

**EDUCATION AND HEALTH  
STANDING COMMITTEE**

**INQUIRY INTO MENTAL HEALTH IMPACTS OF  
FIFO WORK ARRANGEMENTS**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 22 OCTOBER 2014**

**SESSION TWO**

**Members**

**Dr G.G. Jacobs (Chair)  
Ms R. Saffioti (Deputy Chair)  
Mr R.F. Johnson  
Ms J.M. Freeman  
Mr M.J. Cowper**

---

**Hearing commenced at 10.52 am****Mr LEX McCULLOCH****Executive Director/Commissioner, WorkSafe Western Australia, examined:****Mr IAN MUNNS****Director, Policy and Education, WorkSafe Western Australia, examined:****Ms JEAN MANGHARAM****Principal Scientific Officer/Inspector, Human Factors and Ergonomics Team, WorkSafe Western Australia, examined:**

**The CHAIR:** Thank you very much. On behalf of the Education and Health Standing Committee, I would like to thank you for your appearance before us today. The purpose of this hearing is to assist the committee with its understanding of the activities of the Department of Commerce and WorkSafe and more specifically in its role in regulation of worker safety with respect to mental health. At this stage I will introduce myself: I am Graham Jacobs, the Chairman; on my left is Rob Johnson, Janine Freeman and Murray Cowper. This hearing is a formal procedure of the Parliament and therefore commands the same respect as that given to the proceedings of the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. Before we proceed there are a series of questions I need to ask you. Have you completed the “Details of Witness” form?

**The Witnesses:** Yes.

**The CHAIR:** Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

**The Witnesses:** Yes.

**The CHAIR:** Did you receive and read the information for witnesses briefing sheet provided with the “Details of Witness” form today?

**The Witnesses:** Yes.

**The CHAIR:** Thank you very much. Before we start, I have an unusual question: have you any questions for us?

**Mr McCulloch:** No, not at all; we are quite happy to respond to your questions and give you as much information as we can, Chair.

**The CHAIR:** Thank you.

**Mr R.F. JOHNSON:** What is your view in relation to the roster system? Does WorkSafe have a view on what is the most compatible roster system that places less stress on FIFO workers and their families? Is it two weeks on, one week off; two weeks on, two weeks off; one week on, one week off; or four weeks on? There are so many different rosters and I wonder whether there is one that has the least harmful effect in relation to mental health and stress that could lead to suicides.

**Mr Munns:** Thank you for your question. No, we do not have a specific preferred roster; however, we do cover that topic inside our working hours code of practice. It does identify the roster as a risk factor to be considered. It does include it in a chart and it does provide a spectrum in terms of a

range of roster time frames. It does not actually identify specifically those rosters, but it does identify it as a topic to be considered in terms of the whole work design for the fly in, fly out worker.

**Ms J.M. FREEMAN:** The code of practice was done 10 years ago.

**Mr Munns:** Yes, it was done 10 years ago, however —

**Ms J.M. FREEMAN:** And has it been reviewed since that time?

**Mr Munns:** It has been reviewed in a fashion. With the national harmonisation process, they have looked at that topic. In there they produced a code called the fatigue code. In examining that code, the commission formed a working group to look at the contents of that fatigue code and to consider whether it had material that required a review of our working hours code. That was most recently undertaken during 2012. The decision at that time was to leave the code in its current form.

**Ms J.M. FREEMAN:** Has the code of practice ever been used for a standard for prosecution of any working hours and their impact on anyone's health and safety?

**Mr Munns:** Not that I am aware of.

**Ms J.M. FREEMAN:** Has any prosecution ever been pursued or any aspect of working hours under regulations relating to fatigue or anything like that—obviously not under the code of practice—ever been pursued in terms of the inspectorate work around this as some sort of action for health and safety purposes?

**Ms Mangharam:** I have to say that I do not know the history of the prosecutions but we do have quite a tight regulation on commercial drivers and the application of working hours. I would have to look into our data for that, if you would like that information.

**The CHAIR:** Could you provide that for us?

**Ms Mangharam:** Yes, I can.

**Ms J.M. FREEMAN:** Is there not a national standard for drivers in any event in terms of working hours?

**Mr McCulloch:** For commercial drivers?

**Ms J.M. FREEMAN:** Yes.

**Mr McCulloch:** My understanding is that it is clearly outlined in our regulations as to how many hours they can drive without breaks. That is what we tend to rely on in the transport industry.

**Ms J.M. FREEMAN:** So it is prescribed in the regulations?

**Mr McCulloch:** It is prescribed and we regulate in relation to that. When we stop truck drivers, we ask to see their records and we do a number of operations with Austrans, I think it is, and with the Department of Transport.

**Ms J.M. FREEMAN:** It is pretty much on the cusp of how you do regulations to prescribe directly how many hours a driver has to do. I understand that is because of fatigue management and the risk of injury to both themselves and the broader safety issue for people around them because they are on the roads. That is an interesting aspect for us. Is that something that is possible in terms of looking at working hours and rosters for mining? I understand that it is under the Mines Safety and Inspection Act, but in terms of a policy aspect for WorkSafe—I get that there is a lot of politics about you having that discussion—is that a consideration that the committee could look at in that if you can regulate for safe working hours for transport workers, why can you not regulate for safe working hours for mining workers?

**Mr McCulloch:** Our position will always be less regulation. It is really up to the employers to understand their industry. They know their industry best, they know the risks and the hazards in their industry, and they have to make the arrangements and assess those and put the arrangements in

place for their operations, if they are going to support that the best. I am not sure that the approach to road fatigue would be transferable over, and you indicated some of the issues around that. I am not sure; I cannot comment really on whether it should go over.

[11.00 am]

**Ms J.M. FREEMAN:** It is in another jurisdiction from you, I understand that. But the code of practice applies only to employers that come under the WorkSafe jurisdiction under the Occupational Safety and Health Act, does it not? It does not come under the mine safety act at all.

**Mr Munns:** Certainly, the code we use has been approved under the Occupational Safety and Health Act, so it is an approved code for general industry. However, it has been produced jointly through the commission and does make reference to the Mines Safety and Inspection Act in it. I would have to double-check whether it has been an approved code under the Mines Safety and Inspection Act.

**Ms J.M. FREEMAN:** The indication from the previous witness is that it was not.

**Mr Munns:** While we are talking about the code, in relation to your previous question on the regulation, some of the issues that are dealt with on the heavy vehicle transport regulation are also identified in the code for other things to consider in terms of framing working patterns, such as the amount of time that is available for a person to have rest breaks and time away prior to the recommencement of work.

**The CHAIR:** If a worker or other authorised person committed suicide under WorkSafe's jurisdiction, is it a requirement for the suicide to be reported to WorkSafe?

**Mr McCulloch:** Fatalities on a worksite are meant to be reported to us if they are under our jurisdiction.

**Ms J.M. FREEMAN:** So is suicide on a farm, which is a worksite, reported?

**Mr McCulloch:** Yes.

**Ms Mangharam:** We have received reports from —

**Mr M.J. COWPER:** May I jump in there? First of all, when someone dies on a mine site or on a farm or anywhere else, they do not say it is a suicide; they say there has been a fatality. It is a matter of investigation before it is determined to be at one's own hand. So the notion that someone has committed suicide, and everything swings into place as a result of a suicide versus suspicious circumstances, is no different; they are still conducted in the same manner. It may be some time post the event that it is determined that it is actually a suicide.

**The CHAIR:** If after that process it was deemed a suicide, my question still stands: is it a requirement for the suicide to be reported to WorkSafe?

**Ms Mangharam:** Yes, it is. As we understand it, any death that occurs at a workplace should be notified to us. So we have been notified of non-workers who have died on worksites.

**Mr M.J. COWPER:** What about in the accommodation area? In your eyes, is that viewed as a workplace?

**Ms Mangharam:** We have been notified of that, and it is a complex issue. We have spoken to our legal adviser about that. Recently we did have to consider one. However, there are complications surrounding who owns the residential premises and so forth and what hours it occurs in. It is case by case, first of all, whether it falls under our jurisdiction and, secondly, whether it is considered a workplace.

**The CHAIR:** Can I just comment on the accommodation issue and where that stands as it is deemed as part of the mining operation. I have an issue, as a country member, with a mine being set up 25 kilometres out of town. This whole issue went to court, and it was deemed that the

---

accommodation was actually a part of the mining operation. The argument is that there is a town 25 kilometres away and why do the staff not live in the town rather than the mining company creating a mining village out of town, and all the implications that has for the town itself. So these cases have been tested and it has been ruled by the court that the accommodation is actually deemed as part of the mining operation. That being said, if there was an event and, through Murray's process, it was deemed to be suicide, in the accommodation units, why would that not be considered as part of a mining operation?

**Ms Mangharam:** Yes, we have commenced investigations where we have been notified of suicides, or attempted suicides, that have occurred in dongas.

**The CHAIR:** Can you tell us how many suicides on a site under WorkSafe's jurisdiction have been reported for each of the last, say, five financial years? What data have you got?

**Ms Mangharam:** We have looked at what has come in through inquiries as well as notifications. I have identified one out of 18 in the last five financial years from 2009 to 2014. With that, we did look at it with the coronial police, and at that point in time it was agreed between WorkSafe and the coronial police that the coronial police would continue with the investigation because it did not appear to be a work-related factor, or the work-related factors did not appear on the surface to be the primary reasons. There is an agreement that during the coronial police investigation, if they suspect there are work-related factors, they would contact WorkSafe again, and they did for this case. The director for construction at that time did meet with the coronial police. They did have a discussion and at that point in time it was revealed that the individual, the deceased, did have major personal problems they were struggling with, which, beyond reasonable doubt, would have been the primary factor contributing to a mental health state. At that point in time it was decided that it was not going to be investigated further by the director of construction.

**The CHAIR:** In the press it has been reported that this is an issue that we have to try to understand. It has been reported in the past 18 months that there have been nine suicides related to FIFO workers. This was one of the issues that led to this inquiry, that this was a significant number. Obviously, every life lost is tragic, but nine in the past 18 months is fiercely tragic. Where do we get these statistics from? Can you help us with those numbers? You are saying that essentially that was one that was work related.

**Ms Mangharam:** Yes, that fell in the construction industry. So for mining, petroleum, oil and gas, they are reporting it to a different jurisdiction.

**The CHAIR:** I understand that. But from your jurisdiction, one?

**Ms Mangharam:** And one recently attempted. We had a phone call from the spouse of an individual who lives in Queensland where an attempt had occurred. We have not closed that investigation because we need to find out more about the details and whether there were work-related factors.

**Ms J.M. FREEMAN:** When you say "construction", that is a construction in the mining cycle, is it not? It is a mining construction.

**Ms Mangharam:** It is a construction site prior to it becoming a mine.

**Ms J.M. FREEMAN:** Just for the purposes of clarity, WorkSafe have pre-mine site construction jurisdiction. So, the construction of a mine site is a WorkSafe site, and those mine construction sites also have accommodation on them, do they not, and they are WorkSafe sites? So you have almost like the preliminary operations safety responsibility for an operating mine site. The construction phase for the mine site is WorkSafe, and then once it starts operating, it kicks over to the Department of Mines and Petroleum.

[11.10 am]

**The CHAIR:** Except when it is a major hazard facility; is that right?

**Mr McCulloch:** That is correct. Occasionally in the past few years, with a big period of growth, when there has been construction on an actual operating mine site, we have entered into an agreement under which we would oversight that construction on behalf of the Department of Mines and Petroleum from a work safety perspective, and then as soon as that started to operate, it would go to them. But we do not have any of those sites at the moment.

**The CHAIR:** What about an onshore LNG plant? Where does that fit in?

**Mr McCulloch:** That is us.

**The CHAIR:** That is you.

**Ms J.M. FREEMAN:** So you have got Barrow Island?

**Mr McCulloch:** Yes, we have got Barrow Island.

**Mr Munns:** We have got bits of it.

**Ms J.M. FREEMAN:** Have you just, basically, got Barrow Island, or —

**Mr McCulloch:** No, we have got the construction bits of Barrow Island.

**Ms J.M. FREEMAN:** The construction bits of Barrow Island, and the LNG plant?

**The CHAIR:** What about the LNG plant?

**Mr McCulloch:** The LNG plant that is operating on Barrow Island—the one that is being built, do you mean?

**Ms J.M. FREEMAN:** Yes, that one. So mines safety tells us that the onshore LNG plant licence under the Dangerous Goods Safety Act 2004 provides for WorkSafe as the regulatory body for occupational health and safety. That is what the mines department is telling us. You might want to sort that out between the two of you.

**Mr Munns:** Barrow Island is a very complex environment, in that we have found that, in the same geographical space, both ourselves and the Department of Mines and Petroleum can have jurisdiction depending on who is doing what in that space at the time. We have an agreement with the Department of Mines and Petroleum as to how we will regulate Barrow Island, and in each instance it is not always immediately clear as to which regulator has carriage of the issue.

**The CHAIR:** So when someone comes to you with an issue and says, “We’ve got an issue”, and you say, “That’s not our jurisdiction; it is the Department Mines’ jurisdiction”, do you actually make that communication with the Department of Mines and Petroleum, saying “Hang on, this is a case for you”?

**Mr Munns:** The usual process for that is that as soon as we have been advised of it we commence discussions with the Department of Mines and Petroleum immediately, so we can work out who has jurisdiction before we make that decision. We do not want to leave a situation where there are any gaps. WorkSafe’s endeavour is a no-gaps approach. We take it on as the default regulator, unless we have discussed it with the Department of Mines and Petroleum and they are of the agreement that it is actually theirs.

**Ms J.M. FREEMAN:** On the WorkSafe site—WorkSafe is the regulatory body—there have been 18 reported suicides and suicide attempts or injuries that have had a mental health aspect. Do you want to clarify what you actually classify them as?

**Ms Mangharam:** We have done a text search to look at whether the inquiry had the term “suicide” and if that led to an investigation rather than them requesting information. So, 18 led to an investigation.

**Ms J.M. FREEMAN:** Eighteen; and what were they classified as?

**Ms Mangharam:** What do you mean by classified?

---

**The CHAIR:** Suicide or attempted suicide.

**Ms Mangharam:** Sure, some were ideation; so they have mentioned the term “suicide” during the initial inquiry and there is some form of ideation or that they are concerned that some of their clients may have that risk and therefore it is a safety concern, or that they have heard that there have been workers in the past—they are not sure—but so-and-so suicided a few years’ ago, I am wondering whether it is related to this.

**Ms J.M. FREEMAN:** So there are deaths as well as injuries?

**Ms Mangharam:** Out of the 18, there were eight deaths. A proportion of them were not workers; they were members of the public who were on the worksite. With all of the deaths, the coronial police and WorkSafe were involved. As you know, there is an agreement that is written in our compliance policy that at some stage we would agree not to hinder each other’s investigation, but certainly if it is relevant to the other jurisdiction, we would let the other know. So that is the agreement, and that has occurred.

**Ms J.M. FREEMAN:** We have a real problem with the statistics, because we are being told that an aspect of the risk factors for suicide are no greater on, in this case, mining construction sites, as they are in the general public. But no-one can actually show us the statistics that show that. There is, sort of, anecdotal stuff. So the only person that you can go to is the coroner, and then the coroner tells us that they do not specifically gather that sort of data. How could that be done better so that if the mining industry says to us, “Look, there is no significantly increased risk”, and you tell us that there is no significantly increased risk, but the public says to us, “Yes, there is”, we can assure the public or we can come back to you guys or you can come back to the mining issue and say, “Well, actually that is not what the stats show”?

**Ms Mangharam:** The other organisation that has identified data—and they do not share the identification with us for legal reasons—would be WorkCover. If there is either a consideration or an accepted claim based on suicide or attempted suicide that has been put in through the workers’ compensation system, WorkCover would have the identified data on that. We would be provided with de-identified numbers if we were to talk.

**Ms J.M. FREEMAN:** Okay, so that is somewhere we can go otherwise. That is if people put in a claim.

**Ms Mangharam:** That is correct.

**Ms J.M. FREEMAN:** Yes. Part of our job is to try and respond to the public concern, and part of responding to public concern is making a recommendation. It seems to me that the biggest area is actually that data gathering—the reporting aspect of it. I know, for example, that if I drive to a construction site and I have an injury driving to that construction site, WorkSafe does not consider that a workplace accident, even though I was driving to work. Do you collect that data of fatalities or injuries on the way to worksites?

**Mr Munns:** Us specifically?

**Ms J.M. FREEMAN:** Yes.

**Mr Munns:** We may collect some of that data if we are informed of it. It really just comes down to whether somebody has voluntarily notified us of that incident. As Jean mentioned, if it is a matter about whether there has been a claim for workers’ compensation —

**Ms J.M. FREEMAN:** Which it cannot be, because journeys to work are no longer compensable.

The issue for me is how we get some sort of regulation aspect. What would be reasonable and not burdensome for employers to be able to report that sort of data? Is that possible?

**Ms Mangharam:** Sorry, is the question in relation to general fatigue, patterns of work or working hours? Is it for just FIFO workers or across the all industries?

---

**Ms J.M. FREEMAN:** At the present time it is FIFO workers, because that is what we are doing.

**Ms Mangharam:** That is correct, yes.

**Ms J.M. FREEMAN:** We are being told by the employer sector that there is no greater incidence, but we are being told by the general public that there is. So it is somewhere in between—we go and look for the information and there is a disconnect.

**Ms Mangharam:** If it goes through the workers' compensation system—just to let you know—there are codes which talk about how long the working week has been and the last shift. So, yes, you do have some numbers about working hours and lengths of shifts. If you look very closely within the data that is collected by WorkCover, you may find that. The other information that is available but de-identified, and is possibly something that, I think, the state could look at, is data linkage. With our mortality data and WorkCover data, if it is de-identified and follows the correct ethics procedure, you may be able to link some data to give you more ideas of how that has occurred, including mortality, hospital admissions and emergency cases. Data linkage is something to possibly look at for the future when looking at the data of where and possibly the mechanisms and risk factors that may have led to it.

**The CHAIR:** Jean, in your submission, on page 9, there is a table of “fatalities: death by own hand”.

**Ms Mangharam:** Yes, that is correct. This is information that has been provided by WorkCover to WorkSafe. An industry analyst has provided it to us as de-identified data.

[11.20 am]

**The CHAIR:** The question is: under “mining” there are actually no reported incidents of “fatalities: death by own hand” until 23 September, and two in 2013–14.

**Ms J.M. FREEMAN:** But construction could include mining; could it?

**The CHAIR:** So could we add to that any of those sections there, to maybe give us some idea or get somewhere near the nine, if you like?

**Mr Munns:** It would be difficult. As Jean pointed out, the data we built this table on is data we received from WorkCover WA. When they provide it to us, they provide it in a de-identified form, so we are not aware of the worker's name or the entity they were employed by. We purely get information about the industry they worked in. It is very hard to say that those construction ones were in any way related to mining. Interestingly, we have discussed this topic at the construction industry safety advisory committee, which is a subgroup of our commission of occupational safety and health, and the members of that group have indicated, generally, that the issue is prevalent throughout the construction sector, regardless of where they are working.

**Ms J.M. FREEMAN:** In terms of the construction sites, let us call them mining construction sites so that we are clear, that have FIFO workers or DIDO workers—drive in, drive out workers—and the accommodation: Is the accommodation seen as covered by the occupational health and safety legislation? If the worker goes back to the accommodation—not the cleaners and the cooks there, but the workers who have been working out building stuff on the tools—are they still seen as covered by the general provisions of the occ health and safety act or is it just public liability at that point in time?

**Mr Munns:** The short answer is the accommodation is not still covered by the general provisions of the Occupational Safety and Health Act because it is not considered a workplace. However, the Occupational Safety and Health Act does have specific provisions in it that cover accommodation that is provided by an employer, but those provisions are very narrow in respect to the maintenance and general state of the accommodation as opposed to wellbeing and things that occur at that place.

---



**Ms J.M. FREEMAN:** If you are in a situation where you have a construction mining site which basically says to the workers, to leave the site you need to get permission and that permission has to be granted a week beforehand—you have to ask and get permission to leave a week beforehand—does that change the nature of that accommodation because you are required to stay on site? If an employer requires you to stay on site and not to leave site for any purposes other than with specific approval, does that change the nature of the accommodation to mean that that comes under the general, not the accommodation, section of the occ health and safety act?

**Mr Munns:** That is not something I have turned my mind to in terms of forming a view, but my initial impression is that it would not actually change the nature of accommodation in a workplace because our general duties and most of the occupational safety and health laws are built around the workplace.

**Ms J.M. FREEMAN:** Being on tools?

**Mr Munns:** Being on tools.

**Ms J.M. FREEMAN:** In terms of that whole concept of being on tools, which is much more that sort of working aspect of it, Lex would know, as you all would, that in the 1990s they changed what was then the Occupational Health, Safety and Welfare Act, “welfare” was removed and “safety” was paramount over “health”. That was what was said in the second reading speech when that happened. Is there a need now, because of the complete focus on safety, to bring back that aspect of focusing on health and welfare in the workplace with respect to the department, or is that a general government policy and really you cannot comment?

**Mr McCulloch:** I guess that is a government policy; that is not something we would even turn our mind to really. We regulate the act and administer the act the way it is. At the moment it is “safety and health” and that is what we regulate. But if it is changed and they add back in “welfare”, that is what we will do.

**Mr Munns:** May I add, Chair, whilst the order of the wording is in the second reading speech, I think that WorkSafe has still focused beyond just the pure safety aspect and does have quite a number of products and materials, and undertakes quite a lot of educational activities as well as probably inspections that delve into the health aspect of our role.

**The CHAIR:** I think you mentioned in your submission and referred to your inspectors as psychosocial inspectors. I think that was the terminology. Am I right in that—is that terminology you would use?

**Ms Mangharam:** They are inspectors that focus on psychosocial issues, that is correct.

**The CHAIR:** So how many of these inspectors do you have and what do they do?

**Mr McCulloch:** Can I just give a little bit of background and then I will hand to Jean? Probably a couple of years ago we realised, particularly with bullying starting to gain prominence, that we probably needed to improve our skill base and our knowledge base and our capacity to respond to those types of issues, and to aggression, stress and violence in the workplace, and bullying, and be able to provide some advice but also the capacity to be able to look into those issues. Traditionally what happened is those types of—we had a very small team—requests would come in and they would get farmed out to the general inspectorate. It probably was not the best response.

**The CHAIR:** What is the general inspectorate?

**Mr McCulloch:** We have three branches. We have construction and regional services. They are obviously inspectors who have a particular bent on construction, and the other particularly on the agricultural-type sector in that branch. Then we have the manufacturing, transport and service industries; then we have health hazards and plant. Sitting in health hazards is Jean’s team. It is that team to which we have added resources to be able to focus on these issues of stress and bullying. I will let Jean talk about how many we have now and how they operate.

---

**The CHAIR:** Can you just tell us how much? Lex said, “added resources to”—can you tell us about what resources?

**Ms Mangharam:** Sure. To add to that explanation there: inquiries that are received, or notifications of injury, are usually directed towards the industry team manager and they are distributed to inspectors and they are considered for investigation and followed through if an investigation is —

**The CHAIR:** How many are there, where are these people and what is it?

[11.30 am]

**Ms Mangharam:** There are several industry teams that sit over three directorates and three specialised teams that sit in the health hazards branch. One of the specialised teams is the human factors and ergonomics team. What we did see was an increase in inquiries about bullying in the workplace or harassment. We also noticed there was mention of work-related stress and so forth. We needed to find out how the inspectors were dealing with it. Some inspectors found it quite complex because there are other laws that cross over which may actually be more pertinent, such as the equal opportunity law and the industrial relations law. For this reason, as human factors specialists we looked more closely at complex investigations, spoke to the directors and managers to work out how the inspectors were feeling about it. We realised we most probably needed to find out whether the cases were more related to industrial relations or equal opportunity prior to it entering into the OSH realm. There were lots of investigations that were conducted, which lasted for long periods of time, which were not relevant as such to occupational safety and health but more so to industrial law. With that in mind, there was a strategy to look at psychosocial hazards because a lot of other types of hazards came under it, or those related to the precursors of mental illness, such as violence and aggression that they had been exposed to or workloads and stress. We had decided at that point in time that we would create an interagency group to look at whether the inquiries about bullying or harassment have also increased in other agencies such as industrial relations, labour relations and equal opportunity. We continued to meet quarterly. At that point in time there were two inspectorate positions that were then transferred to our directorate which became specialised.

**Ms J.M. FREEMAN:** But you do not actually go out and inspect it, do you? All you do is write practice notes and stuff like that.

**Ms Mangharam:** As the scientific officers, we are also trained inspectors —

**Mr McCulloch:** Jean, how many people do you have?

**Ms Mangharam:** Sorry; we do have eight in the team collectively but four have backgrounds in psychology; they have a degree in psychology.

**Ms J.M. FREEMAN:** Are they going into the workplace and inspecting it, or are they just doing interagency discussions and writing —

**Ms Mangharam:** No. They are inspectors, so they are writing notices. At this point in time, all bullying inquiries or harassment-type inquiries are directed to our team if they are relevant and the investigation is conducted by somebody who has a background in either organisational psychology or human factors and ergonomics.

**Ms J.M. FREEMAN:** Four people are doing that. How long have you had four people doing it?

**Mr McCulloch:** Eighteen months or two years.

**Ms J.M. FREEMAN:** So it is recent?

**Mr McCulloch:** It is very recent.

**Ms Mangharam:** It is recent. The addition of the two is additional; that is correct.

---

**The CHAIR:** In that time, how many cases of bullying and harassment have you received and investigated—those you have received and those you have investigated?

**Ms Mangharam:** Many. I do not have that data here. We can provide that data for you. Specifically on bullying?

**Ms J.M. FREEMAN:** Bullying, violence and harassment.

**The CHAIR:** Just a breakdown of the three.

**Ms Mangharam:** We have provided you with preliminary data here in our response.

**Ms J.M. FREEMAN:** Mental stress.

**Ms Mangharam:** Yes.

**Ms J.M. FREEMAN:** But that is a workers' compensation claim. The difficulty with workers' compensation claims is that there are three things that will exclude them under stress, and one of them is the expectation the employer will act in a reasonable manner. That is the easiest way to get rid of you out of workers' comp now. It is difficult to look at that because stress claims are so easily excluded.

**Ms Mangharam:** These are calls and inquiries that we have received that have the term "bullying", "harassment" —

**The CHAIR:** What page are you on there?

**Ms Mangharam:** Sorry, I am on page 7 of my response. By doing a text search on the inquiries and the types of improvement notices we have written, we have actually been quite active. The inquiry's we have received is over 7 000 between 2000 and 2014, and 3 337 were mental health-related requests to attend where an inspector was asked to investigate that.

**The CHAIR:** That is a huge number.

**Ms Mangharam:** Yes. We have worked quite hard in this matter and worked out interlaw processes on how to do this and prioritise the calls that come in. Definitely one of the complexities is that the nature of the issue has to be summarised so that it is succinct. We have to find out whether it falls under our jurisdiction and then prioritise relative to all the other inquiries that we have. We conducted 2 992 investigations and we actually wrote improvement notices. Of the improvement notices that we have written, we want to see controls in place possibly at the primary, secondary and tertiary prevention levels but mainly at the primary prevention level. A risk assessment: if we find that the hazards are quite clear, there are patterns, and a risk assessment has not been done, we may write that. If we find that the investigation has not been systematic and methodical relative to the incident or the hazard that the individual has notified, we would write a notice that the investigation is inadequate.

**Ms J.M. FREEMAN:** Of the 121 notices, what industries have they been in?

**Ms Mangharam:** A spectrum, but not mining. A spectrum of industry. We find a lot of inquiries have come in from the public sector. Many are in the public sector. For bullying and harassment, we have found it quite over-representative. What we did not expect was from not-for-profit organisations. We are collecting this data. We are looking at the —

**Ms J.M. FREEMAN:** Is it predominantly women who are making the claims?

**Ms Mangharam:** I do not have that in front of me. I cannot say, I am sorry. We are collecting that data. We will be able to—if you were to give us some time to collect this information —

**Ms J.M. FREEMAN:** One of the things that we are told when people put in submissions is that for many on construction and mining worksites, there is a real stigma. They are being bullied, especially young people who are entering that worksite but they are not going to report it. There is a real stigma to reporting it and the risk of losing employment is there. Given that you are seeing this

increase, it is quite interesting that you said there was an increase in certain areas and silence in another area. Silence does not mean that the issue is not there, does it?

**Ms Mangharam:** We meet up with the call centre regularly and we have training sessions. Because we have read the literature, we realise there are vulnerable workers such as young workers, apprentices, migrant workers from non-English speaking backgrounds, so we are fast-tracking those. If a parent calls through and they are concerned about a young worker, they are fast-tracked through to a scientific officer/inspector—a combination—who will then speak to them. We will conduct an investigation if it looks as though it falls under our jurisdiction. We are not neglecting that. We have pulled them out and we are very cognisant of that —

**Ms J.M. FREEMAN:** No, I appreciate it is not as easy as going in and saying, “There’s asbestos on this site.”

**The CHAIR:** The other thing, Jean, is that this data is global data. Could you provide data specifically to our inquiry in and around the mining construction area?

**Mr McCulloch:** Mining construction, we can look at that.

**The CHAIR:** We will write you a letter about these things to remind you in case you missed that. The other thing is: what happens if there is a bullying case in the accommodation facility in a mining construction site; for example, the worker is being harassed and bullied when they go back to their donga or wherever?

**Ms Mangharam:** If we suspect it is under our jurisdiction, we check internally for —

**The CHAIR:** Does that come under you? Would that be picked up in this data?

**Ms J.M. FREEMAN:** No, because it is not in their jurisdiction because it is at the accommodation site, is it not?

**The CHAIR:** Again, we are outside your jurisdiction?

**Mr Munns:** Possibly. My response there was going to be there are a number of models for how the accommodation is provided. Sometimes it may be within our jurisdiction and sometimes it may not. A lot of the accommodation is actually provided close to or on the mine site, which would make it outside of our jurisdiction.

**Ms J.M. FREEMAN:** Outside of your jurisdiction?

**Mr Munns:** Because of its association with the mining operations. But there are occasions where the accommodation is actually supplied in a town nearby. That could form accommodation that is not within the mining operations and therefore within our —

**Ms J.M. FREEMAN:** Sorry, you just need to really clarify this because this is not clear to me. Accommodation on a construction and mining site under the occ health and safety act but not as part of the worksite as part of the provision of accommodation?

**Mr Munns:** If it is a green site that has not been commenced as a mining operation, then the construction would fall under ourselves.

**Ms J.M. FREEMAN:** But only because you are providing accommodation, not as a worksite; not as a place where you are doing work?

**Mr Munns:** The accommodation is not a workplace but the issue of bullying is —

**Ms J.M. FREEMAN:** The question that the chair asked you was if someone is getting bullied at accommodation, whether it is on that greenfield site or in a township which comes under the occ health and safety act, you would not follow that because that is not considered a worksite?

**Ms Mangharam:** Can I answer that?

**Ms J.M. FREEMAN:** Yes.

---

**Ms Mangharam:** We would consider if it is within, or can be linked to, the context of a working environment, so they are colleagues who bring it back to the workplace, it is something that we would consider.

**Ms J.M. FREEMAN:** You would consider but you could not —

**The CHAIR:** There is no requirement, though. You can say, “It’s not our jurisdiction”, and that is the end of it. Even if they are colleagues living in the accommodation site who are actually related to the work, being on tools?

**Ms Mangharam:** If it only occurs purely on that site, then it is a question, yes, and we would have to get legal advice on whether we have jurisdiction.

[11.40 am]

**Mr M.J. COWPER:** Or on a bus or on a plane or anywhere else.

**The CHAIR:** It is interesting you talk about mining and mining sites as well, because we have just heard from the department of mines that, in fact, the accommodation does not come under their jurisdiction even on a mining site as well. These things could happen at accommodation and that is where, you know, the worker goes back after a hard day, reflects on whatever he reflects on in and around bullying or something within the workplace, or fatigue—a tragic event—but because the person is in his or her accommodation, no-one picks it up.

**Ms J.M. FREEMAN:** Lex, in the workers’ compensation act, if you have an injury that is sustained in the course of your employment, and “in the course of your employment” can be that your injury occurs in the accommodation, because in the course of your employment you are having to work with people and in the course of your employment you are having to go back to that accommodation because that is what is provided for you, you would be able to, you know, claim workers’ compensation. So, that whole aspect of what you are saying is that if it is related to, but it is clearly a grey area about whether it is related to. How do you strengthen that and make sure that if bullying is occurring in a worksite—I think accommodation is a worksite, but, obviously, it is not under the definition—but in ancillary accommodation that is provided because the mining industry has decided that it wants to structure its workforce so that it delivers accommodation on site or nearby, how do you strengthen that so you include if bullying is going on in the accommodation, it comes under you guys? How do we strengthen that?

**Mr McCulloch:** I guess you need to do it through legislation.

**Ms J.M. FREEMAN:** I get that, but I am actually asking —

**Mr McCulloch:** Technically?

**Ms J.M. FREEMAN:** Technically. Can you give me a technical answer of how we would do that, or at least come back to us with that? Have consideration and come back to us.

**Mr Munns:** An initial response from myself is that at the moment our act is built around “at the workplace”, whereas the words you are using are “in the course of employment”. It is a different phrase so it would be a matter of —

**Ms J.M. FREEMAN:** It is a workers’ comp phrase.

**Mr Munns:** It is a workers’ comp phrase, so it would be a matter of whether that workers’ comp phrase could be fitted within the occupational safety and health laws without some unintended flow-on consequences by some other aspects of —

**Ms J.M. FREEMAN:** There are always unintended consequences every time you change an act. If you sneeze in an act, you can —

**Mr Munns:** That would be my initial response in terms of picking that same phrase and seeing if it could be applied.

---

**Ms J.M. FREEMAN:** In terms of “in the course of employment”—part of a concern of employees that have come through here is that when they leave home and they go to work on a worksite—and that is, you know, because the employer has decided that that is the best way to run their operations and the best and most efficient way is that they provide accommodation there—when they go to that accommodation, part of feeling like they are settled and that they are with, you know, a community that they feel comfortable with and all of those things, especially if they are women on the worksite, is that they can go into the same unit and the accommodation. Recently we have even motelling happening, where they have moved them around, and some of the submissions we have received suggest that that causes concerns and stress. Could that be investigated currently under, you know, the area of stress, or is that, because it is not in a worksite, not something that can contribute to stress? Am I making sense?

**Ms Mangharam:** Yes, you are. It is the nature of the work. We look at the aspects associated with mental health of workers and it becomes complex. We talk about it in our education material. When we run workshops, we talk about the nature of working environments versus workplaces because there are complexities with working environments now with the internet and social media. So, we are facing quite a few challenges in terms of complexities of where our legislation was. We have to make a determination of whether we can use our powers because we have to have evidence for each part of that regulation. We must be able to justify, substantiate, why we felt there was evidence. Certainly, if you were to take it to prosecution, we have got to prove it beyond reasonable doubt. So, the link between what they are exposed to and the causation has to be beyond reasonable doubt. So, this has to be, as you can imagine, prioritised —

**Ms J.M. FREEMAN:** That is quite high level.

**Ms Mangharam:** It is beyond reasonable doubt under our act.

**Ms J.M. FREEMAN:** Sorry, I should know that.

**Ms Mangharam:** When it comes to something like bullying and fly in, fly out, is it beyond reasonable doubt that what they have been exposed to at the work environment has led them to this illness or injury? As inspectors we have got to, first of all, have an idea of what that means, process it and if we have any question, we speak to the legal team about it. So, this is what we are dealing with internally in terms of operations and legalities. We have realised that it does not mean that the employers and the community—that we need to let education pass as final awareness of all the factors, even though we cannot prove it beyond reasonable doubt. So, we have provided a lot of workshops. We run lots of seminars and if you have a look at our website, we talk about the various types of hazards and controls that can be put in place and high-level controls and the contributing factors that can be complexities such as mental illness.

**The CHAIR:** I think we really should finish, given the nature of the time. Thank you, Jean. Thank you, Lex and Ian. I will just read you a closing statement. Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. We will also write you a letter about some of the requests we have made and the undertakings you have given to provide us extra information. New material cannot be added via these corrections, however, and the sense of your evidence cannot be altered. Should you wish to provide additional information and elaborate on particular points, please include a supplementary submission for the committee’s consideration when you return your corrected transcript.

**Hearing concluded at 11.48 am**

---