: Yes.

PROF WOODS: Are you getting any feedback through that mechanism that on occasions employees are unhappy that self-insurers exert undue pressure to return to work?

MR TURNER: I think there will always be that feedback in particular cases, but I don't think it's general. I don't think it's general. In South Australia we made a significant submission to the Stanley review and one of the issues there was that - or one of the suggestions was that self-insurers should be precluded from employing in-house rehabilitation advisers and we responded to by providing some specific examples of the availability and service provided by our in-house rehabilitation providers that couldn't be provided, because of logistics reasons, by external providers. We still believe that's preferable on balance. On balance, if we're managing it properly, then we should be managing our rehabilitation properly.

PROF WOODS: One issue that has been raised with us about self-insurance is that it removes the third party element. All that we speak to unanimously - I think I can say unanimously - support early intervention.

MR TURNER: Yes.

PROF WOODS: As the most appropriate support for an injured employee. Some systems where there is a third party involvement requires the acknowledgment of liability before action will be taken and that in itself, in some cases, can be as short as two days or, in some cases, can be many weeks particularly if the employee themselves have gone on sick leave first and then determined that it is a workers comp claim and then that goes to the employer and that goes to the insurer, who then investigate, and so it goes around and around. So you in fact may not be introducing any intervention until some time down the track, by which time there's been disengagement from the workforce, et cetera.

But with self-insurance you don't have that question of whether or not you'll accept it as a workers comp claim in a strict sense. I mean, you would still presumably ultimately determine whether the degree to which the company is liable for medical expenses et cetera, but putting that aside, do you have a more immediate intervention because you don't have that third party process to go through?

MR TURNER: Absolutely, and I guess that's one advantage of self-insurance, that we can manage the injury and not immediately manage the claim. So if I'm understanding you correctly, I am agreeing with you. I have a view, and I guess it can be a personal view, that workers compensation and occ health and safety and injury management is not about insurance. As I said in my opening comments, it's really about managing people. If I lose my watch or have an accident in my car then

I'll go and see an insurance company, but I believe that the insurance - I'd better be careful here, because I'm not really pointing at insurers - no, I just believe that workers compensation and injury management is a fundamental part of the operation of an organisation. It's as important as whatever they exist to do, and so it should be integrated and picked up as part of that process. Early intervention can occur through self-insurance and must occur.

PROF WOODS: You used the word "integrated". Does that lead on to then the importance of a feed-back loop - - -

MR TURNER: Absolutely.

PROF WOODS: - - - from injury back to work safe practice?

MR TURNER: Sure. I think integration in two ways: hopefully I've indicated the integration in terms of the normal business operations of the organisation, but also integration of the management of injury and occupational health and safety. I don't think they can be managed in isolation. We come back to that risk management approach, so there is a loop back, and that through data and information we're understanding what's happening so that we can put in place systems to make sure it doesn't happen again. That's what we should be doing and I believe our performance standards in South Australia, which I'll talk about in the SISA submission, require us to do.

PROF WOODS: Would you be surprised if we went to some jurisdictions a little further away from South Australia that said one self-insurer is too many? Would that be a view that would be a surprise to you?

MR TURNER: It would surprise me.

PROF WOODS: So you would think that all jurisdictions and those participating in them would welcome self-insurers and encourage them.

MR TURNER: That comment would surprise me. What wouldn't surprise me is if you went to another jurisdiction a little bit away from here and they said, "We're not interested in occupational health and safety."

PROF WOODS: A separate question.

MR TURNER: Yes, that's what I thought you were going to ask me about.

PROF WOODS: No. All right, let's continue.

MR TURNER: Finally, just a couple of lines on dispute resolution: we believe that in the process legal costs must be minimised, and we would support conciliation approaches. We believe that conciliation works and should be supported.

MR TURNER: The Workers Compensation Commission in New South Wales, is that providing a new way through and a useful model?

MR TURNER: I'm not sure about that.

PROF WOODS: The dispute resolution. You're not across the details.

MR TURNER: I'm not across the detail of that, but we have made suggestions to the Stanley review in South Australia along those lines. Can I put my other hat on now?

PROF WOODS: You can put your other hat on. South Australia.

MR TURNER: I also thought I would deal with some South Australian issues for you and just set the scene for SISA in South Australia and some of the things that we're doing in South Australia which I believe could be integrated in or be part of a national best practice or better practice model, and again I make high-level observations today and detailed submissions will follow. I've also brought along copies - if I can give them to Ross - of our submissions to the Stanley review.

PROF WOODS: Yes. Thank you, we would appreciate those.

MR TURNER: I think we made some worthwhile suggestions there, and some of those things have been picked up, such as the establishment of SafeWork SA Authority, and we've supported that to some extent. The issues again for discussion today, just quickly, are to give you a state profile, I guess to indicate some initiatives where self-insurers have led and resolved problems, working in partnership with WorkCover, and to talk about perhaps a couple of our current issues just to make you aware of those. It's interesting that in South Australia 40 per cent of remuneration is with self-insurance or exempt employers.

PROF WOODS: That includes government departments?

MR TURNER: That includes government.

PROF WOODS: What's the split between government departments and others?

MR TURNER: 40 per cent again.

PROF WOODS: What, 40 per cent are government?

MR TURNER: Yes.

PROF WOODS: So 60 per cent of the 40 per cent are private.

MR TURNER: Yes, that's right.

PROF WOODS: That brings it down a little closer, but even so I think you've got, what, 66 employers?

MR TURNER: 70 employers.

PROF WOODS: 70 employers. I think the next closest state is probably only about 50 or so.

MR TURNER: Something like that, yes. I think New South Wales have about 60, but in percentage terms it's different.

PROF WOODS: It was New South Wales I was thinking of as the next closest.

MR TURNER: Yes. Unlike other states, we actually employ our resources to manage the activities for self-insurers. I'm the only full-time employee of a state association in Australia. The other states don't have that - as secretary.

PROF WOODS: Which is why you get to be federal chief chook as well!

MR TURNER: That's sort of how it came about, yes - something to do with time probably. So the role really is to manage the relationship with WorkCover and other regulators and to introduce benchmarks and protocols to moderate the relationships, but we do work very closely with WorkCover and we believe that's important and we are recognised in the legislation as the consultative body for self-insurers in South Australia.

PROF WOODS: Yes, I saw that.

MR TURNER: So we play a role in promoting best practice in occ health, safety and welfare, in facilitating the exchange of ideas and practical solutions. We deal with complaints with WorkCover and work on methods of evaluation and performance standards. We have associate members, their organisations representing all aspects of workers compensation and occ health and safety, and they regularly present to members at regular general meetings. So we're on about dealing with WorkCover on particular issues and we're also on about promoting best practice in

the management of occ health and safety. I think that, probably due in part to this proactive activity on the part of the association, self-insurers in South Australia have fewer injuries, fewer claims and better return-to-work rates than registered employers.

PROF WOODS: Is that partly a function of size and partly a function of self-selection, though?

MR TURNER: Probably partly. I've said "due in part".

PROF WOODS: Finding data in this field for some good research is just a little problematic.

MR TURNER: My next point, which I've written down here, is that we need better comparative data.

PROF WOODS: Absolutely.

MR TURNER: We really struggle for good comparative data. We're actually keen to work with and support the NOHSC strategy and data collection and we're looking at doing that through a couple of our subcommittees.

PROF WOODS: There isn't any data initiative here in South Australia, is there?

MR TURNER: No, there's not. We are required as self-insurers to report under the fourth schedule of our legislation, but it seems to us that we report a lot in and we don't get too much back.

PROF WOODS: So you are required to comply, but you're saying that what you get out of the back end is not - - -

MR TURNER: We could get more, yes. I think both organisations agree on that. What I will give you as part of our submission is the indicator that we do get, which shows the trend line that self-insurers are consistently below registered employers. We believe that's got to do with the proactivity of the way that we manage our process, and no third party intervention.

Some of the initiatives that we have established in South Australia that I think could be picked up in a national framework: we have an EERA fund, an Exempt Employer Reserve Account fund. It was established in 1996 following a review as to the security of the compensation fund. That protects the fund in respect of any exempt employer going out of business.

PROF WOODS: This is an insurer of last resort?

MR TURNER: Yes. Exempt employers contribute to the fund at the rate of 1 per cent of their non-exempt levy per annum.

PROF WOODS: You're currently paying a levy of, what, 5.75?

MR TURNER: 5.5, yes.

PROF WOODS: So is this an additional 1 per cent?

MR TURNER: It's an additional 1 per cent which we contribute to the EERA fund.

PROF WOODS: So it's actually a funded fund; real dollars being invested.

MR TURNER: Funded in real dollars, managed by WorkCover, and returns reinvested, yes.

PROF WOODS: You're getting into returns?

MR TURNER: Well, if there are returns.

PROF WOODS: No returns recently?

MR TURNER: No. Put a full stop after "managed by WorkCover". But it is an important initiative. We were talking earlier about performance standards. We also developed, with WorkCover in 1998, a set of self-insurer performance standards.

PROF WOODS: What do they cover over and above your occ health and safety regs?

MR TURNER: They require standards in injury management and in systems. It gets back to the discussion we had before about systems versus compliance, and the self-insurer performance standards are based very closely on the Australian standards, AS4804, 4801. They require us to have systems in place which integrate the management of OHS and workers compensation and which assess risks, put into place practices to eliminate the risks, and then continuous review and improvement. We believe they have been largely successful because they have encouraged the establishment of risk management systems according to the workplace. We would propose that those sorts of performance standards and that sort of framework could be established in a national framework.

PROF WOODS: Your colleagues in other jurisdictions, though, are hopeful that

those jurisdictions would see the light?

MR TURNER: Yes. My colleagues at the national council level, yes. Another important initiative for us that we established was around medical communication. We touched on company doctors. We are not advocating company doctors but what we are saying is that - - -

PROF WOODS: Although some of your members have company doctors.

MR TURNER: Some members have them.

PROF WOODS: In some cases, where they're in remote areas and that, it makes some sense.

MR TURNER: It may work, it may not, yes. But we're saying that, in any event, treating doctors need to understand workplace environments to be able to make informed assessments. We've actually worked very hard to put together a protocol and we got sign-off by the AMA and by WorkCover, with us, to establish what we called an improved communication process. If one of our members has a particular medical problem - and it might be only a trifling medical problem which - - -

PROF WOODS: Sorry, "one of our members", "one of our employees"?

MR TURNER: Sorry. "One of our members" being one of our self-insurers, so I'm talking about a member of SISA - has an issue with a medical problem - - -

PROF WOODS: Presumably the company isn't sick.

MR TURNER: Yes. Well, the employee has an issue, there's a problem with a claim which is not dealt with, and it can be easily resolved by getting the parties together. We have an agreed protocol where that can happen and that's been successfully operating for three years now without resorting to litigation.

PROF WOODS: Although that's been agreed at AMA level, how do you find it at the individual doctor level?

MR TURNER: Good. In the cases where we've accessed it, we've found that it works very well, and we have found when we've got the individual doctor at the table with the employer on the other side of the table, and the AMA, there have sometimes been some misunderstandings on both sides and it's resolved.

So what lessons can we learn for a national scheme from SISA? I guess any new scheme should include recognition of self-insurer representative bodies and

formalise the relationships. This would engender certainty and business confidence as well as improve OHS feedback on best practice.

Current issues - and I mention the levy contribution again because it is an issue for us. We have a fixed three-year agreement on a particular rate on our levy until a more consistent transparent formula can be negotiated.

PROF WOODS: Are you still on a pathway to 7 per cent?

MR TURNER: We still are on a pathway to 7 per cent.

PROF WOODS: But the 5.5 was - - -

MR TURNER: The 5.5 is a rebate from the 7.

PROF WOODS: Okay.

MR TURNER: Subject to meeting particular conditions, which we do. The fact that we don't have a consistent and transparent formula we don't think is satisfactory and we think it certainly reduces business certainty in the state. We do have a previous example of intended sharp increases in the late 1990s, where that resulted in threats of major multinational companies leaving the state and the country if it couldn't be resolved.

PROF WOODS: I read what you say, but when you look at premium costs as a percentage of total wage costs, wage costs as a percentage of total company costs, we really are talking a fairly small part of a percent, and the costs of closing down operations and relocation - quite a few decades to write off the benefits you'd be achieving. How real are those?

MR TURNER: I think they are. We can perhaps give some examples in our submission in some detail.

PROF WOODS: That would be helpful.

MR TURNER: You might be talking part of a percent, but that converts to quite a bit in dollars for an organisation.

PROF WOODS: I understand that, but there are also very large costs in closing up shop and relocating.

MR TURNER: Sure.

PROF WOODS: I just want to make that clear: the trade-off that you are proposing there. I'm not suggesting it's not a real perspective. I'd just like to quantify it a little.

MR TURNER: The other current issue for us - and I did touch on it before - is the freezing of exempt licences.

PROF WOODS: This is a particular case you were thinking of?

MR TURNER: It was.

PROF WOODS: Has that been resolved.

MR TURNER: Up to a point, yes, it has.

PROF WOODS: They're getting their self-insurance licence?

MR TURNER: With those particular organisations we are, but it raises concerns over uncertainty for the future for us, and we're still waiting to see what the future will hold for us. So a national option, I guess, is preferred to overcome susceptibility to local pressures.

PROF WOODS: That is an issue that needs consideration. Does that finish your South Australian - - -

MR TURNER: That's me finished, yes.

PROF WOODS: When you talk about a national scheme, you also make the point that you're prepared to accept many of the features of local jurisdictions, and I assume within that you mean whether common law is or isn't part, whether there are caps, whether journey to work is or isn't included and the like. So is preference 1 for a single national scheme to which you can apply and be part of?

MR TURNER: That's preference 1.

PROF WOODS: Preference 2 is national; provided you meet your prudentials and your occ health and safety standards, that you can roll out self-insurance, but subject to the vagaries of the individual jurisdictions. But sub-option 2(a) would be: but with common treatment of audit and of dispute resolution and whatever other priority things.

MR TURNER: Sure.

PROF WOODS: And 2(b) would be: take them as they are.

MR TURNER: Yes. I think also it's a matter of definition. I mean, you mentioned mutual recognition. Mutual recognition may mean different things to different people.

PROF WOODS: We actually have an inquiry into mutual recognition running in parallel. My colleague is conducting an inquiry.

MR TURNER: Sure. That would be option 2, I guess, but a stepping stone towards option 1 - an interim.

PROF WOODS: Okay, but if you had a prioritised implementation path in option 2 that said, "Well, let's work on harmonisation of certain characteristics first and then work our way through and leave some of the harder ones like common law or step-downs or - - -"

MR TURNER: The benefits would have to be worked through. I mean, that's quite clear. The important things for us are national licensing requirements, national auditing, the ability to benchmark nationally and those consistencies.

PROF WOODS: If we were to have a national scheme, in your view is it preferable and practical - I mean, let's work out what might or might not be achievable - to create a new scheme - where some might, in fact, accuse you of cherry picking the best bits, but putting that aside as not, indeed, the view that you would adopt - with characteristics that are not currently held by any scheme in existence or to adopt a currently existing scheme which you could then self-insure under but roll out across all jurisdictions?

MR TURNER: Yes.

PROF WOODS: One example might be Comcare, but maybe there are others.

MR TURNER: I thought you might ask me about Comcare. I just think that maybe the benefit structure of Comcare would need to be looked at and also some of those entrance arrangements, which I'm not totally aware of but we would look at in our submission. Look, I think it would be good to wipe the slate clean and start again and do that on a national basis.

PROF WOODS: When do you want this in by?

MR TURNER: I understand that. If we could do that, that would be our preferred option.

PROF WOODS: Preference 1.

MR TURNER: Yes, that would be preference 1. I say that because of the globalisation issues and the things we hear from national companies who say, "Look, we really would like one set of rules for our operations right across Australia."

PROF WOODS: Would you consider it likely that yourselves and other interested parties like employer collective bodies - the chambers, the unions and the various jurisdictions - could all sit down and agree the characteristics of a new scheme?

MR TURNER: I'd like to think it would be. I'd like to think we could all work together on that.

PROF WOODS: Is that a reasonably based surmise?

MR TURNER: I don't see why not.

PROF WOODS: Okay. Other than that then, picking up an existing scheme and self-insuring under that but having national coverage would be - if there was a scheme that was appropriate - - -

MR TURNER: If mutual recognition could be defined by saying, in very simple terms, that if we're a self-insurer and if there is a self-insurer in, say, Victoria and its head office is in Victoria and it operates in the other states in Australia, then it should have a licence to operate in those other states as well, subject - - -

PROF WOODS: Under the Victorian scheme - - -

MR TURNER: Well, either - - -

PROF WOODS: - - - or under the individual jurisdiction schemes?

MR TURNER: I would say subject, at this stage, to those particular schemes, but they have one self-insurer licence.

PROF WOODS: Okay, so the head office would determine, in consultation with the other jurisdictions, to make sure occ health and safety - - -

MR TURNER: Absolutely. The standards have to be there - common standards.

PROF WOODS: Yes, so provided that all jurisdictions were signing off that they were and continue to be appropriate in occ health and safety, but it would determine

the prudentials and wherever the head office was located.

MR TURNER: It seems to me that would be a reasonable thing to look at.

PROF WOODS: All right, but that doesn't get around your problem of then having different employees being treated differently according to the jurisdiction they happen to be in, so that an injured worker in one jurisdiction for the same injury would get a different level of compensation or treatment, and that you have to have your head office understand the costs of - - -

MR TURNER: Sure, but they would be required to meet standards of performance - - -

PROF WOODS: Yes.

MR TURNER: - - - which would cover claims management standards and injury management standards.

PROF WOODS: But not levels of benefit and the like. Perhaps that's not a big issue. Perhaps that's just a computer schedule that - - -

MR TURNER: To get it going, I don't think it is a big issue.

PROF WOODS: It would be very helpful to this inquiry to understand where the cost drivers for national uniformity really are, because if some of the lack of uniformity is resolved merely by having a computer based schedule that says, "All right, this is a West Australian worker; insert data; product schedule," then there's very little cost. But if it means that the company has staff who are trained in a particular occ health and safety scheme, you get a shortfall of staff somewhere else and you want to move some temporarily to somewhere else, but you've then got to go through a six-week training program to get them up to date, that strikes me as being a cost.

MR TURNER: Sure.

PROF WOODS: Just where those cost drivers are is very important in terms of which particular approach might be the most appropriate. If you could also look at schemes that might apply nationally - and, as I say, Comcare comes to mind, but may not be the only answer - that would be helpful.

MR TURNER: I can absolutely assure the commission that the submission we're putting together and the survey to our members will be most comprehensive and will cover those things.

PROF WOODS: Comprehensive and timely.

MR TURNER: And timely.

PROF WOODS: Absolutely. That's terrific. Self-insurance is terrific for the big end of town - to quote a phrase - but, inherently, small and medium businesses don't have the prudentials and have considerable variability in their occ health and safety standards, not that they're necessarily any worse than some large organisations in that latter respect. How does this help them?

MR TURNER: How does it help a smaller company?

PROF WOODS: It doesn't really, does it?

MR TURNER: It doesn't, no.

PROF WOODS: It doesn't address their needs at all.

MR TURNER: Well, it doesn't address their needs in that sense, I guess. I mean, I'm clearly putting a case for self-insurance and that's my job, but - - -

PROF WOODS: That's good.

MR TURNER: - - - I believe that, certainly, it could affect them with regard to picking up some of the best practice and better practice initiatives adopted by self-insurers. If you ask me how that would happen, I don't know, but self-insurers need to be leaders in areas such as early intervention and return to work. I mean, the medical conciliation model that I mentioned - I believe it works and I believe it could be picked up, whether you're a large or small employer.

PROF WOODS: Okay. You could say that there would be some collateral benefit, in that they could pick up on some initiatives that you could drive.

MR TURNER: Yes.

PROF WOODS: But this inquiry necessarily addresses all employees - all workers, all employers - and we may be finding a partial solution for one sector through this approach, but it - - -

MR TURNER: I think it's also important to identify that not all self-insurers are exemplary managers.

PROF WOODS: Yes. I'm not making that assumption, I can assure you.

MR TURNER: But I believe that if we do it properly we have the means to be.

PROF WOODS: Okay.

MR TURNER: And the incentive, of course.

PROF WOODS: But this inquiry must still consider and recognise the needs of the SMEs and we have some way to go in dealing with them along this path. Are there any other matters that you want to draw to the attention of this inquiry at this point?

MR TURNER: Not from me, other than to say that you will receive a comprehensive and timely submission.

PROF WOODS: We don't want to compromise its comprehensiveness, but we do encourage it to be as timely as is possible.

MR TURNER: Sure.

PROF WOODS: Thank you very much for your very valuable contribution and we look forward to your ongoing cooperation.

MR TURNER: Thank you.

PROF WOODS: At this point, I'll adjourn for morning tea and, provided our next participant is here in time, we might resume at 10 to 11. Thank you very much.

PROF WOODS: Thank you. If we can resume the hearing. Our next participants are Mr George Hallwood and Mr Andrew Beckmann from the Rehabilitation Providers Association of South Australia. Could you please, for the record, state your names, the organisation and your position within the organisation.

MR HALLWOOD: I'm George Hallwood and I'm the president of the South Australian Rehabilitation Providers Association.

MR BECKMANN: Andrew Beckmann, vice-president of the South Australia Rehabilitation Providers Association.

PROF WOODS: Thank you very much. Thank you for coming to these hearings. Do you have an opening statement you wish to make?

MR HALLWOOD: Probably we'll be presenting today from the South Australian perspective. The South Australian Rehabilitation Providers Association, SARPA, is the industry body that represents the majority of provision of rehab services within South Australia, and it represents about 80 per cent of the WorkCover total of rehab services, much less a percentage of the self-insured in South Australia, and that represents a fairly large part of the market here.

We're affiliated with ARPA, the national body, so we'll leave most of the really broad issues to ARPA to present. However, there are a number of things about the South Australian scheme that we support and a number of things about the South Australian scheme that we've seen haven't worked over the years, and we'd like to present to the commission our perspective, the South Australian perspective, on those things.

PROF WOODS: Thank you very much. I've just been provided with a copy of your submission, so you will excuse me for not having read it.

MR HALLWOOD: Certainly.

PROF WOODS: Last night would have been good. Today does make it a little tricky. Short of reading it onto the record - because it will now go onto the record as such - but if you could draw on the key points from it, that would be helpful.

MR HALLWOOD: All right. There are a number of principles of the South Australian scheme in the first instance that SARPA supports, and I suppose firstly that there ought to be a scheme that's regulated, and whether it's run by the state or not is a separate issue but - - -

PROF WOODS: By "the scheme", we're referring to the occ health and safety - - -

MR HALLWOOD: The workers compensation scheme. Our focus is probably more on the workers compensation side.

PROF WOODS: Workers comp than on health and safety, okay. So a scheme, although that need not necessarily be a centrally premium pool run scheme.

MR HALLWOOD: No.

PROF WOODS: But a regulatory arrangement?

MR HALLWOOD: A regulatory arrangement provided by the state, and whether it's at a national or subnational level doesn't matter to us either.

PROF WOODS: Okay.

MR HALLWOOD: The principle of no blame ought to be maintained. I know some of these things seem fairly obvious but - - -

PROF WOODS: No. There's still considerable debate about common law and - - -

MR HALLWOOD: Certainly if practicable, common law ought not to be maintained within the scheme. The South Australian scheme works very well without common law, in our opinion, although we do understand some taxation rulings that are imminent that may make it difficult for common law maintenance.

PROF WOODS: Can we come back to the common law issue and what drivers of rehabilitation that does or doesn't engender?

MR HALLWOOD: Certainly, yes.

PROF WOODS: Thank you.

MR HALLWOOD: The rehab focus should be one of restoration and recovery. In the South Australian act, achievement of best practicable levels of physical and mental recovery and, where possible, restoration to the workforce and the community are the central objects of rehabilitation, although we'll also get to whether that's the reality in South Australia these days, and we don't believe it is. Also, secondary and unrepresentative claims shouldn't directly impact on employers' levies. That's something that's fairly unique to South Australia that has an impact on rehabilitation.

PROF WOODS: Are you going to expand on that a bit?

MR HALLWOOD: Perhaps I could do that now.

PROF WOODS: Yes, that would be helpful.

MR HALLWOOD: In South Australia, where a claim is an aggravation, acceleration, degeneration of a previous injury, the impact of the levy is on the industry rather than on the particular employer when an employer has a claim that's related to a secondary disability. In South Australia we find that it's a lot easier to return an injured worker to the workplace if the employer knows that any aggravation of their previous injury is going to be classed as a secondary claim and will not impact directly on their own levy. The same with unrepresentative claims: workers injured during a recognised break, where they're not supervised by the employer.

The requirement for injured workers to maintain mutuality and participate in rehab are fairly central to rehabilitation. Also the obligation on employers to maintain mutuality and provide suitable duties for injured workers is pretty central to a scheme that will achieve - - -

PROF WOODS: Can I pick up on that one. Many businesses are small businesses. If you're running a sheet metal workshop of five or six employees producing garages or sheds for gardens, offering partial return to work through light duties doesn't seem overly practicable in many areas. How do you cope with that? I know we've got the RISE scheme which says that you can have a third employer and the like, but what's your solution there?

MR HALLWOOD: If an injured worker has any likelihood of regaining capacity to return to that sheet metal shop, then it's important for rehabilitation to focus on realistic work that's within the worker's capacity initially.

PROF WOODS: And within the competence of the employer to be able to offer it.

MR HALLWOOD: If we look to that pre-injury employer to provide the work, it doesn't necessarily follow that looking to that pre-injury employer for suitable duties for the injured worker is the right way to go. The nature of their injury may dictate that there's really nothing suitable with the pre-injury employer, and the most suitable option may be to have some work training in another place till the injured worker is at the stage where they can return to the pre-injury employer, but the focus always ought to be on the earliest possible return to the pre-injury employer. So as long as the scheme allows for placement in other options while a worker is recovering, if those other options are useful for their restoration and recovery, then that's what rehabilitation is all about.

PROF WOODS: That's the theory. What happens in practice?

MR HALLWOOD: In practice in South Australia, at the moment probably a focus on pre-injury employer at all costs up to a certain point, and then complete abdication of pre-injury as a possibility after a certain point, and that point is dictated by validation officers of WorkCover that say yes or no to whether the employer has the capacity to provide duties for the injured worker, so I think probably a more flexible structure than one that's purely linear, with a point in time where a validation officer makes the call. I think retaining an obligation on employers to provide suitable duties with the flexibility for even job seeking for an injured worker, because sometimes it's touch and go whether they can return to their pre-injury employer.

It may be a really sensible option for them to find some alternative duties and provide them with a further option, but the current scheme doesn't allow even for that, and in fact sometimes you may have a job that's most suitable for the injured worker to just move into a new job but the act really only allows rehabilitation to provide a pre-injury focus up until it's validated, and the job might disappear if he waits for validation.

PROF WOODS: I don't know to what extent you've dealt with that in this submission but if there is a need for additional coverage of those return-to-work issues at a practical level, could you follow up for us and provide some supplementary material?

MR HALLWOOD: Certainly.

PROF WOODS: Because this inquiry must cover the needs not only of large employers who have a range of jobs and infrastructure and overheads, but also the vast majority of small or medium businesses that don't have those resources or that flexibility, so we're looking for practical solutions, not only what the act provides or what the best practice model might be.

MR HALLWOOD: Okay. Partial incapacity should be deemed to be total incapacity for a reasonable period of time. In South Australia two years is deemed to be the reasonable period of time before partial is deemed partial, and the levy system should encourage prevention of work injury. I suppose that gets into preventions but it's also something that impacts on rehabilitation to a small degree. As well as those being scheme principles, there are a number of important principles that are specific to rehabilitation practice: early intervention, including assessment and service delivery, and rehabilitation generally in the broad context includes medical, rehabilitation, functional capacity, motivational rehab, dealing with industrial issues, assisting with skills and knowledge in the workplace, and environmental factors at home and in the workplace in relation to accommodating injury.

PROF WOODS: Sorry. On that - this may be the most productive way we go.

MR HALLWOOD: Yes, certainly.

PROF WOODS: You going through the agenda and I constantly interrupting you. When you're talking about environmental factors, one of the growing areas of claim is stress. Some of that arises from the response of an injured worker to an injury and the subsequent pain that is associated with it, but their response is not something usually largely under the control of the employer, because what they bring to the position and bring to their employment is a whole psychosocial background, and therefore their reaction to the pain that was induced as a consequence of an employment related injury in itself is unrelated to the work environment but may be due to domestic factors, may be due to early childhood, a whole range of things. How do you deal with that and to what extent is it reasonable to have the costs of remediation impact on the employer for something that the employee in effect brings with them to the workplace?

MR HALLWOOD: Probably from a rehabilitation perspective, determination of the costs isn't something that we should respond to in relation to that. However, what I would say is that also from a rehabilitation perspective we deal with psychological issues in almost the same way as we we'd deal with physical issues, and so that would mean that if somebody brings to the workplace a congenital condition that makes them more susceptible to a lower back injury or they've had a previous work injury in a workplace that makes them more susceptible to a further back injury, then what we would do is deal with the environment to see if we can do something with the environment to change it so that it accommodates that injured worker back into the workplace environment.

If it's a stress injury and external environmental factors are impacting on their ability to return to work, then we would work with both the external factors and the workplace factors to remove the barriers for the injured worker to get back to work. Now, that will mean some costs in some cases with employers, because in some cases or in many cases stress triggers in the workplace are related to workers' perceptions of employers not providing adequate guidance or support, and so we would look to what those perceptions are based on in the workplace, and see if they're realistic things that can be changed, and suggest those changes. Often they're less costly changes than accommodating physical injuries, but they are requirements for - - -

PROF WOODS: Turning all supervisors into model managers

MR HALLWOOD: Well, yes.

MR BECKMANN: But if you don't do it, you're not going to achieve any level of outcome.

PROF WOODS: Totally agree.

MR BECKMANN: And that's the problem.

PROF WOODS: That's a fairly big ask in some cases.

MR HALLWOOD: Yes, but we can't quantify things that are brought into a person's pre-existing issues - you can't quantify those - and if we don't deal with them in the rehabilitation context, our ability to achieve any level of outcome is going to be almost zero.

PROF WOODS: Totally agree.

MR HALLWOOD: And often it's not a matter of turning every supervisor into a model manager. It's really just a matter of changing some of the responses that the supervisor has to particular issues in the workplace and, as long as we quantify what those responses are that are triggering the worker's stress, then we can have a supervisor change those responses without making them any better a supervisor particularly, because generally it's a perception rather than necessarily a reality.

PROF WOODS: You also talked about early intervention. To what extent does your occupation assess the responsiveness of employees to their pain levels early in the process sufficiently to recognise those who will manage through and return to work fairly quickly, whereas those who become fearful of the pain itself or the treatment that might cause some continuation of the pain for a period until rehabilitation is achieved? Is there enough being done within your professional boundaries to recognise and therefore differentiate between various employees?

MR HALLWOOD: I suppose there will never be enough that's done within the professional boundaries. Certainly the tertiary education of rehab providers these days - and we will come to that and South Australia's lack of tertiary qualifications in rehab - but the tertiary courses now deal a great deal with how to recognise various issues and, I suppose, there is quite a lot of information about - I would prefer to put it in layman's terms, really, because that is the way we deal with it from day to day.

The shift when somebody - say I'm George with an injury. I've just done something dreadful to myself that somebody else sounds like they've done in the workplace, and I become George with an injury. My mindset is still that I'm George, but I have an injury. There's a point when George with an injury becomes injured

George, and there is a totally different mindset, and most of the features of that mindset are recognisable by rehabilitation providers, and often - in fact in most cases - by the time injured workers are referred to rehab, outside the self-insured environment, it has got past that stage, and that point is the point - and it varies in time frame, based on people's personalities. Once it is past that point it is many times more difficult to assist somebody to return to work or to recover in a reasonable time frame, and so we do cover early intervention in a bit more detail - about some of the statistics on early intervention - a little bit later in this proposal.

PROF WOODS: Okay.

MR HALLWOOD: But I think there is a point where some of these mindsets shift from being George with an injury to being injured George, and it's capturing someone before that point, which is a variable, depending upon their personality, that leads to the best practice and outcomes, so that becomes a real problem for claims people - to quantify when the best time is. It just depends on a number of factors.

PROF WOODS: Okay.

MR HALLWOOD: Outcome focus plan support is another important principle of rehab practice. It ought to be workplace based - and I will touch on that a bit further on - but there ought to be effective communication and active involvement of the worker and the employer, including communication of options. A great feature, or a not so great feature, of I think pretty well all of the Australians models is that options are not provided, that solutions are provided, and I think that's a real difficulty with our system at the moment to achieve rehab outcomes.

There ought to be prompt service delivery and services should be matched to the individual's needs; that is, the right discipline at the right time and provision of environmental change where this is positive to recovery, so each of those important principles are challenged to varying degrees within each of the states, and the legislative frameworks, culture and resource availability, combined with business imperatives and individual philosophies, create this complex range of benefits and barriers to each of the schemes, and wherever a key principle of rehab is challenged, so is the scheme. All of the Australian schemes are based on the principle of rehabilitation as well as claims.

PROF WOODS: Yes.

MR HALLWOOD: So workplace-based early rehabilitation intervention is the most appropriate service delivery to achieve best practical levels of recovery. This approach relies on the availability of the right resources; the use of the right services at the right time; the confidence of both the injured worker and the employer and the

provider, and the quality of the services delivered. Each of these factors individually can be influenced within the scheme. With resource availability across the range of providers, this is in South Australia strained probably to almost breaking point. Lots has been stated publicly about shortages of nurses and doctors and specialists. In South Australia there is a serious shortage of rehabilitation providers and currently we have up to a third that have no relevant tertiary qualifications.

PROF WOODS: Is the market not working in this process?

MR HALLWOOD: The market is not working, no, and perhaps I will explain why it's not. WorkCover is almost a monopoly buyer of rehabilitation services in the state and is also the fee setter in South Australia and there has been almost no review of rehabilitation rates for nine years. WorkCover put an interim rate change in in December after the minister asked some question about it, but the fee structure didn't change for almost nine years.

PROF WOODS: In absolute terms or - - -

MR HALLWOOD: Yes.

MR BECKMANN: Absolute terms.

MR HALLWOOD: Absolute terms.

PROF WOODS: Does that mean you were overpaid initially or underpaid at the end?

MR HALLWOOD: Maybe we were overpaid. I think we started off from a lower base than every other state in Australia and we're still way under, but that lack of adequate funding has got all sorts of flow-on effects - inability to pay competitive rates to quality rehab consultants, or to retain services. It's a disincentive for providers to make medium, long-term investments, and it limits integration of new technologies and innovations, and probably its biggest impact is that it's a disincentive for providers to service regional South Australia and small business.

The additional cost of maintaining regional offices has discouraged providers from locating themselves there and small business information needs - because they need a lot more information in order to progress rehab provider companies can't adequately cover that now, so this lack of resources negatively impacts on outcomes in the state. I have got some graphs here really that just demonstrate that South Australia has got the highest mean number of days paid in compensation. The lowest rehab costs - in fact there are a couple of graphs I have got back to front there. We've got the lowest mean rehab costs and the worst performance really in

return-to-work rates. There are plenty of other graphs that demonstrate that, partly because of the shortage and partly because of other factors, South Australia has more rehab and return-to-work plans in place, but the worst outcomes.

PROF WOODS: Sorry. Just looking at a couple of these, you've got figure 6.1 - I assume it is - mean number of days compensation paid and the Australian mean, 60 days. To what extent does that in part reflect the nature of the schemes though? For instance, ACT is almost there with South Australia, but that probably is because of the nature of the Comcare scheme, which has a long tail to it. Surprisingly, Queensland is still reasonably close to average of 57 and yet they cut off the scheme at five years, and so you would expect them to be, I would have thought, even less than that.

MR HALLWOOD: Yes.

PROF WOODS: There are several things happening in that table producing that result, aren't there?

MR HALLWOOD: There are - there are many things - and probably it would be unfair just to say that the lack of resourcing of rehab - that this relates as a direct function of that.

PROF WOODS: I can see a relationship, but I just don't know how important it is. I mean, for instance - presuming we'll get back to this - the schemes where you don't have to admit liability before you can commence rehabilitation would show a lower mean number of days than schemes where the third party government monopoly - and then maybe they have outsource claims management to insurance companies. When you actually get to see them walk through the door is four to six weeks away, so - - -

MR HALLWOOD: South Australia has the advantage. It is one of the states where rehab can be referred before a claim has been determined.

PROF WOODS: Yes.

MR HALLWOOD: And one would think that that would mean that South Australia had some of the best early intervention in the country. It doesn't necessarily follow.

PROF WOODS: Will you explore that?

MR HALLWOOD: Yes, I will. The other thing I can say about these graphs is that we have looked at them over a number of years and there have been times when

South Australia has had the best outcome rates, despite the fact that there are things about the South Australian scheme you could argue were very beneficial to injured workers. In fact, in some ways there have been times when the benefits to injured workers have been the greatest and the outcome rates have been the greatest in South Australia, so I think, while it's unfair to draw too many conclusions from these graphs, I think there are some things that can be drawn.

PROF WOODS: All right.

MR HALLWOOD: I must mention the second page: the graphs are the wrong way around for the titles.

PROF WOODS: Will you give us a replacement page at some stage?

MR HALLWOOD: Yes.

PROF WOODS: That would be helpful. I see, yes.

MR HALLWOOD: I checked this so many times and my wife picked it up at the breakfast table this morning. I'm sorry about that. The association believes that the results have, in part, resulted from inadequate and declining levels of rehab resources, a shift in focus of rehab towards cost containment in South Australia and away from restoration and recovery, and a failure to address process and efficiencies. I'll talk about the focus shift in a moment, but the process and efficiencies - there's probably a lot of information about process and efficiencies around, but it is enough to say that every unnecessary administrative process in the scheme takes valuable resources away from delivering effective rehabilitation to injured workers and assistance to employers.

The South Australian scheme now has as much non-core process service requirements as it has professional services, so a rehabber on the ground is dealing now 50 per cent of their time with process work, rather than rehab delivery, and the percentage of time on average spent on workplace based rehab delivery is far less than the overall rehab delivery, so that the best possible service of rehab at the workplace has been reduced to a very small percentage of a rehabber's time. After seeing a whole heap of different models, the right services at the right time really is early and effective intervention in the workplace.

PROF WOODS: Presumably that's a principle that everyone ascribes to.

MR HALLWOOD: Yes.

PROF WOODS: It's just a matter of why it doesn't happen.

MR HALLWOOD: How it happens, yes. That's true.

PROF WOODS: Isn't that odd?

MR HALLWOOD: Yes, it is. Perhaps we have some solutions for that. Although WorkCover's statistics noted that there has been some improvement over time taken for rehab activity to commence, still only 50 per cent of injured workers receive a rehab service within 49 days, and the actual type of intervention at that stage may only be an assessment. So the medium time for rehab and return-to-work plan to commence is 76 days in South Australia. There are a number of studies - I'll quote from Franke, that found that return-to-work programs implemented in the subacute stage - three to four weeks to 12 weeks after onset of pain - have shown reductions in the amount of time lost from work of between 20 and 50 per cent.

The early intervention stuff is well and truly supported by studies worldwide. A secondary finding was that employers who promptly offer appropriate modified duties are able to reduce time lost per episode by at least 30 per cent. So what is going wrong with that here? It's not all bad, I've got to say, but there's a fair bit of bad in it. South Australia has a multilevel hybrid scheme with WorkCover as the insurer and a small number of agents, managing claims on WorkCover's behalf. That has produced some significant benefits here, including much greater efficiencies in claims determination - claims determination times have reduced considerably - and risk assessment, which has had a positive impact on the scheme, as well as injured workers and their employers.

The greater challenge here has been on rehab services, for a number of reasons. If WorkCover is sponsoring all of this, it wants to make sure it's getting good outcomes, and it's probably more difficult to continuously measure the benefits of effective rehabilitation than it is to measure liability reductions - simple liability reductions. So comparisons over long periods of time or between different schemes are easier ways of quantifying rehab effectiveness. That doesn't work when WorkCover is trying to monitor a small number of agents and how they're delivering to them, so it's not surprising that there are no measures of agents that lead to bonuses, based on restoration and recovery indicators, other than reductions in claims liability in South Australia.

Despite their needs to conform to the legislation, agents must be under commercial pressures to refer to rehabilitation services that deliver their bonuses, rather than those that might assist injured workers, their employers or even the scheme. Those things are not always in conflict, but sometimes they are. The other pressures on agents are to maintain a viable market share in the South Australian scheme, and this is achieved through agents courting employers to sign up annually

with them. That's a reasonable commercial imperative; there has to be some system. This can lead to the use of services where an employer is leaning, rather than one that's focused on the objects of the scheme.

Another difficulty faced by agents is that case managers - and they're called different things in different agents - are often busy with large case loads, and the case management fee has been screwed down to the degree that it can be by WorkCover, because it's a cost driver, and often they have limited knowledge or experience of the complexities of rehab. But the case managers are the decision-makers in almost everything relating to rehab - what rehab profession to engage; which company to use; which individual within that company; what services to request; when the service should start; once a plan is written, what to approve and what to reject; and when the services should cease. All of these decisions are made by the case manager.

There's also a whole heap of other things about the various customers that they have and have to keep in mind, including WorkCover and the service agreement that they have; there's the employer that has chosen them as their agent; rehab providers that are courting agents as well for their own business imperatives; and, finally, I suppose, the injured workers have some influence. Delivering the right service at the right time becomes really difficult for case managers in these circumstances and particularly where there's a shortage of rehab professionals. to overcome this, a number of temporarily based models have been used - - -

PROF WOODS: Sorry. Can I just pick up on this shortage. Is it occupation-specific? Are we talking OTs or physios, or are we just talking across the range?

MR HALLWOOD: South Australia is probably fairly unique, in that they use a lot more rehabilitation counsellors than other states. New South Wales I know uses a lot of OTs. In South Australia, the majority of the work is done by rehabilitation counsellors, and there's a massive shortage of rehabilitation counsellors, although WorkCover introduced a freeing up of the rules as to who could become one a number of years ago, and I have to admit I took advantage of that. I'm not tertiary qualified as a rehab provider myself, but it has become a problem for the scheme and it's a long-term problem to solve because you can't just kick out a third of the providers. OTs are also short in South Australia, as are industrial physiotherapists. There's a shortage across the board, and we're working towards resolving this shortage at the moment, but it will take probably five years to resolve.

PROF WOODS: It is resolvable?

MR HALLWOOD: It's been difficult, because a good rehabilitation counsellor -

and most would consider that they're good - doesn't want to do a four-year degree at university to continue to do the job that they're doing now, so it's been a matter of negotiating with tertiary institutions to allow them entry to postgraduate diplomas in rehab - - -

PROF WOODS: Top-up courses.

MR HALLWOOD: - - - based on their experience. Then quite a number are young and female and having children at the moment, so we need to open it up for a number of years to allow them to progress through without negatively impacting on them, particularly because of their age and other issues. But these models that have been brought in to sort out these difficulties are usually based on all claims up to a certain date from injury, needing medical rehab intervention in the first instance, and then after a certain period of time medical rehabs - just GPs and specialists; maybe some physio - and then after a period of time, occupational rehab, occ therapists and industrial physios, and then in a final stage, vocational rehab, OTs and rehab counsellors.

This model often includes in-house injury management coordinators that make three-point contact by telephone to injured workers, doctors and GPs, and in many ways that's a triaging effect for the claims manager to make decisions about what to do with rehab. It's certainly not rehabilitation intervention.

PROF WOODS: Sorry, the three parties.

MR HALLWOOD: Yes, just telephone - - -

PROF WOODS: Injured worker, the GP - - -

MR HALLWOOD: The GP, worker and employer.

PROF WOODS: Employer. You mentioned doctor and GP, but it was the employer as the third one.

MR HALLWOOD: Sorry, yes. Often this provides an illusion of early intervention, but there's really only been phone calls to triage. Broadly accepted performance and outcome measures providers, as well as agent bonuses that incorporate more than limiting liability would assist to overcome many of these difficulties, and referrals to a business rather than individuals would remove much of the complexity for case managers. Perhaps I'll get to that a bit more in a moment.

A focus on a broader range of outcomes from the referral stage of the claim will improve the results, as well as assist with data collection for comparative

purposes across states. Currently the South Australian scheme has a number of service codes, a few of which align with the objects of rehabilitation. We're suggesting that the fewer the better, but they ought to be outcome focused, so a referral ought to come for return-to-work pre-injury employer or return-to-work new employer or transition management or restoration to the community or, if it's just for an assessment, then for an assessment. If it comes for an assessment, we ought not to be measured against return-to-work outcomes.

Confidence in the provider is just so important and there has been much discussion in South Australia about worker choice in recent times.

PROF WOODS: Are you going to elaborate on that?

MR HALLWOOD: Yes.

PROF WOODS: As I understand it, self-insurers can nominate the rehab provider. Even though the injured worker has the opportunity to select their GP, they don't necessarily have that opportunity to select their rehab provider. Is that the case?

MR HALLWOOD: That's not just the case with self-insurers. It's right across the board.

PROF WOODS: WorkCover also nominates who they - - -

MR HALLWOOD: Yes.

PROF WOODS: Is this a good system?

MR HALLWOOD: Perhaps we ought to separate self-insurers from the rest of the scheme, for a couple of reasons. Self-insurers have a range of approaches to rehabilitation, a much greater range than within the scheme. So there are self-insurers, and probably the majority of self-insurers, who are focused on provision of support and assistance to injured workers up-front. Now, that's not universal, and so we can see a range of differences.

There are self-insurers that say, "You're not getting anything," and "You're lousy if you put a claim in," and all that sort of stuff. There are plenty of stories about that. But there are also self-insurers that provide exceptionally good assistance to injured workers up-front; whereas the WorkCover scheme, because it's this hybrid, and because the agents have to court employers - there is certainly a greater perception that a referral to a rehabilitation provider is made because the agent thinks they'll be tough and get the worker back to work quickly, or because the employer has made the decision that that rehab provider ought to be used. You would expect

that to be the case, in fact even more so to some degree with self-insurers, because they have an internal rehab and the injured worker and all of their medical information and everything goes to somebody they actually work with, and there are some problems with that.

But from our experience we've seen less of a problem with self-insurers than we've seen through injured workers relating rehab either to the agent or to the employer. In fact, many times a worker will phone us because they've got a problem with their pay because they think we're the agent; that we're the nice face of the agent perhaps.

PROF WOODS: Not that you'd play on that.

MR HALLWOOD: No. So there is a confusion about where rehab comes from and where an injured worker develops a greater - an injured worker generally develops a much greater trust in their GP than they do in rehab providers, because they don't believe we're independent.

PROF WOODS: Is there a way through that, that you would support?

MR HALLWOOD: There are a number of things we think we can do. Perhaps I'll go through the things that I've got here and there are probably a couple of others that we've discussed in a meeting with WorkCover this morning. Barriers are generally because the injured worker sees providers as too close to agents and employers; employers see providers as a bit of a soft touch because they're too focused on injured workers' recovery and restoration. Also employers, workers and doctors see providers as ineffectual and unprofessional generally in South Australia. It's easy to understand injured workers believing providers are too close to agents and employers because workers don't choose their providers, except for their medical experts.

There used to be worker choice in South Australia and in more recent years there hasn't. The perception back when workers got to choose was almost the same, from our experience. However, the cases where a worker really didn't want a particular provider are very, very difficult to get outcomes on, unless the worker gets a choice. Employers are quite right, rehab - - -

PROF WOODS: Is there a process where, if there's a breakdown in professional relationships, they can select somebody else? Clearly, if you don't have a relationship that's productive with your rehab provider then why are they there?

MR HALLWOOD: There's no defined process in South Australia at this stage.

PROF WOODS: But, in practice, is there a way through?

MR HALLWOOD: Sometimes.

MR BECKMANN: But there's a further problem as well in that when there is a relationship there is intervention to break that relationship and move that on to other providers at, basically, the whim of the agents.

MR HALLWOOD: In fact, agents have different provider panels as well and because employers choose once a year who they move to and a number do - a percentage of them change every year - then if an injured worker is shifted to an agent that doesn't use that provider then sometimes there is pressure and sometimes there just is an actual shift of the injured worker, with all of the history, to somebody new. Yes, that's certainly one of the bad things about the South Australian scheme.

PROF WOODS: Is that because there's some concern by the agent or by WorkCover of overservicing by rehab providers?

MR HALLWOOD: The agents are driven, as they should be, by commercial imperatives. WorkCover encourages them to do that and if they believe that they have a provider panel of stars that give them the best service then they only put that panel together. That's not true of all of the agents in South Australia, either, and there are degrees of it within each of the agents.

Employers worrying about rehab as being a soft touch; certainly to the extent that the focus of rehabilitation providers is on assisting injured workers in the recovery and restoration, that's true. I don't believe that there's really any way around that. A rehab provider's job is to provide assistance for recovery and restoration and not to ensure compliance or cost control. It is in our interests to provide cost-effective rehabilitation services because we would expect to be measured on that. However, cost control of a claim is the claims manager's job, in our opinion.

PROF WOODS: Different incentives produce different behaviours.

MR HALLWOOD: Yes.

MR BECKMANN: Correct.

MR HALLWOOD: Because of lack of resourcing of rehab over such a prolonged period, South Australia does have the least qualified and probably some of the least experienced providers in Australia. We are addressing that and it's a long-term issue. Rehab is considered ineffectual and largely this perception is reinforced by the lack of any professional discretion in South Australia. Until a case manager approves services on a plan or a program they cannot be provided. Not only does this cause

delays, it reduces any likelihood of worker confidence in the provider.

The providers actually come out with a huge form - it's the biggest form in Australia - and maybe that's something we can hang our hat on, but it's got all sorts of obligations for employers and for injured workers that we have to tell them about. So if the employer doesn't do what we've written on the plan then their levies can increase. If the worker doesn't do it, they'll lose their income maintenance. Then we get to our obligations that we put in, and we might have recognised that an injured worker needs one of those little rubber things that you put on your pen, so you don't get RSI, and it might cost $2 but until we can say, "We'll get that for you," we've got to get the plan approved and usually there's quite an administrative process in that.

So I can understand why employers and workers think that we're ineffectual, when we have to rely on often far less qualified people than we are, to make those decisions. I'm not blaming anybody for that. That's the case. It was the case when WorkCover was running the scheme, although perhaps not quite to the same degree back then.

The quality of services - many of the issues related to service quality have been addressed previously. Adequate resourcing, focus on rehab outcomes, reduced admin requirements, improving qualifications, training and professional development, and professional discretion at company and individual provider level would go a long way towards improving quality. Also, national standards and codes of conduct will enhance service quality and probably from the back to work document that has come up recently, the NOHSC standards are a first start towards that. Incentives for service delivery - by the way, they're not widely used. In fact most rehab companies in South Australia wouldn't know about them.

PROF WOODS: Why is that?

MR HALLWOOD: They've been developed by the occ health and safety arm. This is different to - - -

PROF WOODS: Not the rehab arm.

MR HALLWOOD: - - - the workers comp. Because rehab in South Australia has probably shifted more towards a claims focus than a prevention and recovery focus, we're excluded form that world in many ways, and I think that's something we need to overcome as well. Incentives for service delivery - probably ARPA will present a national approach to incentives. Hourly rate services with sound measurement of broad based outcomes, from our experience, ensures the best service delivery. Fee for outcome packaged services are fraught with the sorts of dangers that we've pointed out occur with contracts to agents as well. So fee for outcome often leads to

client picking, where a provider can concentrate on a particular industry, particular agent or particular employers that deliver easier results for the money.

Often the stars of the industry are in a better position to pick and choose, leaving the less experienced with the more difficult rehab to do. Another problem with fee for outcome approach is that the clients can be triaged and the really difficult ones left to chance with the provider only working on those clients likely to deliver an outcome bonus. So some of those left to chance will deliver a bonus by doing nothing. Any moves in the past towards other than an hourly rate have appeared to be based on cost reduction rather than outcome improvement, or risk shift. Risk shift - without checking that the external provider is adequately resourced to accept the risk - is also a difficulty.

Common law I said I would get back to. The benefit of the scheme in South Australia since common law has been removed from the scheme is that there is far less conflict in the South Australian scheme. In fact, we don't see major conflict generally occurring these days until 18 months to two years, when the second-year review is looming. That removal of conflict has generated a much easier road, both with injured workers and with employers, to accept return to work, because there is no focus on apportioning blame.

There are a couple of things that have always been said could be problems with common law not being in place - retribution. Some injured workers would like their day in court, would like to have their say and would like to be recompensed based on their say. That's true, although from our experience, there are very few that reach that stage - a couple of years, three or four years down the track - that aren't bitter as a result of the process and that come away feeling that they've had retribution. So from that perspective we don't believe it's worked in favour of rehab. It might work in other ways.

The other impact is whether it encourages the employer to fix the problems in the work site in a hurry. Our experience also is that largely employers are focused on a number of issues that demonstrate that they are less to blame than the injured worker is saying, and so they're reinforcing that they were in the right during the common law process, and so it often doesn't fix the problem but exacerbates it by the time it's had its day in court, and the employer is either upset because the court hasn't found that they have justified what they were doing in the workplace, or they go away feeling that the court was wrong. So we've found that the lack of common law in South Australia has been a really great thing from a rehab perspective.

PROF WOODS: What about in terms of the incentives for employees for recovery? Does common law have any impact on that?

MR HALLWOOD: I'm not sure as I understand the question.

PROF WOODS: The question is trying to discover whether other parties involved in a common law process might not have the same incentives to encourage speedy recovery.

MR HALLWOOD: Yes, that's also a problem, and I suppose - we don't face it very much at all in South Australia with workers comp, but certainly with CTP there are issues around perhaps solicitors suggesting that somebody with an injury may get an increased payout if they were off work for a bit longer, or had less capacity at the time it was settled. So, yes, because we haven't had common law in South Australia for so long - - -

PROF WOODS: 92, was it?

MR HALLWOOD: Yes, and then it was very limited.

PROF WOODS: You don't have a counterfactual assessor.

MR HALLWOOD: No, except in comparison with CTP, and there are other factors with CTP that may not affect it so much, but our experience really suggests that the common law is better out of the scheme, and better for everybody out of the scheme.

PROF WOODS: Do you think that's a generally held view across the various parties or are you unable to comment on that?

MR HALLWOOD: No, I think there are many - and I can understand there is a percentage of people that would like retribution and there are many that feel that it ought to be available still. However, standing back from that, I don't believe it worked.

MR BECKMANN: But there are alternatives to common law to give retribution, and there are alternative dispute resolution procedures which should perhaps be implemented so that people can have their day in court, so to speak, and confidentially come to some sort of conclusions which are not bound by common law principles.

PROF WOODS: And those processes don't exist currently in South Australia?

MR BECKMANN: No.

PROF WOODS: What are you thinking of in particular, and is there another model

of dispute resolution that you could draw our attention to that has those features?

MR BECKMANN: I think rehabilitation providers - some are well skilled to provide confidential mediation services, and to identify why there is a particular angst between an employee and employer, and when those issues are resolved, then the return-to-work process can be moved forward. They are not done at the moment; it's just purely about counselling: let's focus on the issues of defining capacity and does the job match and not look at the entire issues surrounding how that person was disabled in the first place.

PROF WOODS: Yes.

MR HALLWOOD: That's probably all of the points that we wanted to cover.

PROF WOODS: That tends to conclude our list. I made a number of comments on the way though, but we also seem to have dealt with those as well.

MR HALLWOOD: Yes. The incentives for long-term injured and job-seeking, certainly the RISE process in South Australia works very well. You would probably want to comment on that - that's all we probably need to say, although the RISE scheme could be improved by involving a broader collection of options for job opportunities, and I think through job networks or through rehab companies having incentives to obtain job options for injured workers, that there would be greater outcomes. I think at the moment RISE is limited in resources for getting out there, door-knocking, canvassing employers and finding solutions for injured workers. If the job network were available to injured workers more readily, then I think we'd get much better outcomes.

PROF WOODS: Very good. Are there any concluding points you wish to make?

MR HALLWOOD: Just to thank you for the opportunity to present.

PROF WOODS: Thank you. It has been quite a comprehensive run through this particular aspect of the issue facing us. I'm grateful for the submission. I will read it in full following this hearing. There are a couple of areas where I've asked you to look at providing some supplementary information. If you could follow that through, we would be grateful, and presumably you will be contributing to the national submission.

MR HALLWOOD: Yes.

PROF WOODS: Do you have any idea of the timetable of that submission?

MR HALLWOOD: I think it was the 27th - about then. I'm sorry, I don't remember the details.

PROF WOODS: Yes, that's fine. Thank you very much.

PROF WOODS: If I could call forward our next participant, Mr Kevin Purse, please.

MR PURSE: Good afternoon.

PROF WOODS: Good afternoon. Could you please for the record state your name and the capacity in which you come before the commission.

MR PURSE: My name is Kevin Purse. I'm here in a private capacity.

PROF WOODS: Do you have an opening statement you wish to make?

MR PURSE: I'll try and be brief, commissioner. I realise you've got a fairly tight time line.

PROF WOODS: That's fine.

MR PURSE: I'd just likely to briefly comment on the 1990s. I think this - - -

PROF WOODS: Sorry, could you give me a little background as to your expertise in this area, just so I can sort of locate you within the gamut.

MR PURSE: Sure. In terms of my educational qualifications, I was trained as an economist.

PROF WOODS: Never mind.

MR PURSE: Exactly. I also have a qualification as a company director. I'm currently finalising a doctoral thesis in the area of workers compensation policy - fingers crossed.

PROF WOODS: That's the bit I was looking for, thank you.

MR PURSE: I've worked extensively as a health and safety officer. That was with the trade union movement. I've also been a WorkCover director, a health and safety commissioner, a chief inspector for health and safety and I was a consultant for the federal government as well.

PROF WOODS: Over what period are we talking, so that I can tap some of your - - -

MR PURSE: Too long.

PROF WOODS: I see.

MR PURSE: Probably about 20 - over 20 years.

PROF WOODS: I can draw extensively on your history.

MR PURSE: On my Alzheimer's, perhaps. I think what we've witnessed in the last 10 years has been a resumption of a sort of Dutch auction, as far as workers compensation schemes has been concerned. There's been a tendency to manage schemes by legislation rather than by good management. Having said that, I think workers compensation schemes are very difficult to manage but I don't think the solution to that is simply to introduce legislation every time you have a problem. It's much more important to focus on the core issues which essentially are prevention at the front end and certainly good management in terms of the return-to-work process. I think the previous speaker indicated a number of problems which can occur in that area. My observation is that it's not simply a problem in South Australia but it's one which is right across the country.

PROF WOODS: Can I clarify there: am I able to question you on schemes outside of the South Australian jurisdiction? Does your experience extend beyond?

MR PURSE: I know a little bit about the other schemes, yes, sure. So if I can, I'm happy to.

PROF WOODS: Your experience primarily is in the South Australian jurisdiction.

MR PURSE: Primarily, yes.

PROF WOODS: Okay, thank you.

MR PURSE: If I could get into the - I was going to try and cover a number of issues, some perhaps a little bit more briefly than others.

PROF WOODS: Please.

MR PURSE: I'll talk briefly about the coverage and access but I think probably I'd like to try and focus on the entitlement regimes, common law, cost shifting - which is a perennial problem, and then touch upon rehabilitation, premium setting and underwriting and scheme management arrangements, if we've got the time for all that.

PROF WOODS: Go for it.

MR PURSE: Again I think you'd be aware, in terms of coverage, it's been traditionally based on the common law contract. Over the years this has been augmented if you like by deeming arrangements whereby particular categories of workers have been deemed to be workers as such for workers compensation purposes.

PROF WOODS: Forever chasing the expanding array of arrangements.

MR PURSE: Exactly. It's been a very ad hoc arrangement and I would think if you had a comparison between the various Australian schemes you would find that there was no overall consistency at all.

PROF WOODS: We have discovered that.

MR PURSE: Yes. It's a mismatch. The problems I think now have become somewhat exacerbated because of the growth of atypical employment, particularly during the 80s and the 90s. So I think this poses a more serious challenge to workers compensation schemes. What do we do about these people? It seemed to me that, particularly when we're talking about so-called independent contractors who are really disguised workers, they're probably the group most in need of coverage but who are falling down the cracks. There are a number of ways in which this can be responded to. I guess one way would be continue to deem. I think that's a very inefficient and slow approach. Another option is simply to ignore them and I think that's been happening sort of in a de facto way.

The third option is to look at a new definition of what are workers? That's been particularly topical in South Australia certainly in recent months. As you're probably aware, the incoming government had a review of workers comp arrangements and the Stanley committee of inquiry reported that we should try and go for a more systematic approach. I think that'll turn out to be very, very contentious but that sort of redefinition of who is a worker, what is a contract of employment in real terms as opposed to the legal fictions, is probably a sensible starting place.

PROF WOODS: On that, do you have a view as to whether within a jurisdiction you should try and get commonality of - well, first of all clarity of definition would be a first start. The second would be commonality of definition across various related governance matters, whether it's occ health and safety, workers comp, payroll tax, industrial relations - all of which require a definition of employee for various purposes. So do you harmonise within a jurisdiction or do you harmonise say for workers comp across jurisdictions so that all jurisdictions are having one definition for workers comp, even if that's then drifted apart from the definition of an employee for payroll tax purposes.

MR PURSE: If I can deal with your second point first, I think our track record in getting harmonisation or consistency is not particularly encouraging. I can't see that happening. The only way you'll get national consistency, in my opinion, is through a national scheme. We had the previous Industry Commission report which highlighted some of those issues. We had the Heads of Workers Compensation Authorities report, which went off in a slightly different direction - perhaps not slightly different, but in a different direction. We had the Kennedy report in Queensland, we had the Grellman report in New South Wales, who explicitly rejected - both those reports explicitly rejected national consistency. So I think in the absence of a national scheme, then we're looking at state parochialism prevailing.

I think that brings us to your first point and I think it would be desirable to try and harmonise within a given jurisdiction. That too, I think, would have quite a number of challenges to be tackled before it was overcome, but from a practical point of view, it would be probably more productive to do it initially on a state basis. Clean up your own house first. If there's a genuine concern about national consistency, then I think there would need to be extended discussions and negotiations between the state, territory and federal governments. In the absence of that, I think we could be talking about this at the next Productivity Commission inquiry.

That was really all I wanted to say about coverage: (1) it is a problem; (2) there are various means of facilitating it, and I think the approach outlined by the Stanley committee in South Australia provides a framework for at least trying to get a more systematic approach to who or who is not a worker.

In terms of access, we've had a restriction of access over the last decade. In some cases that has been reversed again. It partly depends on the colour of the government. There seems to be a tendency of incoming governments to make workers compensation reform a priority. Again, I think we need to bear in mind that workers compensation leave was initially introduced as no-fault. Certainly during the 90s we had a shift from no-fault towards what was described as employer controllability. That in my assessment was partly self-serving and partly very selective. It led to the introduction of significance tests. It led to the abolition of journey claims in some jurisdictions. My view really is that those things ought to be restored. In terms of the selectivity - - -

PROF WOODS: Sorry, what's the degree of control by the employer over the route, the method, the distance between home and work that they can exercise over the employee returning to work?

MR PURSE: Generally there would be little or no control, in terms of a journey

injury. That's not disputed, certainly not by myself; but it's a question of, I think, a no-fault system and whether it's work-related. The only reason I would have a journey injury would be of the requirement I have to go to work each day to earn a living for myself and my family. So it's not a question of blaming the employer or anybody else. It's a question of how you conceptualise a no-fault scheme.

PROF WOODS: But you're shifting the cost to the employer. Whether you've blamed them or not, they're incurring the penalty.

MR PURSE: You could argue that. I think there it's also a question of - - -

PROF WOODS: Isn't that a reasonable argument?

MR PURSE: I think it is a reasonable argument. I'm not sure that I'd accept it. If you accept employer controllability, then it logically and inevitably follows, but there are many other costs, many other injuries and fatalities which would be more directly attributable to the employer which are not picked up by workers compensation schemes. I had a look at - - -

PROF WOODS: Some examples?

MR PURSE: Well, the classic example would be industrial fatalities. In 1992 there were about 2239 deaths, work-related deaths associated with exposure to hazardous chemicals, industrial diseases. 21 - I checked the figures - of those were covered for compensation purposes, so there is a massive amount of work-related fatality costs which are not picked up by the compensation system. They're borne predominantly by the family or families of the individuals and also by the Medicare system and possibly the social security system. So again it's a question of balance. At the edges I agree it gets a little bit blurry as to what should be covered, what should not be covered; but I'd simply make the point that historically journeys have been covered. They're not a huge cost in terms of overall scheme costs.

PROF WOODS: In fact, I understand a number of employers offer it as a supplementary benefit to employees anyway.

MR PURSE: Well, there's that, and in a number of cases you pick it up in an EB, so it's a question of whether it's in the workers comp system. I think there are advantages which override an EB approach, both in terms of efficiency and equity; but you're right.

The only other issue I wanted to talk about in terms of access really was scheduled diseases. I touched upon that a moment ago; but if you look at the statutes in the various jurisdictions, they have a number of industrial diseases on their

schedules or appendices, whatever you want to call them. The number is relatively limited. Our knowledge in this area has advanced quite tremendously in the last few decades but very few, if any, of the schemes - none, to my knowledge - I stand corrected, perhaps, but none to my knowledge have reviewed their schedules in this regard. So there are a lot of people out there who have contracted industrial disease from their work and may be dying of it but the onus of proof would still be on them.

The value, of course, of a schedule is that if a particular disease is designated as a scheduled disease, then the onus is reversed. I think that would be a more equitable way of dealing with it. Again I think because of the cost pressures in the last decade in particular, those sort of issues, equity issues, have simply been put at the back of the pile. I really think it's time we had a review of that. Even if it meant only a gradual improvement, that would be better than no improvement at all, which I think is the current situation. That's really all I wanted to say on access and coverage, unless there are any points.

I guess the heart of any compensation system is the question of compensation. I know in recent years we've augmented that by focusing on vocational rehabilitation and occupational health and safety. I think they're good developments. They're part of the modernisation of the schemes in Australia. It's a pity it's taken 85 or more years to occur, but it has happened. I think if we look at workers compensation over the last 20 or 30 years, we find that the contention over weekly payments has been at the heart of workers compensation policy, certainly during the 70s and the - - -

PROF WOODS: And the step-downs.

MR PURSE: Yes, the step-downs. We'll come to them. In the 70s and the 80s we had a general trend upwards. Workers in many states found that they were getting better entitlements as regards weekly payments - also in some cases as well for lump sum payments and death penalties. That process continued into the 1980s. It was a very uneven process. In some jurisdictions it happened much quicker than in others. However, I think from the mid to late 1980s - certainly through to about 95-96 and possibly beyond - the trend has been going the other way. That means for many workers - particularly the more seriously injured workers - the level of compensation they've been getting is less. That, to me, seems a particularly inequitable way of running a business; certainly a business which is supposed to have a social flavour.

PROF WOODS: Could it merely mean that the level of compensation being provided previously was too high? I mean, is there no limit to where the level of compensation should be? I mean, somebody is actually paying for this.

MR PURSE: That's an interesting question, because nominally employers pay for workers compensation premiums, but in many respects the workers compensation

levy is like a payroll tax. Although, in the first instance, it's paid for by the employer, it's also paid by other parties. Firstly, it's picked up by taxpayers. 30 per cent of any corporate levy anyway is paid by us as taxpayers, so it's passed on that way.

PROF WOODS: In the sense of it being deductible.

MR PURSE: Yes. Secondly, it will also be passed on in terms of prices for the particular product. There would be - - -

PROF WOODS: But they have to survive in the marketplace.

MR PURSE: Sure, but if I'm an employer I would be looking at that the next time I negotiated a wage increase with the employees. Again, if you draw the analogy with a payroll tax, you would find that most of the costs which are incurred in the first instance by an employer are, in fact, passed on to other parties; the purchasers of the product. You can argue that in particular industries the elasticities involved would make that more difficult to do. I would agree with that. Much of the debate in this country has been simplistic, in the sense that it said the employer pays. The employer, in many cases, only pays front-up.

PROF WOODS: They will cost shift to the extent they can.

MR PURSE: Yes, exactly.

PROF WOODS: There's no dispute about that.

MR PURSE: The other side of the equation, of course, is that when somebody gets injured that can be quite a debilitating impact on them and their lives.

PROF WOODS: I totally agree.

MR PURSE: For most workers they're back at work within a week, a month - no problem - but the more serious - - -

PROF WOODS: Can I just check, are you being picked up by moving to and from the microphone?

MR PURSE: I'll try and sit still. The point is many of the more seriously injured workers are being, if you like, punished because they've incurred a work-related injury which, in itself, can be debilitating. Usually the more time you're off work is not a bad measure of severity. It's not a perfect measure, don't get me wrong. Then to find that in our state, which is considered to be one of the more "generous"

schemes, you get a 20 per cent wage cut if you're unfortunate enough to be off for 12 months or more. In other schemes, like New South Wales, your standard of living falls quite dramatically - - -

PROF WOODS: Yes, the step-downs.

MR PURSE: - - - over six months.

PROF WOODS: Of course, if you're in Queensland you have the perfect cost shift after five years.

MR PURSE: Yes. Just on the question of step-downs, they're basically the rationale used to cut entitlements to people who get injured. They're arbitrary. They vary, of course, between the various states. It seems to me that they're poorly thought through. In economic terms, they tend to be based on the notion of moral hazard; that we need to provide workers with incentives to get back to work.

PROF WOODS: And your view on that?

MR PURSE: I think that particular type of economics is highly questionable. While I would not dispute the existence of the notion of moral hazard, I think its applicability to workers compensation is fraught with quite a number of difficulties. The notion of moral hazard has a number of assumptions underpinning it, one of which is that the person who's insured or who is the beneficiary of insurance actually has control of the risk. When you're working in a factory or a construction site or many other workplaces you do not necessarily have control of the risk. This is recognised in our laws. The primary responsibility for workplace health and safety is, of course, the employer because the employer controls the workplace. That's not to say that the worker is simply a blank piece of paper. Workers have responsibilities.

PROF WOODS: No, but we're also talking step-downs at this point in time, not the original injury. Is there no control by the worker over the progress of rehabilitation?

MR PURSE: The worker quite often is a pawn in the rehabilitation process.

PROF WOODS: I thought it was for them.

MR PURSE: That's the theory. Again, let's get it clear. In many cases people get back to work quite quickly, and that's a good thing. Many of them do that without any rehabilitation. That's fine too. For people with more serious injuries or particular types of injuries, rehabilitation is required. Good rehabilitation people are worth their weight in gold, but we have quite often a claims system - the workers

compensation claims system - and we've seen it in this state, it's quite apparent in Victoria and it's quite apparent in New South Wales - where the major decision concerns the acceptance or otherwise of the claim. Rehabilitation becomes a function of the claims determination process.

The essence of good rehabilitation is early intervention, but if it's a function of the claims determination process - if it takes three months, six months or whatever to get the claim determined - that's when the rehab commences and by that time you've lost your best opportunity of rehab'ing people. That's why I think the New South Wales development, with the provisional acceptance of claims for a period of up to 12 months, is certainly worth considering.

PROF WOODS: Yes.

MR PURSE: I'm not aware that there's any hard data or sufficient data out yet to determine whether it's been a success or not. There are some potential downsides with it, but I think it's a good experiment and I think, provided that type of system is closely monitored and managed, it's probably something we need to look at more broadly.

PROF WOODS: This inquiry is certainly taking considerable interest in the idea of early rehab and provisional acceptance. Two comments on that: (1) you made mention of some downsides - and I'd be interested in your perspective of what they are - and the second is comparing that with self-insurance and the drivers and incentives and behaviours of self-insurers in that respect. Can you comment on both of those?

MR PURSE: There would be two downsides that I can think of. One would be that claims that perhaps shouldn't get through could get through, at least for a period of 12 weeks. Secondly, where you're using claims agents they might just decide that it's easier to let everything go, so you might have those compounding effects. I think, in practice, those sorts of potential downsides can be managed. It's something which you've got to be mindful of, but I think overall it's a worthwhile experiment and I think all of us would be waiting for the performance measures to arrive and then make more informed decisions about whether that's the way of the future. I suspect it might be.

PROF WOODS: Self-insurers?

MR PURSE: We have a lot of self-insurers in this state. I'll come back to them in a little bit more detail later, but in terms of rehabilitation - - -

PROF WOODS: Do you want to pick them up later and deal with them - - -

MR PURSE: In terms of rehabilitation, I think they're better. Again, it's a question of the good, bad and ugly in practice, but the advantage self-insurers have over other employers is size. In much of the economic literature - and we talk about incentives - they talk about if you increase payments that provides a worker with a disincentive to go back to work. I find that theoretically dubious and empirically unsubstantiated, and I'll come back to that in a moment if you like.

It seems to me that rehabilitation is a function of a number of thing. Firstly, the nature of the worker's injury. Secondly, the size of the employer. The larger the employer, in principle, the easier it is to effect a return to work. Thirdly, the attitude of the employer. If you've got an employer who's committed to rehabilitation and return to work, you're going to get good results. If you haven't, there's going to be disputation, disputation, disputation. The fourth factor that needs to be looked at there is the worker's attitude as well. If the worker has got a good attitude, then that's going to facilitate an early return to work.

When you look at those sorts of variables, that's a much broader approach than, I think, the reductionist approach you get in quite a bit of the economic literature. I'm talking here primarily in the United States, but many of these studies invoke moral hazard and they will point to things like when there's an increase in payments you get an increase in total scheme cost. They put that down to workers either being less safe on the job or fraud. They're heroic assumptions even for economists, I would have thought.

We've just had a report - Back on the Job - released last week, which indicates in this country fraud by workers, at least, is pretty minimal. Secondly, I'm not quite sure why somebody would want to be less safe on the job, when it's their back, their fingers which could be lost and so forth. Again, this brings us back to the moral hazard argument. It assumes, firstly, that the worker has control. Workers may have some control, but the primary control of the workplace is with that of their employers. Secondly, I'm not sure what advantage there would be to a worker having a stuffed back for the next, five, 20, 30 years in terms of getting access to compensation. I don't think it's a very good cost benefit. Losing a finger - I don't think that's a very good - so, again, I think these moral hazard arguments are pretty dubious when applied to workers compensation.

PROF WOODS: We're certainly looking at this question of fraud and investigating whether it has been overplayed - - -

MR PURSE: It has, because - - -

PROF WOODS: - - - in the debate, but it's not to say there may not be cases where

some slips and trips with difficult to discover soft tissue injury is a solution to somebody to a work environment that's unsatisfactory.

MR PURSE: There are two points I think one can make on that. Firstly, in any form of insurance you're going to get fraud. Whether it's by workers, employers or service providers, there will be some form of fraud. The evidence I've seen suggests that it's quite minimal. Thirdly, of course, you've got to look at who benefits from accusations of fraud. If you look at the history of workers compensation in this country, you'll find there's been an awful lot of blaming the victim.

We had in the 60s and 70s Mediterranean back, which was an attempt to vilify particularly migrant workers who had serious back injuries as a result of their work. In the 80s - a period I'm, unfortunately, very familiar with - we had RSI. We were told that was a product of people's imagination or it was the women - predominantly women - skiving. In the 90s we've had occupational stress, which is a bit more complex, but again it's been blaming the victim. After a while, once these injuries are recognised as being work-related, the attitude changes, but in the meantime there's been a systemic approach of denying the issue and then saying, "Well, these are caused by fraud." Fraud does occur, but I think it is a question of perspective and I think we will see that fraud is a relatively or a very minor issue. There are much more important issues to deal with, and they would come back to, I think, scheme management, vocation rehabilitation and workplace safety.

PROF WOODS: This inquiry certainly intends to keep fraud in the right perspective.

MR PURSE: I'm sure you would. Just to finish off on the moral hazard thing, that has underpinned the step-down provisions we have. By 1995 every jurisdiction I think in Australia had step-down provisions. My view on this is that it provided a veneer of respectability to cut entitlements. I don't think there is a particular incentive associated with cutbacks - or certainly not a positive incentive. What it succeeds in doing really is shifting the cost of work-related injury from employers to workers and to the general community through the social security system.

PROF WOODS: Even though you argued previously that employers aren't really picking up the costs.

MR PURSE: They are not picking up all the costs but - again you can argue journeys - if we took your argument about journeys and said, "Let's exclude journeys," then the logic that I am stating would still apply, so with or without journeys is a legitimate debate.

PROF WOODS: Journeys is a very small issue.

MR PURSE: Yes, but particularly in places like Victoria, but also here, there is a tendency to jettison people after two years. Now, that entails a massive shifting of costs. Those costs are borne by the individual worker - his or her family. They are also borne by us as taxpayers. Those costs are shifted onto the social security system, where people are eligible - and increasingly many of those people are not eligible, so they are falling into a big poverty trap - and the states - as again pointed out in the 1994 report - are using the Commonwealth as a de facto dumping ground. Now, that hasn't been addressed in the last 10 years. I know under the previous government - I think it was the Keating government - there were moves to do that. There were discussions within the bureaucracy and also at cabinet level, but nothing came of it.

PROF WOODS: Coincidentally, one of my fellow commissioners on this inquiry is Mr Gary Johns.

MR PURSE: Yes. I think he was the minister at the time, so things were put in train - or beginning to be put in train, but nothing came to fruition. Now, when there was a change of government, the current government - the Howard government - had I think a national audit.

PROF WOODS: National commission of audit.

MR PURSE: Yes, and they picked up on the same thing. They acknowledged that there was a very serious problem there and they reported to the Commonwealth on that, but again nothing has happened. I am hoping in this particular inquiry the issue can be raised again and something put in place. I made some estimates back in 92-93 as to the extent of cost shifting - they were perhaps fairly crude, but indicative assessment - but I'm not aware of any follow-up research being done since then.

PROF WOODS: Are you going to provide us with an update of your figures?

MR PURSE: It's very, very difficult getting the figures in the first place. I had a little window at the time, where you can make rough comparisons between the state schemes. Because they have changed so much now, it would be very difficult. You could do some modelling, but you would need a bit of - - -

PROF WOODS: We are pursuing cost shifting ourselves.

MR PURSE: Yes, but as I said, I think that's one of the major characteristics of workers compensation arrangements in Australia. The fact that costs - particularly for weekly payments, also medical expenses I think in Victoria - can be shifted so readily and in such huge amounts, so if we want to talk about incentives - - -

PROF WOODS: Sorry. In South Australia - medical expenses are open-ended here, aren't they?

MR PURSE: Yes, certainly that's the case in South Australia.

PROF WOODS: Yes.

MR PURSE: I think the biggest incentive we get out of all this is that there is a huge incentive for state governments and scheme administrators to shift the costs from their states to the Commonwealth and the individuals and I think, as a generalisation, there tends to be - the more seriously injured the worker is - with the possible exception of catastrophically injured workers - the more they pick up the cost. I can't see how that can be justified on any grounds whatsoever, but that is the reality that exists in this country and, hopefully, your inquiry can perhaps address some of those concerns. Obviously one of the ways around that is to make sure that weekly payments are at a high level and continue for a much longer period of time. Again that was a view picked up by the Industry Commission in 94.

PROF WOODS: I do know the report.

MR PURSE: I'm sure you do. Again that, to me, seems a pretty sensible way to go. Again people tend to think of injured workers as clones. They are rarified; they are reduced to being a clone. They're not. They're people. Their lives get profoundly changed. We should try not to treat them as victims. We should certainly not treat them as ciphers. We should, wherever possible, try and get them back into work and we should try and get them - if we can't do that - at least back into the community without living a life of abject poverty. If we can't do that, I don't think we have much right to call ourselves a civilised society. Perhaps on that basis I could move onto the rehabilitation.

PROF WOODS: That would be a good idea.

MR PURSE: Thank you.

PROF WOODS: Just in terms of sorting out timing and the like, what other topics - - -

MR PURSE: I was going to talk about the insurance arrangements.

PROF WOODS: Yes.

MR PURSE: Premium setting.

PROF WOODS: Yes.

MR PURSE: And maybe a couple of comments on self-insurers, if you are interested.

PROF WOODS: Okay. Thank you.

MR PURSE: With rehabilitation - as you know, rehabilitation has really only become a reality in this country since the 1980s. It was basically sold on the basis that it would be beneficial to injured workers and that it would help contain scheme costs - both quite laudable aims. Effective rehabilitation of course, as we discussed earlier, is based on early intervention. However my argument - and I think if you look at the figures you'll find that rehabilitation tends to be a function of the claims determination process, so we need to - - -

PROF WOODS: As does early intervention in - - -

MR PURSE: Sorry?

PROF WOODS: As does early intervention in itself. Quite often it is the process that determines at what point in time rehabilitation commences.

MR PURSE: Sorry, I am not quite - - -

PROF WOODS: Not only is the - the scheme determines whether rehabilitation is offered and to what degree, but also the design of the scheme can affect at what point in time that rehabilitation can commence, so it affects both quantum and timing.

MR PURSE: Yes. One of the fundamental propositions associated with vocational rehabilitation and return to work is that there is in fact a job for the worker to be returned to. In many cases that doesn't happen. In many cases injured workers get sacked following their injury. In the overall number of claimants who come through a particular scheme in a given year the number is not going to be high. My estimate would be somewhere in the area of 5-7 per cent, but they tend to be the people who have more serious injuries. They tend to be what the claims management types would call "high-risk claimants".

The cost of a worker's compensation scheme is influenced very significantly by not the absolute level of weekly payments, but the duration, so the impact of sackings or terminations is simply that that adds to the average duration of a claim. As I say, that has been an endemic feature of workers compensation arrangements in this country since the year dot - the sacking of injured workers. In response, a

number of schemes have introduced legislation designed to prevent that. In many of the jurisdictions the legislation is poorly framed, not readily applicable and, in any event, is simply not enforced. I think that has been the case in all jurisdictions which have this legislation - enforcement has been zero.

In South Australia we probably have one of the better systems here. The legislation initially was introduced in 1988, I think. It was subsequently amended by the Liberal government in 1995 to provide for exclusions for smaller employers. Certainly with the pre-95 legislation I think it was pretty much a template for the rest of the country. Basically it required an employer to provide suitable employment for a worker once he or she was able to resume employment. "Suitable employment" is quite broadly based. Ideally it is returning the injured worker to his or her original job, if that can be done safely. If not, trying to find alternative employment within the firm elsewhere.

There was a leading case on that - Longyear Australia v WorkCover - where the former chief justice gave a fairly expansive definition of "suitable employment". We found that when this provision of the legislation was enforced it resulted in about somewhat more than 33 per cent of proposed sackings being withdrawn. I should add that one of the provisions of the legislation was that if an employer was contemplating terminating the worker's employment the employer had to provide both WorkCover and the injured workers with 28 days' notice. That enabled WorkCover to investigate whether the termination was justified or not. In some cases it would be.

I've come across employers myself who are genuinely concerned with trying to do the right thing but, because of their size or the specialised nature of the work, weren't able to do so. Most, I think, can though, but because it has been part of the culture to replace one damaged worker with a fresh one there has been a need to enforce (1) to draft this legislation and, secondly, to enforce it. The point I am making, I guess, generally, is that not only is it a question of workers' rights - although that is very important - it's also a question of liability management.

If you look at the long tail of any workers compensation scheme - whether it is here, New South Wales, Victoria or wherever - you will find that after about six, 10 months, the overwhelming majority of workers who are on the scheme have had their employment terminated and, once you have had an injury - once you've lost your job - it's very hard to get back into the labour market, so again I think one of the things I would like to see come out of this inquiry is an emphasis on the fact that the legislation in this area is ineffective; secondly, it hasn't been administered; thirdly, that this is a key area for reform. If you want to manage workers compensation schemes you have got to manage the tail and a substantial part of the tail is people who have been dumped by their employers, so if we want to get on top of it we've

got to get on top of that particular area.

PROF WOODS: Any empirical evidence that you can give us on those would help your argument.

MR PURSE: All right. If you can get one of your people ring me I can give them a couple of my published articles.

PROF WOODS: We know how to get you.

MR PURSE: Okay. Now, these employment security provisions I think are a very useful tool, but they are by no means the only tool necessary to manage a tail. You need things like - I think we had a previous speaker speaking about the RISE scheme.

PROF WOODS: Yes.

MR PURSE: These sort of wage incentive schemes for employers who pick up workers who can't be returned to their pre-injury employers are, I think, a good step, as well. Sometimes it's easy to fudge how it's done. There is a tendency to try and place workers with less serious injuries so that the figures look good. That comes back to scheme management. The scheme management really should be endeavouring to place more difficult people. You're predominantly looking at places - - -

PROF WOODS: It depends what their incentives are.

MR PURSE: Yes, and it is a difficult area because you are getting a whole lot of other people trying to place disabled workers of one form or another, but it's an important component of scheme design and operation and it is one where I think there is as well a very good cost benefit because, if you get somebody back to work, that has a multiplier effect in terms of reducing your outstanding liability estimates, so it's a very good way of doing business, and partly the marketing of it needs to be enhanced. Again you are looking predominantly at middle and smaller business, but if it is marketed properly and you perhaps put more resource into it, the returns can be very, very good.

One other issue which is fairly important with rehabilitation is the question of retraining. Retraining tends to be used, if it's used at all, as a last option. In my assessment it should in some cases be used as an early option and in other cases it should be looked at earlier than is the case at the moment. I can think of a number of people who have been injured - young people, mid-20s, would not be able to go back to their prior industry, have keen return-to-work focus, have limited skills but they

want to get back there - and they're just treated as if they don't exist. Again, it's a question of how do you target these people, but it's also a question of getting in there and being proactive.

I think you're going to find this right around the country: there's a lot of what's called passive claims and injury management. That needs to be taken on. There needs to be more effort happening up-front. Again, it requires judgment and skill, and you don't always get that, but there should be much more retraining. It's money which is spent which will save money further down the track in many, many cases.

PROF WOODS: In a number of these areas I can understand the merit of what you're putting forward. What I can't always see clearly is what changes to scheme designs and incentives would actually produce those results, so if you can give that some thought in terms of some supplementary material to us - not necessarily today. There is merit to the view, but we need to find - - -

MR PURSE: The means.

PROF WOODS: - - - the means by which it can be achieved, and it usually boils down to the incentives that are put before the various parties.

MR PURSE: I think the other side of that is how to structure schemes so they pick up on it. Is that what you're alluding to as well?

PROF WOODS: Exactly. As a good economist, you would understand that.

MR PURSE: On a good day. The other point I wanted to touch on briefly - two points, actually.

PROF WOODS: Please.

MR PURSE: One on the return to work. Just as there is a presumption that there is employment to return the worker to, there is also a presumption that the work that he or she is returned to is safe. In many cases this is simply not the case. The rehabilitation loop, in my experience, tends to be incomplete because there is not this focus on safe return to work; it's simply return to work. I'm not saying every rehab provider would be in that category, but I think that is a weakness in the current system. Quite often the rehab firms don't have the health and safety expertise to establish whether the return to work is safe or not. They tend to rely on the medical evidence; they tend to rely on what the employer says. That no doubt in many cases is done in good faith all round, but the reality is, unsafe return to work is a common occurrence. I notice in the Workplace Relations Ministers Council, their comparative performance monitoring report, I think from last year - about I think it's

18 per cent - - -

PROF WOODS: This is durability of return to work?

MR PURSE: This is aggravation, so it would come into durability as well. Maybe not all of that is due to unsafe work, but when you've got an 18 per cent aggravation factor, that is suggestive that something serious is going wrong. So, again, I think when we talk about reforming rehabilitation, that end piece of the loop needs to be focused on more clearly and more effectively.

The other point concerns - again, come back to the incentives. The notion that workers need cuts in their living standards to get them back to work I think is misplaced in theory because it's simply a reductionist-type argument. Secondly, I don't think it's borne out by the empirical evidence. The empirical evidence, you could argue, is a bit limited and it's simply based on claims, and I would accept that, but I know when I was looking again at the workplace relations ministers' report that the highest return to work is found in a scheme which pays a fairly high level of payments; that is the Comcare scheme. They pay 100 per cent of notional weekly earnings for nine months, then it drops down to 75 per cent, which is a pretty big drop, but compared to a lot of the other schemes it is a much better payment.

PROF WOODS: And has a long tail.

MR PURSE: Yes. They have the highest return-to-work rate in the country. I'd also look at the South Australia and Victoria. In some ways Comcare is an exception because it's possibly not comparing apples with apples. But if we look at South Australia and Victoria, they would be down the track a bit. I think on the figures they were about 80 per cent return to work after about 19 months.

Now, South Australia pays higher entitlements than does the Victorian scheme. The Victorian scheme drops quite markedly at six months. So in theoretical terms it could be suggested that there would be a much higher return-to-work rate in the Victorian scheme compared to the South Australian scheme. That's not the case. The Victorian return-to-work rate, assuming it's accurate, is slightly higher than South Australia's. I think they might be 81 per cent. We are 79 per cent. So again I think this provides fairly strong prima facie evidence that it is not simply or not primarily the so-called economic incentives that make a difference here. But even where you do - even if you did get an early return to work - this might simply be a starvation effect rather than a genuine result. Quite often, people who do go back to work prematurely end up coming back later, so you don't necessarily get the durability of an outcome that one would hope.

As I said earlier, I think return to work is a multifactorial thing. The most

important things again I think are the nature of the injury; the size of the employer; the attitude of the employer - that's probably the critical factor; and then the attitude of the worker as well. So I think when we talk about rehabilitation we need to look at it in that broader sense.

Perhaps one other factor we should mention is the claims management system itself. That itself can delay enormously and can give rise to disputation, anger, friction, when there is no need for it. And this might have nothing to do with either the worker or the employer. It's just that the system tends to eat people occasionally and, to the extent that happens or to the extent that you get passive claims management, then these are the causes or can be the causes which give rise to delays in return to work. So, again, I think we need to look at improving the process at the claims management end and again I think the New South Wales development could offer some hope there for the future. Unless you have any questions, I think I can probably stop on the rehabilitation process.

PROF WOODS: Is there anything further you want to talk about on self-insurers?

MR PURSE: I notice in your discussion paper you're talking about looking at the national arrangements there.

PROF WOODS: That's not going to help small and medium businesses.

MR PURSE: Exactly. I was going to say I'm not sure that national self-insurance arrangements should be looked at unless you've got a national scheme.

PROF WOODS: Or piggyback on an existing scheme that could have national coverage.

MR PURSE: I certainly would be opposed to that because I think that would have the effect of simply picking the eyes. You either have a national scheme, national self-insurance, or you don't, because at the moment I think if you were to take out - I know in our state if you took out the larger employers who are currently self-insured - sorry. The effect of taking self-insurers out could have the effect of raising the average premium rate for the remaining employers.

PROF WOODS: Well, hang on. You could continue to require them to make their 5 and a half per cent levy for meeting the costs of occ health and safety. What I don't understand is why those who are already self-insuring would impact on the premium, as such, of those who are premium payers.

MR PURSE: Historically they have. Again, there is the workplace relations ministers' report. They have tried to standardise average premium rates across the

jurisdiction, which is quite a difficult task and they are to be commended for it. One of the factors they look at is the impact of self-insurance. On their figures, we find that in South Australia for 2000-2001 the standardised premium rate - sorry. The premium rate they started with was 2.79. If all of the self-insurers were back in the scheme, the average premium rate would be 2.55.

PROF WOODS: I understand that gap, but I don't understand why moving them from being self-insurers in South Australia to self-insurers in a national scheme would additionally impact on the premium that those who are not self-insurers would pay.

MR PURSE: Theoretically it wouldn't. However, at the moment the state government here has been concerned at the extent of self-insurance in this state.

PROF WOODS: I understand that.

MR PURSE: And they're reviewing that. It may well be that the number of self-insurers will be reduced, and that particular scenario doesn't have an effect.

PROF WOODS: Yes, but then you're adding back into the pool those who have a better claims performance and therefore you'd be bringing back down the average premium. I understand the maths of all of that, but if we are merely looking at those who are self-insurers now, moving from a South Australian scheme to a national scheme, then you're not going to be changing the premium, provided they then continue to pay their levies for occ health and safety and all of those arrangements.

MR PURSE: Yes.

PROF WOODS: So why would you be opposed to that occurring? Or do you just want to have more of them back into the premium-paying pool, which is a separate agenda?

MR PURSE: I think it's a separate issue. I think exempt employers should be exempt on the basis primarily of their exemplary performance, so where you've got the best performance in terms of health and safety, vocational rehabilitation, they should be granted exemption status, subject of course to the financial guarantees being sufficient.

PROF WOODS: And that self-selection impacts on the pool, obviously, because the more you take out the better performers, the more the residual pool has a higher premium.

MR PURSE: Yes, but I think one of the values is self-insurers is excellent, or can

be. So I don't think we should have every Tom, Dick and Harry becoming an exempt simply because they're big. They need to meet certain criteria.

PROF WOODS: Performance standards, yes. I don't think they would dispute that they should also demonstrate their performance.

MR PURSE: Yes. You need to raise that with the government people.

PROF WOODS: I'm sure the government will put its view to us.

MR PURSE: I'm sure they will, too. Were there any other points on self-insurance?

PROF WOODS: No, we are done.

MR PURSE: Okay. One of the other issues you touched on in your discussion paper was insurance arrangements. We've had some problems here in this state with it. In practice, in Australia at least, you basically I think have three types of insurance model. You have the public monopoly, you have the private oligopolies, and then you have a hybrid arrangement such as exists in New South Wales.

PROF WOODS: I was wondering where you'd classify New South Wales.

MR PURSE: It's a variation on a variation, but you've got the hybrids which I think would be South Australia, Victoria, New South Wales. There's a bit of difference, but that's where essentially you've got public underwriting but private claims management and, as you know, in New South Wales they do the investing as well.

It's worth pointing out that very few countries in the world go in for private oligopolies. The United States, of course - in most of their states they've got it. But in most countries in the world, because of the market failure arguments, they've gone for public monopoly, and in I think the majority of cases, the workers compensation arrangements are integrated into the social security system.

PROF WOODS: But, I mean, you've got Tasmania sitting there, a small pool but privately underwritten, chugging away quite happily.

MR PURSE: Yes. I don't know about happily but you could compare it with the deficit in New South Wales or you could compare it with the performance in South Australia or - - -

MR PURSE: At the end of the day you can't prevent bad management, whether it's in a publicly managed scheme or a privately managed scheme, and there are plenty

of examples in both. All I'm saying is I think that if you look at our scheme, we're a hybrid scheme since 95. The outsourcing was sold on the basis of three arguments: (1) cheaper, (2) better service, (3) choice.

At the time the government through WorkCover put out a discussion paper. The government was committed to this. They argued that there would be 10-15 per cent reduction in premiums associated with outsourcing - sorry, a 10-15 per cent reduction of the administrative cost of running the WorkCover scheme. It never happened. If you look at the figures, it never happened. Costs have gone up, while the number of claims have gone down. That's the first point.

The second point, choice: choice here was choice for employers, not choice for workers, but the choice for employers hasn't really occurred either. From my information, there's a churn rate of maybe about 1 per cent, other than when there are changes of contracts, in which case the employers involved are usually shifted without choice. So the choice is a bit of a chimera.

Thirdly, the service: there were problems with service I think prior to the outsourcing. I don't think there's any question about that. Those service problems seem to have deteriorated even further with the outsourced arrangement. Again, that was a major finding of the Stanley review, which is now argued that it should all be brought back in-house again. One of the problems I think you have with this hybrid arrangement is that you have a regulator trying to second-guess the claims agents. It's almost like an exercise in game theory.

PROF WOODS: Yes. You have to manage the contract.

MR PURSE: Yes, and it doesn't happen. It hasn't happened here, it hasn't happened in Victoria and, from what I can see, it hasn't happened in New South Wales. Again, it's one of the problems you can have with managing risk under conditions of uncertainty. If, for example, I was producing a motor vehicle and I contracted with you to provide the rear-vision mirrors, that would be pretty straightforward because I'd tell you how many I want, to what technical specification, and when I wanted them. So if the 5000 I'd ordered didn't turn up on Thursday morning, I'd make some decisions about whether we would continue to have a business relationship.

With insurance, it's a much more nebulous arrangement. It's very difficult specifying the performance criteria, and even if you get that right, which I don't think has been the case, then you can get perverse compliance. You've got a situation where - - -

PROF WOODS: Going back to our inventive structures.

MR PURSE: Yes, and it's very difficult to do that.

PROF WOODS: Most personal services, industries, suffer this dilemma.

MR PURSE: Yes. It seems to me that in a workers compensation business you'd have to regulate so heavily that it gets incredibly bureaucratic. We've seen signs of that. I think one of the previous speakers was alluding to some of the controls put in place in relation to rehabilitation.

PROF WOODS: I previously did the inquiry into Job Network and looking at claims management there, and it has exactly the same issues.

MR PURSE: Exactly. At least as far as I'm concerned, it's hard to avoid the conclusion that you're better off going back to having a central monopoly. I think the advantages of that probably are going to be that you've got the economies of scale which can be utilised. I mean, information systems are a classic example of that. You compare the WorkCover system with, say, that of the private insurers. I don't think you'd find much of a comparison. WorkCover would be streets in front. The policy coordination is much more effective if you've got the one body. You have got the greater accountability. You do have a board which is publicly accountable. You have a government which eventually is accountable. With private insurers, that doesn't necessarily happen. One of the other virtues, I guess, of a public system is that you don't have HIHs blowing up on you.

None of this is to suggest that a public monopoly is without its problems. You do get problems. Whichever system you opt for, there are problems. But it seems to me that, on balance, you can get better and more coordinated outcomes with a publicly administered system than what is likely to be the case with either a hybrid or a private oligopoly system. I'm not sure if you'll agree with that, but that would be my position on that.

PROF WOODS: I hear your view.

MR PURSE: Thank you.

PROF WOODS: Thank you very much. Are there any final concluding comments?

MR PURSE: Do we have time to talk about premiums?

PROF WOODS: We have time to talk about premiums.

MR PURSE: Okay. I'll try and be brief. I'd like to talk about the nexus between premiums and health and safety. Certainly since the late 80s, early 90s, there's been a much greater emphasis on flexible or responsive premium setting. In theory this sounds quite good. In practice, I think the situation has been much more mixed. In the late 80s, early 90s, what we've had basically is a shift towards experience rating in one form or another. The biggest selling point at the time and since has been that we can use experience rating to improve workplace health and safety.

I might add that this experience rating was introduced by the various schemes around the country without any prior evaluation, without research. It was a sort of act of faith. You still have various scheme administrators wandering around the country, saying, "We've reduced our claims numbers. This is proof positive that we've improved health and safety and that's been directly attributable to our bonus and penalty scheme," or some other experience rating program. It's one of the biggest myths going around. Quite often experience rating does have incentive effects, but those incentive effects can be something other than what was perhaps envisaged, so again it's a question of frequently getting perverse effects.

The two major types of experience rating we've had in our country have been the bonus and penalty type arrangement or, with the larger firms, a situation where they are experience rated with reference to their prior claims costs. I'm not aware of any evidence or any research or substantive research in this country which has demonstrated that it's worked at all. I know certainly with the bonus and penalty schemes you've had quite perverse effects. I know that from my own observations which I can forward to you if you like.

PROF WOODS: I'd appreciate that.

MR PURSE: Certainly in South Australia we've had a situation where since I think about 1990-1991, there's been a bonus and penalty system in place. It excluded particular categories of costs, one of which was secondary disability costs. Those costs were specified as being costs which apply to an aggravation of a pre-existing injury. In practice, many - it would be in the medium to smaller employer range - have thrown anything they can into that category. They've been ably assisted there by lawyers and a few other specialist types. So what's happened is that by the mid-1990s you had about 35 per cent of claims costs being excluded from bonus and penalty calculations. That gave rise to a situation where employers who were failing to meet their obligations were in actual fact being rewarded by a bonus. That process has been going on for decade.

A similar problem existed in Victoria, and the Victorian government, to its credit, eliminated that little provision in 1991. In South Australia we still have that problem continuing. Similar problems like this exist in overseas schemes,

particularly Canada. I'm not quite sure about the United States because I don't have the information. So even if you think the rationale behind a particular program is soundly based, its application can result in quite perverse effects.

PROF WOODS: We are very well aware of that in our number of inquiries.

MR PURSE: In terms of experience rating more generally, it's questionable whether it's delivered on promises. There's been about 25 years of research that I'm aware of, predominantly from the United States, which has sought to prove that experience rating actually does give rise to health and safety improvements. Most of those studies unfortunately suffer from quite serious methodological problems. Many of the early studies focused on looking at reductions in claims numbers. As I think you'd be aware, reductions in claims numbers can be attributable to a whole range of things which have nothing to do with health and safety.

PROF WOODS: Constructed in all sorts of ways.

MR PURSE: Some of the more sophisticated researchers have attempted to look at fatality rates - when they do their regressions, use the fatality rates as the dependent variable. I think that's the best way of trying to demonstrate it. Unfortunately the major studies by people, Moore and Viscusi, their work in 1990 - probably too high a level of abstraction to make any clear recommendations. Quite often you get quite spurious regressions as well.

I know in some work done by Alan Clayton recently, who is at the ANU, Alan looked at some work by Richard Butler, who is one of the leading US economists who did some work there in 1994, and I think he basically demonstrated that the regression equations developed by Butler were both econometrically unsound and certainly the results which popped out the other end could not be substantiated. So the most generous thing you can say on the research is that I think the case for experience rating is unproven. Certainly the research I've done indicates it can also be, if you like, rorted - I suppose the appropriate term would be - - -

PROF WOODS: And you've published this?

MR PURSE: Yes.

PROF WOODS: Okay, we'll track it through.

MR PURSE: There are a number of arguments against experience rating: firstly, that the amounts involved are too small. If you have an average premium rate of 3 per cent, and in Australia most average premium rates are going to be beneath that level, that doesn't provide sufficient incentive to improve health and safety. You can

argue, of course, well, the average might be 3 per cent, but my firm's might be 9 per cent. You'd have a bit more of an argument there, but again if I am employer, I might choose to use other strategies. Claims suppression would be a negative one in many cases. Or, alternatively, you could look at rehabilitation, or getting people back to work. Rehabilitation can be a positive outcome but it's not doing much in terms of health and safety.

As I mentioned earlier with the industrial diseases, an experience rating program is not going to do anything for industrial disease because of the long latency involved. There are a number of other arguments but I think you get the drift of it.

PROF WOODS: Yes, I understand.

MR PURSE: So in conclusion on this, I'd argue two things: (1) we know that the indirect costs of work-related injury are much greater than the direct costs represented by workers compensation premiums. There would be I think considerable merit in trying to highlight these indirect costs. The estimates vary and the methodologies vary. Worksafe Australia says there's a 4 to 1 ratio. I think that would be arguable, but what they're saying is that the indirect costs are four times greater than the direct costs, so there are much greater savings to be made by employers by focusing on those indirect costs. Trouble is, most employers aren't aware of those indirect costs. They have never, to my knowledge, in this country been properly quantified. It's a difficulty, sure, and I suspect in practice it would vary from industry to industry. I think it would probably also vary from injury type to injury type. They're the sort of things that we could look at - and I think the savings from that would be much greater than from existing experience rating programs.

The other point I should perhaps touch on is that certainly in more recent times there has been a move by some jurisdictions - South Australia, but also New South Wales - to try and put incentive programs or experience rating programs as part of a systems management package. So instead of simply reducing claims costs in order to get a premium discount, you have to institute a management program. I think in principle this is a superior approach. In practice these programs suffer from a number of, I think, quite serious problems. Firstly, they tend to be paper audits, so if you get a paper audit, you get paper compliance. There might be some scope, though.

Another problem is that they tend to be voluntary. In New South Wales you've got the premium discount scheme which was introduced two years ago, I think - one or two years ago. If I'm a good performing employer it would be quite advantageous for me to go into that scheme and reap the rewards, but from a scheme management perspective, you don't want to target the good performers, you want to target the not

so good performers. That isn't happening. I think if we're going to continue to use experience rating or financial incentives, then it needs to be more carefully thought through. It needs to be more targeted, so that you pick high-risk areas, you look at it also in conjunction with your enforcement activities, which are being conducted, and where you do go for it much greater consideration needs to be given to making it mandatory. The other thing which is actually essential is verifiability.

PROF WOODS: Yes.

MR PURSE: That means you don't simply look at claims numbers. You might look - you would look at claims numbers, of course, but what you would require would be for qualified people to go out and inspect the workplace. Now, some people - you'll never have enough qualified health and safety inspectors or auditors - that's true, but that misses the point, because in the program or type of program I'm suggesting - - -

PROF WOODS: You can target them on a risk - - -

MR PURSE: You target it. That would be, I think - again, I don't think it can be assumed that would automatically work, but that would be the sort of thing we'd look at, rather than the across the board approach which we've had in the past, which doesn't seem to have produced verifiable evidence that it's worked in the way it's intended to, so as I say, I think experience rating has had perverse effects in our country. The research hasn't established that it delivers on the things that it was supposed to deliver, the savings associated with managing the indirect costs are much higher and that needs to be given greater priority. Again, if we can look at more sophisticated systems management approaches, which are carefully targeted, then that might be the way of the future.

PROF WOODS: Yes, I think dividing the number of inspectors by the number of businesses is a tad simplistic.

MR PURSE: Well, you might not use inspectors, but yes, I couldn't agree more.

PROF WOODS: Thank you very much.

MR PURSE: Thank you, and good luck.

PROF WOODS: Any concluding comments? You have some research that we should tap into. If you could communicate - we have your details, so we can communicate with my staff subsequently and we'll avail ourselves of those benefits.

MR PURSE: Okay, thanks very much.

PROF WOODS: Thank you very much. That concludes the scheduled participants for today. Therefore I'll adjourn the hearings and reconvene tomorrow in Perth. Thank you.

AT 1.19 PM THE INQUIRY WAS ADJOURNED UNTIL FRIDAY, 13 JULY 2003

INDEX