

Question One: Engagement of affected families by the Office of Industrial Relations

Question asked by the Chair, Senator Marshall. Transcript, page 59.

Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Copies of any policy documents that relate to engagement of affected families. Narrative of the process of how an investigation liaison and support officer (ILSO) engages with an affected family. Terms of reference for the Organisational Response Governance Group (ORGG).

Policies on funding of travel for members of the Consultative Committee for Work-related Fatalities and Serious Incidents

Members of the Consultative Committee for Work-related Fatalities and Serious Incidents (the consultative committee) are not remunerated for their attendance at meetings however their travel expenses while undertaking official committee business are met by the Office of Industrial Relations (OIR).

The primary function of the committee is to give advice and make recommendations to the Minister about the information and support needs of persons who have been affected directly or indirectly by a workplace incident that involves a death or a serious injury or serious illness.

A written policy with respect to travel expenses for members of the consultative committee has been approved by the Deputy Director-General, OIR (**Attachment One**). The interim consultative committee were consulted on the policy.

While on official committee business members of the committee are entitled to the same conditions and arrangements as public service officers under relevant directives relating to domestic travelling expenses. Under the policy economy air travel, accommodation and meals are provided. Members of the committee are afforded the same arrangements as public service officers in respect of use of private motor vehicles.

The OIR organises air travel and accommodation on behalf of the members of the consultative committee. Meals are generally provided through the accommodation provider and billed back directly to the OIR.

Official committee business includes attendance at quarterly meetings of the committee, attendance at meetings with ministers, regulators, departmental heads, public service officers or other agencies where the purpose is to advance the primary functions of the committee, and attendance at parliamentary committee hearings related to the primary function of the committee.

The policy is consistent with the arrangements in place for members of the Work Health and Safety Board and the industry sector standing committees (ISSC) however it is broader than

those policies because it also applies to a support person (where a member of the committee has nominated a support person who attends meetings with the member) and to affected family members who are guests at committee meetings.

Policies on funding for travel for affected families

The OIR recognises the public interest in family members attending, in person, court proceedings and inquests that relate to the death of their family member.

Attendance at these court proceedings may assist family members in their recovery from the trauma of the sudden loss of a family member. In the case of sentences there is also a public interest in ensuring that family members have the opportunity to provide their victim impact statement directly to the court, if they wish. Through inquests family members are able to participate in the coronial inquiry into the death, obtain a greater understanding of the causes of the incident and contribute in a tangible way into how such incidents can be prevented in the future.

A written policy has been developed to assist immediate family members to attend OIR initiated prosecutions (sentences and trials only) and coronial inquests that relate to fatalities the subject of a comprehensive investigation by the OIR (**Attachment Two**). The interim consultative committee were consulted on the policy.

The assistance provided by OIR is consistent with the Queensland Government policies for meeting travel costs (travel fares and accommodation only) for non-employee travel and is limited to \$5000 per person for the costs associated with reasonable travel and accommodation.

The Organisational Response Governance Group

The Organisational Response Governance Group (ORGG) oversees the OIR strategic response to fatality notifications. The committee was established to assist in the discharge of the regulator's duties under the *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* and the *Safety in Recreational Water Activities Act 2011*.

The scope of ORGG includes consideration of whether coronial recommendations directed to OIR are accepted, not accepted or accepted in part, monitors the implementation of OIR responses to recommendations that have been accepted, and monitors all OIR decisions whether the decision is to not comprehensively investigate a fatality notification. A copy of ORGG's terms of reference are provided at **Attachment Three**.

Investigation Liaison and Support Officers with affected families

The Office of Industrial Relations employs two investigation liaison and support officers (ILSOs) within its coronial unit.

Following a work-related fatality the ILSO initiates telephone contact with the next-of-kin nominated on the report by the Queensland Police Service (QPS) to the coroner. This initial contact will typically occur within 48 hours of the notification of the fatality to OIR.

At the time of the initial contact the ILSO will briefly explain their role and that the OIR through either Workplace Health and Safety Queensland (WHSQ) or the Electrical Safety Office (ESO) are conducting an investigation into the death. The ILSO will also inform the family about the availability of confidential and independent grief and trauma counselling paid for by OIR and the coronial legal assistance scheme provided by two community legal centres.

The ILSO will follow up within two weeks with the next-of-kin and establish the families preferred method of contact. The ILSO maintains contact with the family throughout the course of OIR's involvement in the matter from investigation through to any prosecution and/or coronial inquest. In some cases the ILSO will maintain contact with a number of family members if the family dynamics mean that one point of contact for the family is not feasible.

The ILSO is responsible for informing the family around the major milestones including initial scene examination and gathering of any physical evidence, progress reports to the coroner on the investigation, completion of the investigation and the report and submission for legal review by Prosecution Services, when a copy of the investigation report has been provided to the coroner, decisions whether to prosecute a duty holder or to conduct no further investigation, the outcome of any prosecution.

The ILSO can inform the family about the mechanics of the investigation including an explanation of the health and safety duties under the legislation; the consequences should the investigation reveal evidence that a duty holder has failed in that duty and that prosecution of any offences must be proven beyond reasonable doubt.

ILSOs are not permitted to disclose evidentiary detail but can provide other information including: who the lead investigative agency is, the number of statements taken and still to be taken, and the seizure of plant and appropriate disclosure of action taken on site.

If court proceedings are initiated by the OIR the ILSO will explain to the next-of-kin the procedures of the criminal courts and will keep the next-of-kin updated with mentions/adjournments as they occur. Any meetings between Prosecution Services and the next-of-kin are coordinated and attended by the ILSO.

The ILSO will attend trials or sentencing to support the next-of-kin and will coordinate victim impact statement by the next-of-kin which are tendered at sentencing or the conclusion of

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

successful trials. The ILSO will also provide support as required and appropriate at inquest proceedings.

The ILSO will also advise families about the availability of assistance from OIR to enable them to attend trials, sentences and inquests in person.

ATTACHMENT ONE

Procedures for members of the Persons Affected by Work-related Fatalities and Serious Incidents Consultative Committee (the committee), nominated support people and others.

Effective date: the date appointments to the committee are made by the Minister.

This policy is to be applied consistently with the Queensland Government Remuneration Procedures for Part-Time Chairs and Members of Queensland Government Bodies and the Queensland Government Air Travel Policy.

Nominated support person

Members of the committee may nominate a support person to accompany them on official committee business.

Domestic Travel expenses

When undertaking official committee business, members of the committee are entitled to the same conditions and arrangements as public service officers, as varied from time to time, under the directives relating to domestic travelling and relieving expenses. As per the directive, payment of expenses may be made direct to the supplier.

Members of the committee are afforded the same arrangements as public service officers in respect of use of private motor vehicles.

On official committee business members of the committee are entitled to best value economy class air travel.

Where a member is accompanied on official committee business by their nominated support person, the support person is entitled to the same travel expenses, allowances and arrangements as if they were a member of the committee.

Official committee business

The primary function of the committee is to give advice and make recommendations to the Minister about the information and support needs of persons who have been affected directly or indirectly by a workplace incident that involves a death or a serious injury or serious illness. Official committee business includes:

- the quarterly meetings of the committee;
- attendance by members of the committee at intrastate meetings with ministers, regulators, departmental heads, public service officers or other agencies where the purpose is to advance the primary function of the committee;
- attendance to give evidence to Queensland parliamentary committee hearings or to attend other Queensland parliamentary proceedings related to the primary function of the committee.

Invited speakers to committee meetings

Other persons, including a person who is affected directly or indirectly by a workplace incident involving a fatality or a serious injury or illness, may be invited to attend committee meetings. Where the meeting is considering a matter relevant to them OIR will meet the reasonable expenses of attendance at the committee meeting by invited speakers in line with the arrangements afforded to members of the committee.

Approval

All travel arrangements and expenses must be approved in advance by an OIR officer with the appropriate delegation. All required flights and accommodation will be arranged by OIR through Government preferred suppliers. Payment of allowances and/or reimbursement of expenses will require members and nominated support persons to be established on the OIR financial system to enable electronic fund transfers.

ATTACHMENT TWO

Policy for payment of travel and accommodation expenses for immediate family members in OIR initiated prosecutions and coronial inquests.

Effective date: April 2018

Background

OIR provides investigation liaison and support to family members, primarily in fatality cases. Support includes information about the investigation process, progress in the investigation, referral to counselling provided free of charge, referral to other agencies (eg for legal advice) and support at court during trials and sentences.

There is a public interest in assisting immediate family members to attend court proceedings and inquests that relate to the death of their family member.

Attendance at these court proceedings may assist family members in their recovery from the trauma of the sudden loss of a family member. In the case of sentences there is also a public interest in ensuring that family members have the opportunity to provide their victim impact statement directly to the Court, if they wish. Through inquests family members are able to participate in the coronial inquiry into the death, obtain a greater understanding of the causes of the incident and contribute in a tangible way into how such incidents can be prevented in the future.

Policy position

OIR will consider, having regard to the public interest and whether there are exceptional circumstances, assisting an immediate family member to attend OIR initiated prosecutions (sentences and trials only) and coronial inquests that relate to fatalities the subject of a comprehensive investigation by OIR.

Where approved, the assistance offered by OIR will be consistent with the Queensland Government policies for meeting travel costs (travel fares and accommodation only) for non-employee travel.

The financial assistance will be capped at \$5000.00 per person for the costs associated with reasonable travel and accommodation.

All travel arrangements and accommodation expenses must be approved in advance by an OIR officer with the appropriate delegation. Overseas travel will require ministerial approval. All required flights and accommodation will be arranged and paid for by OIR through Government preferred suppliers. Reimbursement of expenses may require travellers to be established on the OIR financial system to enable electronic fund transfers.

The investigation liaison and support officers in the coronial and investigation liaison unit are the primary contact for families and will be responsible for ascertaining whether next of kin

wish to attend court proceedings and inquests and for initiating approval processes. De-identified data about the number of requests for financial assistance and the number accepted and rejected will be provided to the consultative committee for workplace fatalities and serious incidents.

Immediate family member means:

- The deceased's spouse or de facto partner or a person to whom the deceased was engaged to be married;
- A parent, grandparent, guardian or step-parent of the deceased;
- A child, grandchild or step-child of the deceased or some other child for whom the deceased was the guardian
- A brother, sister, half-brother, half-sister, step-brother or step-sister of the deceased.

Exceptional circumstances – applicants should provide any available information or supporting evidence that may assist the decision making process. Information that demonstrates exceptional circumstances may be financial hardship or remoteness of the legal proceedings or any other relevant information.

Witness expenses

This policy does not apply where a person is a witness or expert witness in either a coronial inquest or a criminal proceeding initiated by the OIR. The arrangements for and the costs associated with witnesses and expert witnesses attending coronial inquests and criminal proceedings will continue to be met under the existing longstanding arrangements.

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

Question Two: Labour Hire Rates and Workers Compensation Data per Industry 2017-2018

Question asked by the Chair, Senator Marshall. Transcript, page 61.

Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Data comparing labour hire rates per industry/occupation.

2017-18 Workers' compensation claims lodged, estimated full-time equivalent worker numbers based on workers' compensation declared wages and claim rate per 1,000 workers covered									
Industry	Labour Hire			Non Labour Hire			All Businesses		
	Estimated FTE	Claim Number	Injury rate	Estimated FTE	Claim Number	Injury rate	Estimated FTE	Claim Number	Injury rate
Accommodation and Food Services	2,311	159	68.8	141,251	5,896	41.7	143,561	6,055	42.2
Administrative and Support Services	814	72	88.5	73,815	3,211	43.5	74,628	3,283	44.0
Agriculture, Forestry and Fishing	1,708	148	86.7	40,856	2,588	63.3	42,564	2,736	64.3
Arts and Recreation Services	295	4	13.6	30,841	1,532	49.7	31,136	1,536	49.3
Construction	4,442	863	194.3	156,813	11,609	74.0	161,255	12,472	77.3
Education and Training	343	8	23.3	223,971	7,108	31.7	224,314	7,116	31.7
Electricity, Gas, Water and Waste Services	1,032	77	74.6	25,408	1,112	43.8	26,440	1,189	45.0
Financial and Insurance Services	1,050	10	9.5	64,965	753	11.6	66,014	763	11.6
Health Care and Social Assistance	3,007	97	32.3	354,976	13,331	37.6	357,983	13,428	37.5
Information Media and Telecommunications	1,079	20	18.5	13,694	468	34.2	14,774	488	33.0
Manufacturing	8,142	1,091	134.0	188,655	13,590	72.0	196,798	14,681	74.6
Mining	7,396	284	38.4	44,784	1,751	39.1	52,180	2,035	39.0
Other Services	786	303	385.5	74,178	2,778	37.5	74,964	3,081	41.1
Professional, Scientific and Technical Services	1,557	15	9.6	137,917	1,724	12.5	139,474	1,739	12.5
Public Administration and Safety	6,662	201	30.2	146,888	7,229	49.2	153,550	7,430	48.4
Rental, Hiring and Real Estate Services	431	10	23.2	50,270	1,130	22.5	50,701	1,140	22.5
Retail Trade	2,568	92	35.8	222,048	7,390	33.3	224,617	7,482	33.3
Transport, Postal and Warehousing	4,672	354	75.8	93,891	5,314	56.6	98,563	5,668	57.5
Wholesale Trade	2,699	78	28.9	117,985	4,226	35.8	120,684	4,304	35.7
Total scheme	50,995	3,886	76.2	2,203,205	92,740	42.1	2,254,200	96,626	42.9

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

Question Three: Status of Coronial Inquest Recommendations regarding the death of Dale Kennedy

Question asked by Senator Stoker. Transcript, page 62.

Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Status of the implementation of the recommendations from the Kennedy Coronial Inquest.

Coronial Recommendations and status

On 28 February 2018 the Coroner issued findings and recommendation following the inquest into the death of Dale Kennedy on 12 December 2012. Mr Kennedy was a third year apprentice electrician installing data cables in the ceiling cavity of a building at Bentley Park College, Edmonton. Mr Kennedy was electrocuted.

The coroner recommended the Electrical Safety Office reconsider the various options for the extension of the requirement for the mandatory fitting of residual current devices (including cost benefit analysis), and a draft discussion paper be circulated to key stakeholders and the public for consultation prior to finalisation of its policy position or advice to State Government.

The recommendation to extend the requirements for the fitting of residual current devices would require whole-of-government consideration. As whole-of government support would be required, the department is thoroughly investigating all costs and benefits associated with the recommendation, as well as how a mandatory option compares to other options. Further consultation with the Electrical Safety Board will be required on this matter.

Question Four: Response on Investigations Process

Question asked by Senator Stoker. Transcript, page 62.

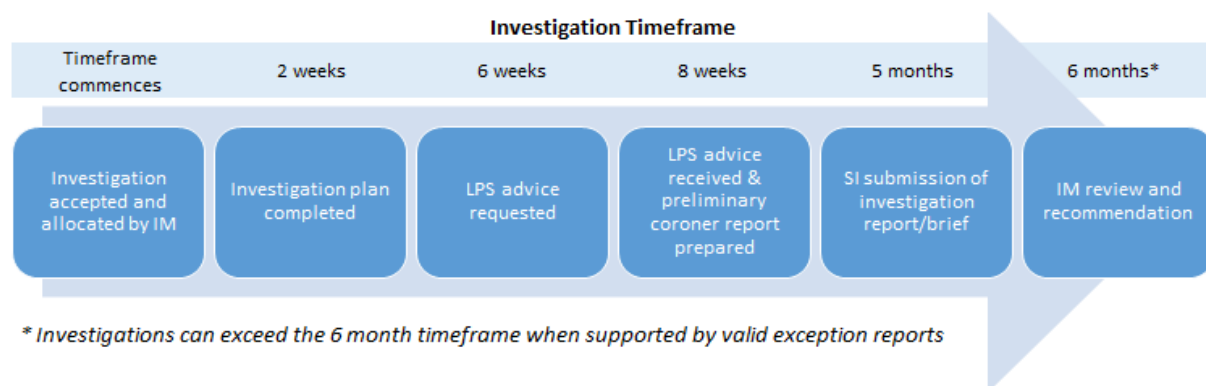
Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Additional information regarding the process from incident to an investigation report and to prosecution services.

Background

Investigations are conducted as a means to determining incident causation and/or whether any person has committed an offence under the legislation administered by the OIR. Investigations are one of the compliance and enforcement tools available to OIR and assist in determining whether a matter is referred for prosecution. Consistent with the principles of proportionality and responsiveness, investigative resources are directed at investigating the most serious incidents and breaches that occur within a workplace, which are likely to result in a recommendation for prosecution. Other matters of non-compliance are more appropriately dealt with by other compliance tools.

In 2015, OIR centralised all regional investigations units under the management and control of the Statewide Investigations Manager (now known as the Director, Statewide Investigations). Since then, consistent processes and procedures have been developed and adopted by all Investigations Managers and Senior Investigators throughout Queensland, to support the decision making and investigation processes and address the weaknesses identified by the Coroner, Ombudsman and other audits. These processes cover the management of investigations at all stages of inquiry, from initial allocation to an investigating officer, information gathering activities, case management reviews, reporting, escalation to a prosecution and investigation finalisation and close out. All investigations must be conducted in accordance with OIR's relevant operational procedures, which require reports to be completed in template forms and specify when management sign off is required for particular matters. Timeframes around each stage of an investigation have also been established, as set out below, and requires all investigations to be finalised within six months of commencement:



Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

A finalised investigation is one that has been submitted to the Prosecution Services unit for a decision regarding further action. Prosecution Services is required to make a decision on matters within three months of receipt of the investigation brief.

Decision to commence an investigation

OIR will generally carry out a comprehensive investigation of a work-related death, unless there are compelling reasons for not doing so. Where a decision is made not to conduct a comprehensive investigation of a work related death, the reason for this decision must be recorded and notified to the Director, Statewide Investigations.

A comprehensive investigation will be undertaken to ascertain whether there is evidence that an offence has been committed and if so, recommend appropriate enforcement actions, and whether action needs to be taken to prevent an incident re-occurring and ensure compliance with the legislation.

If a death occurs at a workplace that is not work related (ie a customer at a shop suffers a heart attack and dies) OIR does not conduct a comprehensive investigation, but will conduct a death investigation, which results in a 2-3 page fatality report that is provided to the Coroner.

OIR may also conduct a comprehensive investigation into an incident that does not involve a fatality, if any one of a combination of the following factors exists:

- Consequence: did the incident have a significant impact on the injured person, or was there potential for serious injury, illness or a dangerous incident?
- Culpability: Was the event foreseeable, does it appear that the PCBU contributed to the incident through their action or inaction, does the PCBU have a pattern of non-compliance, did the PCBU take immediate action to prevent a re-occurrence of the incident?
- Strategic value: is the offence related to a targeted strategic enforcement area, would it be in the public interest to investigate this incident, what are the prospects of a successful prosecution?

However, an Investigations Manager has the discretion not to proceed with an investigation, and may consider the following factors in making that decision:

- Was the severity and scale of actual or potential harm low?
- Does the matter appear trivial, vexatious or without foundation?
- How common is the event and what is the likeliness of the event re-occurring?
- Can a satisfactory outcome be achieved by any other enforcement measure? (Statutory notice, infringement notice, licencing referral)?
- Is it more appropriate for another regulator to take the lead to investigate the matter (QPS, DTMR, ATSB, CASA, Comcare etc.)?
- Is the injured person the duty holder or a relative of the duty holder (family, spouse etc.)?
- Is the Injured person at fault or negligent?

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

- Has the incident scene been lost or the ability to gather sufficient evidence hampered (eg by delay in incident notification, environmental factors, no witnesses)?
- Are the witnesses unreliable or uncooperative?

If an Investigation Manager decides not to proceed with an investigation, a reason for the decision must be recorded on the event file, including the factors that were considered in making the decision. If a decision is made to commence an investigation, the investigation will proceed in accordance with the operational procedure, outlined below.

Procedure for undertaking investigations

Allocate matter to senior investigator

- After a decision has been made to proceed with an investigation, the Investigations Manager must allocate the investigation to a Senior Investigator as soon as practicable but within 24 hours of notification if it involved a fatality, or within 24 hours of referral for incidents involving serious injuries/illness, dangerous incidents, dangerous/serious electrical events, complaints and low level injuries.

Hold initial case management team meeting

- The case management team, comprising the Senior Investigator, Investigations Manager, Director of Statewide Investigations, prosecution services and any other expert personnel required depending on the complexity of the investigation, must also conduct the first case management meeting within 24 hours or as soon as practicable after notification where a fatality is involved. If the incident involved serious injury/illness or was of a high risk nature, the meeting must be held within two working days or as soon as reasonably practicable after notification.

Develop investigation plan

- As soon as practicable after an investigation has been allocated, and prior to investigation activities being conducted, the Senior Investigator must develop an investigation plan in consultation with any inspectors or legal officers involved. The operational procedure and investigation plan template set out what must be included in the plan. The Investigation Manager must review the plan within two weeks of the matter being allocated, and ensure it has been prepared correctly.

Conduct investigation activities

- The Senior Investigator then carries out investigation activities in line with the investigation plan, and any additional directions given by the case management team or the Investigations Manager. The Senior Investigator must complete the investigation activities within five months, to allow the Investigation Manager time to consider the file and make a recommendation within the required six month timeframe. If it is not finalised within five months, the Senior Investigator must

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

provide the Investigation Manager with reasons for the delay, and continue reporting on progress monthly until the matter is finalised.

Ongoing case management meetings

- Case management meetings are to occur regularly throughout the investigation. If the matter is complex, more frequent and detailed meetings will be required. In other cases, the case management team may decide to close out the matter at an early stage. Case management records must be concise, clearly record all investigative decisions, using the template in the operational procedure. Case management meetings will:
 - Review first response findings
 - Request legal or technical advice as necessary, consider responses and identify whether further advice is required
 - Review possible offences, duty holders, lines of inquiry, witnesses interviewed and evidence to be gathered
 - Review the investigation plan and previous case management to ensure identified matters have been addressed
 - Identify causal factors
 - Assess and evaluate the evidence gathered to determine its relevant and sufficiency as proof of the elements of the alleged offence
 - Consider any delays in the conduct of the investigation and how they can be managed
 - Consider whether additional investigation activities are required

Obtain preliminary legal opinion and prepare preliminary report for Coroner

- Within six weeks of the matter being allocated, the Investigations Manager is required to seek advice from Prosecution Services on whether OIR has jurisdiction over the matter, possible offences, prospects of a successful prosecution and other legislative interpretation issues. When the advice is received, a case management meeting will be held to review the advice and amend the investigation plan if necessary.
- Within eight weeks of a matter relating to a fatality being allocated, the Investigation Manager is required to complete a preliminary report for the coroner.

Hold final case management meeting

- At the conclusion of the investigation, the case management team will review the investigation file and agree on the investigation outcome as either:
 - Investigation complete, with no referral for consideration of prosecution action.
 - Investigation complete but pending coroner's findings (where it involved fatalities). The investigation is then referred to the WHSQ Organisational Response Governance Group, who will consider any recommendations made by the coroner and implement within the organisation.
 - Recommend prosecution action – refer the investigation to Prosecution Services.

Finalise investigation, brief of evidence and other reports

- At the conclusion of the investigation, the Senior Investigator must complete a number of reports, as required by the operational procedure, and compile a Brief of Evidence in the approved format, which will include all evidence being relied on to allege a breach of the legislation. The Investigation Manager will review the completed reports and Brief of Evidence within the six month timeframe. The Investigation Manager must consider:
 - Whether the investigation report identifies all evidence in a logical and consistent manner to support possible legislative breaches
 - Whether the report ensures all elements of the breach are proven and defences negated
 - Whether the file has been assembled in a clear, logical way
 - Whether details of the investigation activities have been recorded appropriately
 - Whether all documents on file prepared by WHSQ officers are accurate
 - Where an opinion or recommendation has been expressed, whether there is adequate explanation for the opinion.

Decide whether the matter should be recommended for prosecution

- The Investigation Manager will then complete a recommendation to either prosecute or not prosecute the matter. This decision will be based on the evidence collected during the investigation, whether there appears to be a prima facie case and public interest considerations.

A decision to recommend no further action is to be justified on the grounds that:

- there is insufficient evidence to demonstrate that any person has a case to answer
- despite having a case to answer on the facts of the matter, there is not likely to be a reasonable prospect of conviction
- despite having a case to answer on the facts of the matter and having reasonable prospects of conviction, alternative enforcement strategies are preferred to prosecution because of public interest considerations

Approval by the Director of LPS must then be given for no further comprehensive investigation to be undertaken.

Throughout the investigation, the Senior Investigator is to keep a record of all activities and copies of all information and documents gathered. The Investigations Manager retains oversight of the investigation, will ensure files are managed effectively and in accordance with operational procedures and will provide assistance to the investigator as required, including seeking expert assistance if required. If the incident involved a fatality, the Investigation Manager will provide regular updates on the progress of the investigation to the Coronial Liaison and Investigation Unit throughout the process, and provide a copy of the fatality investigation report at the conclusion of the investigation.

Where prosecution is recommended

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

If prosecution is recommended, Prosecution Services will review the brief of evidence and determine whether prosecution action is required, as decisions on commencing a prosecution are delegated to the Director of Prosecution Services.

Prosecution Services will consider the investigation report and any conclusions/recommendations expressed by the investigator with respect to the public interest test, however the conclusions reached by Prosecution Services are not dependent on the expression of any specific view by a region about whether commencing prosecution would be appropriate.

OIR applies the Queensland Director of Public Prosecution (DPP) guidelines in determining whether prosecution should not proceed, namely the criteria of:

- sufficiency of evidence to justify initiating proceedings
- prospect of conviction
- public interest

Question Five: Coal Workers' Pneumoconiosis

Question asked by Senator O'Neill. Transcript page 65.

Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Material regarding health surveillance

Coal Workers' Pneumoconiosis

Following the re-identification of Coal Workers' Pneumoconiosis (CWP) in Queensland, Parliament established the Coal Workers' Pneumoconiosis Select Committee on 15 September 2016 to conduct an inquiry and report into CWP in coal mine workers in Queensland. Evidence provided before the Select Committee raised concerns regarding how the workers' compensation scheme operates in relation to CWP.

In response to these concerns, the Government established a CWP Stakeholder Reference Group consisting of representatives of employers, unions, the legal profession, insurers and departments relevant to coal mining in December 2016 to provide advice on any gaps in the workers' compensation scheme. The CWP Stakeholder Reference Group made a number of recommendations including:

- an interim medical examination for former coal workers concerned they have CWP, and who have retired or left the coal industry prior to 1 January 2017; and
- ensuring workers with simple CWP who experience disease progression can apply to re-open their claim to access further benefits under the workers' compensation scheme.

Subsequently on 23 August 2017, the Queensland Parliament passed the *Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Act 2017* to improve the workers' compensation scheme for workers who have been diagnosed, or suspect they may have, CWP or a Coal Mine Dust Lung Disease. Key changes include:

- establishing an interim medical examination process for retired or former coal workers with suspected coal workers' pneumoconiosis or a Coal Mine Dust Lung Disease
- introducing an additional lump sum compensation for workers with pneumoconiosis; and
- clarifying a worker with pneumoconiosis can access further workers' compensation entitlements if they experience disease progression.

In addition, OIR has streamlined workers' compensation arrangements with the Coal Mine Workers' Health Scheme by:

- using same cohort of doctors that examine chest x-rays for both schemes

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

- training certain Medical Assessment Tribunal doctors (within the workers' compensation scheme) in lung dust diseases and ILO grading of chest x-rays (b-readers); and
- ensuring medical investigations conducted by insurers are consistent with the Coal Mine Workers' Health Scheme Clinical Pathways Guidelines. These guidelines ensure consistent diagnosis for all workers exposed to coal dust in Queensland.

Developing a code of practice in relation to managing respirable dust hazards in coal-fired power stations

The Select Committee released Report No. 4 on its extended terms of reference, Inquiry into occupational respirable dust issues, on 29 September 2017 which made a number of recommendations including the development of a code of practice on the management of respirable dust hazards in coal-fired power stations. A tripartite working group has been established to develop a code of practice under the *Work Health and Safety Act 2011* (WHS Act) and it is anticipated to complete the process and have a new code in place by 31 October 2018.

Answers to questions on notice by the Queensland Government. Asked at a public hearing in Brisbane on 17 July 2018; received 17 August 2018.

Question Six: Suicide rates in Labour Hire and non-Labour Hire Workers' Compensation Claims

Question asked by Senator O'Neill. Transcript page 65.

Question taken on notice by Paul Goldsbrough, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Queensland.

Workplace related suicide or attempted suicide data

All Qld suicide or attempted suicide Workers' Compensation Claims

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-07	2017-18	Total
Accepted													
Suicide	0	0	0	0	1	1	1	1	2	0	0	0	6
Attempted or thought of suicide	1	1	0	1	1	0	1	0	2	0	2	0	9
Rejected													
Suicide	0	0	1	0	3	5	3	6	2	4	1	0	25
Attempted or thought of suicide	3	4	3	0	1	1	6	6	5	8	4	7	48
Total	4	5	4	1	6	7	11	13	11	12	7	7	88

Qld suicide or attempted suicide Workers' Compensation Claims involving labour hire

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-07	2017-18	Total
Rejected													
Suicide	0	0	0	0	0	0	0	1	0	0	0	0	1
Attempted or thought of suicide	0	1	0	0	0	0	1	0	1	0	0	0	3
Total	0	1	0	0	0	0	1	1	1	0	0	0	4

Terms of Reference

Office of Industrial Relations - Organisational Response Governance Group

Purpose

The ORGG is to oversee OIR strategic responses to fatality notifications (including electrocutions).

Scope

The ORGG will:

- Determine whether coronial recommendations directed to OIR are accepted, not accepted or accepted in part
- Consider relevant coronial findings and comment
- Decide, and then monitor the implementation of OIR responses to accepted coronial recommendations, findings or comment
- Monitor all OIR decisions where the decision is to not comprehensively investigate a fatality notification
- Monitor and coordinate relevant research where necessary and advise accordingly whether existing organisational strategies and responses are meeting OIR's charter in the context of fatality notifications, investigation outcomes and coronial input.

For clarity, ORGG's scope is not to review or comment upon prosecutorial decisions made about whether to commence, or not, a prosecution for offences under one of the relevant safety Acts: *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* or the *Safety in Recreational Water Activities Act 2011*.

Strategic alignment

Strategic Plan objectives:

- Safe workplaces and homes from the Strategic Plan 2018-22

Operational Plan priorities:

- Coordinate and oversee departmental responses and representation at coronial inquests
-



Membership

Role	Position	Division/organisation
Chair	Executive Director	WHS Engagement and Policy Services
	Executive Director	Specialised Health and Safety Services
	Executive Director	Electrical Safety Office
	Executive Director	WHS Compliance and Field Services
	Senior Director	Prosecution Services
	Director	Coronial and Enforceable Undertakings
	Director	Work and Electrical Safety Policy
	Director	Industry Engagement and Programs
	Director	Statewide Investigations
Secretariat	Coronial and Investigations Liaison Unit	

Governance

Status of terms of reference

☐ Draft

☒ Final

Date approved: 19 June 2018

Reference:

Approver: Simon Blackwood, Deputy Director General

Committee type

☐ Decision making

☒ Advisory

Committee term

- Ongoing

Authority

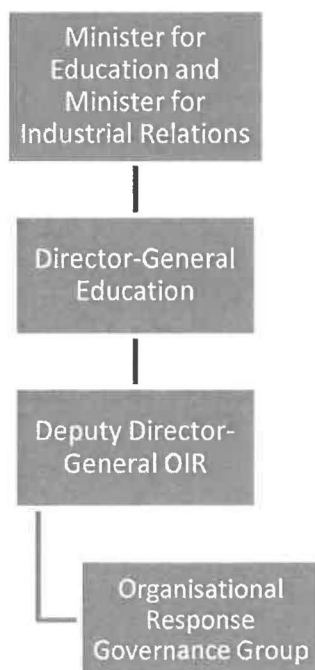
- The committee is not legislated but is convened to assist the discharge of the regulator's duties under the *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* and the *Safety in Recreational Water Activities Act 2011*

Parent entity

- Deputy Director-General, OIR

Subordinate groups

- Nil

**Reporting and referral relationships**

The committee, through the secretariat, prepares the following reports for the parent entity:

- An annual report of activities for the OIR Board of Management and the Executive Board of Management

Regular reports to this committee include:

- Coronial findings with and without recommendations relevant to the OIR
- Responses to coronial recommendations that are under development
- Upcoming inquests
- New fatality investigations
- Completed fatality investigations
- Prosecution activity
- Incident alerts

Attachment 1: Annual Forward Work Plan

This work plan is directed by the committee's purpose and scope and takes into account all responsibilities outlined in the Terms of Reference. It guides the committee's focus and outcome for each meeting, assists with scheduling and supports performance assessment in annual reviews.

Meeting date	Key area of focus	Outcome committee is seeking	Sponsoring member/s
Standing agenda items			
All	Confirmation of minutes and actions	Approval	
All	Coronial findings without recommendations	Noting and agreement about whether any findings warrant further OIR response.	Director Coronial and EU
All	Coronial findings with recommendations relevant to the OIR	Agreement on whether recommendations are accepted, not accepted or accepted in part.	Executive Directors
All	Upcoming inquests	Noting; consideration of whether any further response by OIR is warranted pending the inquest	Director Coronial and EU
All	New fatality investigations	Whether any further response by OIR is warranted pending the finalisation of the investigation	Executive Directors
All	Completed fatality investigations	Agreement regarding OIR response to the fatality	Executive Directors
All	Prosecution activity	Noting	Senior Director Prosecution Services
All	Incident alerts	Noting	All members
January –June 2018			
12/06/2018	All standing items; annual review of terms of reference; annual report.		
July – December 2018			
07/08/2018	All standing items; review of organisational response report for the WHS Board meeting 22/08/2018; review of six monthly WoG coronial report.	Endorsement	All
02/10/2018	All standing items		
27/11/2018	All standing items		
January-December 2019			
1st meeting	All standing items; review of organisational response report for the WHS Board meeting; review of six monthly WoG coronial report.	Endorsement	All

Meeting date	Key area of focus	Outcome committee is seeking	Sponsoring member/s
Standing agenda items			
April meeting	All standing items		
June meeting	All standing items; annual review of terms of reference; annual report	Endorsement	All

Attachment 2: Meeting operations

Roles and responsibilities

Chair

- Ensure alignment with strategic direction
- Approves the agenda and facilitates the flow of information during meetings
- Ensure the committee operates effectively
- Lead and direct the activities of the committee as required
- Endorse draft minutes
- Escalate issues, risks, advice or recommendations to the Deputy Director-General
- Liaise with appropriate officers outside the committee as required
- Ensure adequate induction of new committee members
- Set and endorse the committee's Annual Forward Work Plan
- Review and report committee performance, at a minimum annually

Members

- Promote the committee's role
- Provide specific expertise and take a holistic organisational view when considering the adequacy of responses to fatalities
- Liaise with others to assist the committee to fulfil its purpose
- Sponsor items for the agenda
- Endorse minutes tabled at the next meeting

Secretariat

- provide support to ensure the committee operates effectively
- coordinate committee submissions to ensure all papers meet appropriate standards of quality and timeliness
- compile and distribute the agenda and any supporting papers at least one week prior to each meeting
- prepare and circulate minutes (endorsed by Chair) to members for endorsement at each meeting
- monitor and track actions arising from meetings or out of session papers
- use sound recordkeeping processes in accordance with the department's policies and practices
- maintain distribution lists and the committee's terms of reference
- coordinate the annual committee review
- assist the Chair with the provision of information for the induction of new committee members
- contribute to whole-of-department governance processes, such as updating information about the committee and its meeting schedule

Meetings

Frequency

- Bi-monthly unless otherwise directed by the Chair
- Changes to meeting dates are determined in consultation with the Chair.
- Out-of-session items are dealt with only on an exception basis

Operations

- Agenda items must be forwarded to the secretariat at least seven working days prior to each meeting.
- Meeting agenda and papers will be distributed on at least five working days prior to meetings.
- Members attend all meetings where possible based on the principle that good governance requires continuity.
- If unable to attend, a member sends a consistent proxy if the proxy: has been briefed on the responsibilities and standards of accountability expected of them; actively contributes to discussions and decisions. The proxy should debrief the member as soon as practical on the meeting outcomes.
- 50% of members and/or proxies must attend a meeting for quorum to be achieved.
- The Chair may invite non-members to attend as observers or to provide specific advice.
- Unless otherwise agreed, there must be no disclosure of the nature or content of deliberations.
- Committee items arising that are unable to be resolved and present significant issue or risk will be escalated to the Deputy Director-General, OIR.
- Out-of-session outcomes are included in the next meeting's minutes for final approval.
- The Secretariat will circulate draft minutes, as endorsed by the Chair, to members no more than two weeks after each meeting.
- Endorsed minutes will be tabled at the next meeting for final approval.
- Once approved, the minutes will form part of the public record and will be available for administrative release under Right to Information legislation.
- Committee actions and decisions / recommendations will be maintained to provide a means of tracking the progress / closure of issues.

Review arrangements

- Terms of reference and membership are to be reviewed yearly
 - The review, timely submission and publication of all required documents and reports are aligned to their individual review cycles and outlined in the Annual Forward Work Plan.
 - Individual committee member attendance (including proxies) is greater than 80% attendance rate throughout the year
-

