

The Senate

Environment, Communications
and the Arts
References Committee

Australia Post's treatment of injured and ill workers

June 2010

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Recommendations

Recommendation 1

3.51 Noting the in-principle agreement reached for the use of Facility Nominated Doctors, the committee recommends that Australia Post and the unions representing its employees continue to work in good faith to develop the details of the new policy within the context of the new enterprise agreement. The committee urges both parties to ensure that once a lawful and fair agreement has been reached, both sides work to ensure that employees and managers are well-informed of their rights and obligations with respect to injury management processes.

Recommendation 2

4.23 The committee recommends in the strongest terms that Australia Post consider ceasing the practice of using medical assessments obtained under the Injury Management (Early Intervention) Policy for workers' compensation purposes.

4.24 The committee further recommends that Australia Post ensure that every time an employee attends a Facility Nominated Doctor (FND), whether voluntarily or compulsorily, the employee is advised of the uses to which the FND's medical assessment may be put. The committee urges Australia Post to consult with the unions representing Australia Post employees to develop appropriate material to inform employees of the implications of FND visits.

Recommendation 3

5.65 The committee recommends that Australia Post develop processes through which injured workers have buy-in to their return to work program, and which ensure that all injured workers are given appropriate work to undertake on their return. Specifically, the committee advises that in each instance, a manager should discuss with an injured employee what duties they are physically capable of, would find satisfying, and would be happy to perform.

Recommendation 4

5.69 The committee recommends in the strongest terms that Australia Post consider directing managers that they are not to be present in employee medical consultations unless their presence is specifically requested by the employee. The Injury Management (Early Intervention) Policy ought to be revised accordingly.

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Abbreviations

Australia Post	Australian Postal Corporation
CEPU	Communications, Electrical and Plumbing Union
Comcare scheme	Commonwealth workers' compensation scheme
Commission Indicators	SRCC key performance indicators
the committee	Senate Environment, Communications and the Arts References Committee
CWU	Communication Workers Union
the Determination	Australia Post's Principal Determination (as amended)
EIP	Injury Management (Early Intervention) Policy
FFD	Fitness For Duty
FNDs	Facility Nominated Doctors
IMP	Injury Management Program
LIP	Licensee Improvement Program
LTI	Lost Time Injury
LTIFRs	Lost Time Injury Frequency Rates
MOU	Memorandum of Understanding
OHS Act	<i>Occupational Health and Safety Act 1991</i>
SRC Act	<i>Safety, Rehabilitation and Compensation Act 1988</i>
SRCA	<i>Safety, Rehabilitation and Compensation Act 1988</i>
SRCC	Safety, Rehabilitation and Compensation Commission
the unions	Communications, Electrical and Plumbing Union and the Communication Workers Union

Chapter 1

Introduction

1.1 On 29 October 2009, the Senate referred the matter of the Australian Postal Corporation's (Australia Post) treatment of ill and injured workers to the Senate Environment, Communications and the Arts References Committee (the committee) for inquiry and report by 2 February 2010. The reporting date for the inquiry was subsequently extended on two occasions, to 17 March 2010 and then 12 May 2010.

1.2 The terms of reference for the inquiry were:

The practices and procedures of Australia Post over the past three years in relation to the treatment of injured and ill workers, including but not limited to:

- (a) allegations that injured staff have been forced back to work in inappropriate duties before they have recovered from workplace injuries;
- (b) the desirability of salary bonus policies that reward managers based on lost time injury management and the extent to which this policy may impact on return to work recommendations of managers to achieve bonus targets;
- (c) the commercial arrangements that exist between Australia Post and InjuryNET and the quality of the service provided by the organisation;
- (d) allegations of compensation delegates using fitness for duty assessments from facility nominated doctors to justify refusal of compensation claims and whether the practice is in breach of the *Privacy Act 1988* and Comcare policies;
- (e) allegations that Australia Post has no legal authority to demand medical assessments of injured workers when they are clearly workers' compensation matters;
- (f) the frequency of referrals to InjuryNET Doctors and the policies and circumstances behind the practices;
- (g) the comparison of outcomes arising from circumstances when an injured worker attends a facility nominated doctor, their own doctor and when an employee attends both, the practices in place to manage conflicting medical recommendations in the workplace; and
- (h) any related matters.

1.3 In accordance with its usual practice, the committee advertised details of the inquiry in *The Australian* on 4 November 2009. The committee also contacted a range of organisations and individuals, inviting submissions. The committee received 37 submissions from individuals and organisations, listed at Appendix 1, including

several from interested advocates in Canada and the United States and a joint submission from Australia Post and the Communications, Electrical and Plumbing Union. A list of tabled documents is at Appendix 3.

1.4 The committee held a public hearing in Melbourne on 12 February 2010. Details of the hearing are at Appendix 2.

Report Structure

1.5 This report deals with the key issues raised during the inquiry. It does not attempt to make findings on specific allegations or individual cases. Instead, this report aims to draw general conclusions about the key barriers to the effectiveness of Australia Post's injury management system, which in the committee's view underpin the majority of complaints about Australia Post's treatment of ill and injured workers. It also makes broad recommendations as to how these central issues may be resolved by Australia Post and its employees.

1.6 Chapter 2 outlines the background to this inquiry and sets out the legislative framework underpinning Australia Post's injury management programs.

1.7 Chapters 3, 4 and 5 explain key issues with Australia Post's injury management programs, and the committee's recommendations as to how those issues may be addressed. Chapter 3 discusses the confusion over when Australia Post employees may, and when they must, attend a facility nominated doctor. Chapter 4 considers issues related to the appropriate and legal use of facility nominated doctors' assessments. Chapter 5 reviews allegations that Australia Post employees are routinely being returned to work too early or on inappropriate duties.

1.8 Chapter 6 contains the committee's concluding remarks and recommendations for improvement of Australia Post's approach to injury management.

Acknowledgment

1.9 The committee would like to thank all of the organisations and individuals who contributed to this inquiry.

Chapter 2

Background to the inquiry

2.1 This chapter sets out the background to the inquiry, including:

- the history of concerns being raised in the Senate about Australia Post's injury management program; and
- the various laws, regulations, contracts and policies governing the treatment of ill and injured Australia Post workers.

Concerns about Australia Post's injury management program

2.2 Concerns regarding Australia Post's treatment of ill and injured workers have been raised in the Senate on a number of occasions since 2000.¹ In June 2000, Senator Conroy drew the Senate's attention to the relationship between the manager of Australia Post's Injury Prevention Unit, Mr Anton Grodeck, and the Director of InjuryNET, Dr David Milecki, stating that '...Mr Anton Grodeck has placed a close business colleague and friend in charge of maintaining the network of facility nominated doctors'.²

2.3 In June 2001 Senator Conroy raised further concerns about the protection of patient privacy by facility nominated doctors (FNDs), engaged by InjuryNET under its contract with Australia Post.³

2.4 In a speech on 28 August 2002, Senator Steve Hutchins voiced concerns about elements of Australia Post's management of ill and injured employees, including requiring employees to attend FNDs. Senator Hutchins expressed particular concern about the provision of employee records, including medical records, by Australia Post to FNDs.⁴

2.5 The issue has also been raised at Senate Estimates on a number of occasions since May 2005, with Australia Post having provided the Senate with a range of

1 Senator Stephen Conroy, *Senate Hansard*, 6 June 2000, p. 14704.

2 Senator Stephen Conroy, *Senate Hansard*, 6 June 2000, p. 14704.

3 Senator Stephen Conroy, *Senate Hansard*, 26 June 2001, pp 25151–25152.

4 Senator Steve Hutchins, *Senate Hansard*, 28 August 2002, pp 3882–3883.

information about FNDs and their injury management program.⁵ For example, over the past two years, Senator Wortley has pursued the issue on a number of occasions, in particular, questioning Australia Post at estimates about its FND policies.⁶

2.6 The ongoing nature of these concerns with Australia Post's treatment of ill and injured workers has resulted in the referral of the issue to this committee for inquiry and report. The inquiry examined a range of matters related to Australia Post's injury management programs and arrangements, and received over forty submissions from individuals either currently or previously employed by Australia Post with complaints about Australia Post's injury management programs.⁷

Regulatory framework governing Australia Post's workplace safety

2.7 Australia Post is a government business enterprise, wholly owned by the Commonwealth Government. Australia Post is a body corporate established initially by the *Postal Services Act 1975*, and now under section 12 of the *Australian Postal Corporation Act 1989*.⁸

2.8 Australia Post is one of the largest employers in Australia, currently employing approximately 35 000 people in 1700 facilities across Australia.⁹

5 Budget Estimates, May 2005, answers to questions on notice, available: www.aph.gov.au/Senate/committee/ecita_ctte/estimates/bud_0506/cita/index.htm; Additional Estimates, February 2006, answers to questions on notice, available: www.aph.gov.au/Senate/committee/ecita_ctte/estimates/add_0506/cita/index.htm; Budget Estimates, May 2006, answers to questions on notice, available: www.aph.gov.au/Senate/committee/ecita_ctte/estimates/bud_0607/cita/index.htm; Supplementary Estimates, October 2006, answers to questions on notice, available: www.aph.gov.au/Senate/committee/ecita_ctte/estimates/sup_0607/cita/index.htm; Additional Estimates, February 2007, answers to questions on notice, available: www.aph.gov.au/Senate/committee/ecita_ctte/estimates/add_0607/cita/index.htm; Additional Estimates, February 2008, answers to questions on notice, available: www.aph.gov.au/Senate/committee/eca_ctte/estimates/add_0708/bcde/index.htm; Budget Estimates, May 2008, answers to questions on notice, available: www.aph.gov.au/Senate/committee/eca_ctte/estimates/bud_0809/bcde/index.htm; Budget Estimates, May 2009, answers to questions on notice, available: www.aph.gov.au/Senate/committee/eca_ctte/estimates/bud_0910/bcde/index.htm; Supplementary Estimates, October 2009, answer to questions on notice, available: www.aph.gov.au/Senate/committee/eca_ctte/estimates/supp_0910/bcde/index.htm.

6 Senator Wortley, *Budget Estimates Hansard*, Senate Environment, Communications and the Arts Legislation Committee, 25 May 2009, p. 46; Senator Wortley, *Supplementary Budget Estimates Hansard*, Senate Environment Communications and the Arts Legislation Committee, 19 October 2009, p. 29.

7 Including those attached to the submission of the Communications Workers Union Postal and Telecommunications Victorian Branch.

8 Australia Post, *Submission 6*, p. 7.

9 Australia Post, *Submission 6*, p. 7.

2.9 Commonwealth employers, including government business enterprises such as Australia Post, must provide a safe workplace for employees as well as a compensation and rehabilitation scheme for employees who sustain work-related injury or illness. The *Occupational Health and Safety Act 1991* (OHS Act) regulates safety in the workplace whilst the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) provides the legislative basis for the Commonwealth workers' compensation scheme (Comcare scheme).¹⁰

Role of Comcare

2.10 Comcare is a Commonwealth government agency 'that works in partnership with employees and employers to reduce the human and financial costs of workplace injuries and disease in the Commonwealth jurisdiction'.¹¹ Comcare also assists the Safety, Rehabilitation and Compensation Commission (SRCC) 'in the proper performance of its functions and regulatory powers'.¹² The Comcare scheme provides workers' compensation and occupational health and safety arrangements for Australian Government employees and for the employees of certain private corporations.¹³

2.11 In conjunction with the SRCC, Comcare regulates occupational health and safety under the OHS Act, and rehabilitation and compensation under the SRC Act.¹⁴

2.12 Part VIII of the SRC Act gives the Commonwealth the power to grant licences to Commonwealth authorities or eligible corporations to accept liability for and/or manage certain claims under the Act.¹⁵ Authorities and companies that are granted such licences are referred to as 'self-insurers'. Each licensee is both a 'determining authority' and a 'rehabilitation authority' for the purposes of the SRC Act.¹⁶ A determining authority is responsible for processing and managing workers' compensation claims under the Act. A rehabilitation authority has the authority to

10 J. Tomaras, Safety, Rehabilitation and Compensation Amendment Bill 2009, Bills Digest No. 67, Parliamentary Library, Canberra, 2009–10 and Comcare, *Introduction to the OHS regulatory framework in the Commonwealth jurisdiction*, available: www.comcare.gov.au/safety_and_prevention/managing_OHS/ohs_regulatory_framework/introduction_to_the_ohs_regulatory_framework_in_the_commonwealth_jurisdiction (accessed 4 January 2010).

11 Comcare, *About us*, available: www.comcare.gov.au/about_us (accessed 3 December 2009).

12 Comcare, *Submission 13*, p. 3.

13 Department of Education, Employment and Workplace Relations, *Comcare Review*, available: www.deewr.gov.au/WorkplaceRelations/ComcareReview/Pages/default.aspx (accessed 4 December 2009).

14 Comcare, *About us*, available: www.comcare.gov.au/about_us (accessed 3 December 2009).

15 *Safety, Rehabilitation and Compensation Act 1988*, s. 98A.

16 Comcare, *Submission 13*, p. 3.

make decisions under the rehabilitation provisions of the Act.¹⁷ Self-insurers thereby manage their own workers' compensation and rehabilitation responsibilities.

2.13 Self-insurers may appoint a third party (identified in their licence) to manage claims on their behalf, however, self-insurers must demonstrate that claims, including those managed by third parties, 'will be managed in accordance with standards set by the SRCC for the management of claims'.¹⁸

2.14 Australia Post holds a self-insurance licence granted on 30 June 1992,¹⁹ its current licence commenced on 1 July 2006 and expires on 30 June 2010.²⁰ Australia Post has applied for a renewal of its licence and the committee understands that this licence extension is likely to be considered at the June 2010 meeting of the SRCC.

Monitoring compliance with workplace safety laws

2.15 Licensees' compliance with the conditions of their licence and with the SRC Act is monitored by the SRCC.²¹ The SRCC also measures licensees' performance against statutory functions including the payment of compensation accurately and quickly; determining claims accurately and quickly; and ensuring there is equity of outcomes resulting from administrative practices and procedures.²² The SRCC evaluates licence compliance through its annual Licensee Improvement Program (LIP). The LIP involves evaluation of a licensee with respect to:

- compliance with prudential and financial conditions of licence;
- reporting against SRCC key performance indicators ('Commission Indicators') such as number of death claims; new claims processing time, and number of claims with return to work plans;
- audit outcomes in prevention, rehabilitation, claims management and data integrity;
- results of OHS investigations, and
- provision of an annual performance report by each licensee which provides an overview of key activities undertaken and outcomes achieved by the licensee during the preceding 12 months, and objectives for the upcoming 12 month period.²³

17 Comcare, *Submission 13*, p. 3.

18 *Safety, Rehabilitation and Compensation Act 1988*, s. 104(b).

19 Safety, Rehabilitation and Compensation Commission, *Current licensees*, available: www.srcc.gov.au/self_insurance/current_licensees (accessed 3 December 2009).

20 Australia Post, *Submission 6*, p. 7.

21 Comcare, *Submission 13*, p. 3.

22 Comcare, *Submission 13*, p. 3; *Safety, Rehabilitation and Compensation Act 1988*, s. 108E.

23 Comcare, *Submission 13*, p. 4 and Attachment A.

2.16 The SRCC uses a 'tier model' to assess licence compliance results and performance outcomes.²⁴ The tier model is used to identify the level of regulatory oversight to be applied to a licensee in the following year via assignment to a tier status in each of three areas: prevention, rehabilitation and claims management.²⁵ A licensee is assigned a tier status in each area based on their ability to meet the SRCC's requirements in each area and effectively self-manage that function.²⁶

2.17 Licensees with a function(s) in Tier 1 are subject to external audit by Comcare (on behalf of the SRCC). Second tier licensees are subject to a desktop review of their own audits by Comcare. Third tier licensees are required to provide executive summaries of their own audits to Comcare. All licensees are subject to an independent external audit in the final year of their licence irrespective of their tier status.²⁷

2.18 Australia Post currently holds Tier 3 status in prevention, and has done for the past three reporting periods.²⁸ With the exception of fatalities, Australia Post achieved or bettered all of its Commission Indicator target ranges for prevention in 2008–09.²⁹

2.19 Australia Post has had Tier 3 status for rehabilitation having moved from Tier 2 in 2006–07.³⁰ Similarly for claims management, Australia Post has had Tier 3 status since moving from Tier 2 in 2006–07.³¹

Australia Post's contract with InjuryNET

2.20 Australia Post has contracted InjuryNET to 'examine and treat Australia Post employees in Victoria, Tasmania New South Wales, the Australian Capital Territory, Queensland and Western Australia'.³² South Australia and the Northern Territory have specific local arrangements for medical consultancy services and are not part of the InjuryNET network.³³

2.21 The current arrangement between Australia Post and InjuryNET commenced on 18 May 2007 following a 'national competitive tender process'.³⁴ Both the Victoria

24 Comcare, *Submission 13*, p. 4.

25 Comcare, *Submission 13*, p. 4.

26 Comcare, *Submission 13*, p. 4.

27 Comcare, *Submission 13*, p. 4.

28 Comcare, *Submission 13*, p. 4.

29 Comcare, *Submission 13*, p. 4.

30 Comcare, *Submission 13*, p. 5.

31 Comcare, *Submission 13*, p. 5.

32 Australia Post, *Submission 6*, p. 28.

33 Australia Post, *Submission 6*, p. 28.

34 Australia Post, *Submission 6*, p. 28.

and NSW Australia Post administrations have been contracted with InjuryNET prior to May 2007.³⁵

2.22 InjuryNET is 'a practitioner network organisation' linking businesses with medical professionals, such as doctors, physiotherapists and psychologists, in the field of occupational injury management.³⁶ Its two directors are Dr David Milecki and Ms Anne Cherry.³⁷ InjuryNET was registered as a proprietary company limited by shares on 1 July 2003.³⁸

2.23 InjuryNET offers a number of services, including injury management for treatment of work-related injuries or illness; pre-placement medical assessments; fitness for duty assessments, and health maintenance assessments.³⁹ In addition, InjuryNET also provides assistance to clients 'to design injury management or absence management programs, using the Practitioner Network as a key "tool"'.⁴⁰

2.24 Australia Post pays InjuryNET a fixed consultancy fee valued at \$1.5 million over the three year term of the agreement for the provision of the following services:

- (a) Ad-hoc consultancy services including training of medical professionals (for example general practitioners and physiotherapists), and
- (b) Identification, development, implementation and monitoring of a treatment network of medical professionals who perform:
 - (i) Pre-placement medical examinations;
 - (ii) General fitness-for-duty examinations, and
 - (iii) Treatment to employees where appropriate.⁴¹

2.25 The fixed fee paid to InjuryNET by Australia Post is not linked to lost time injury frequency rates (LTIFRs).⁴²

35 See information provided by Australia Post, answer to question on notice (question 12), Additional estimates hearings 13 and 14 February 2006. That answer indicates that the Victorian administration of Australia Post engaged Dr Milecki in 1998, and NSW Australia Post entered into a contract along similar lines to the now national contract with InjuryNET in 2005.

36 InjuryNET, available: www.injurynet.com.au/html/home.cfm and www.injurynet.com.au/html/main.cfm (accessed 2 December 2009).

37 InjuryNET, *About us*, available: www.injurynet.com.au/html/main.cfm (accessed 3 December 2009).

38 ASIC, *Current and Historical Extract ABN 37105352501*, 13 January 2010, p. 1.

39 InjuryNET, *Services*, available: www.injurynet.com.au/html/services.cfm (accessed 3 December 2009).

40 InjuryNET, *Services*, available: www.injurynet.com.au/html/services.cfm (accessed 3 December 2009).

41 Australia Post, *Submission 6*, p. 28.

42 Australia Post, *Submission 6*, p. 28.

2.26 Medical professionals that undertake work for Australia Post through InjuryNET are provided with training comprising both theory and practical components, including:

- Australia Post's structure, statistics and best practice rehabilitation;
- Introduction to InjuryNET;
- Australia Post's injury management program;
- Treatment process, consultation, evidence base for early intervention and completion of medical certificates;
- Familiarisation with Australia Post work duties and facilities (commercial outlet, mail sorting / delivery centre and transport centre); and
- Workplace tours and discussions (equipment and processes, interaction between worker and work environment, and possible alternative duties for injured employees).⁴³

2.27 The current contract with InjuryNET expires on 17 May 2010.⁴⁴

43 Australia Post, answer to question on notice (question 56), Supplementary Budget Estimates hearings 19 and 20 October 2009.

44 Australia Post, *Submission 6*, p. 28.

Chapter 3

Key issues:

Attendance at Australia Post nominated doctors

3.1 The evidence presented to the committee during this inquiry raised a number of interrelated and complex issues regarding Australia Post's treatment of ill and injured workers. These included matters as diverse as the relationship between sick leave versus workers compensation leave, the contractual arrangements between Australia Post and InjuryNET, and appropriate treatment methods for injured workers.

3.2 The committee has distilled this evidence into three key issues which it considers to be the central concerns regarding Australia Post's injury management system:

- the confusion regarding when employees may and when they must attend a facility nominated doctor;
- the appropriate and legal use of facility nominated doctors' assessments; and
- the question of whether Australia Post employees are routinely being returned to work too early or on inappropriate duties.

3.3 These three issues are discussed in this, and the following two chapters respectively.

Voluntary and mandatory attendance at Australia Post nominated doctors

3.4 The committee received evidence from numerous Australia Post employees and the unions representing them¹, that Australia Post routinely compels employees to attend facility nominated doctors (FNDs) rather than their own doctors or specialists. The unions contended that this frequently occurs in circumstances where Australia Post does not have the legal authority to compel employees to attend FNDs.

3.5 The Communications, Electrical and Plumbing Union's (CEPU) submission summarised the practical implications of the practice. The CEPU first outlined the 'usual' process when a worker is injured:

The usual course for work-related injuries is for an employee to immediately see their treating doctor first and then get a medical report if necessary.

[Following an assessment by their treating doctor]...where practicable, an employee must submit a claim for workers' compensation, and a decision

1 The committee received evidence from the Communications, Electrical and Plumbing Union (CEPU) and the Communication Workers Union (CWU), which will be referred to as 'the unions' throughout this report when referring to both organisations.

will be made by the [Australia] Post delegate as to whether to support or deny the claim. In some instances, and entirely consistent with section 57 of the SRC Act, Australia Post can refer the employee to a medical practitioner (invariably a specialist) of its choice to obtain an alternative assessment and/or medical opinion.²

3.6 However, the CEPU submitted that this 'usual course' is not the way the injury management process works at Australia Post:

Under Australia Post's approach, injured workers must attend the FND for assessment. Failure to attend exposes the employee to risk further injury to employment via disciplinary action.³

3.7 Australia Post submitted that there are two situations in which it is empowered to direct an employee to attend a medical assessment by an FND. According to Australia Post, the circumstances in which an Australia Post employee may be required to attend an FND are:

- (a) When directed under the SRC Act in relation to a compensation claim; or
- (b) When directed by an Australia Post manager for a fitness for duty assessment under the Australia Post Principal Determination (*Determination No. 6 of 2006*).⁴

3.8 Additionally, employees may voluntarily attend an FND under Australia Post's Injury Management (Early Intervention) Policy.

Voluntary attendance at an FND

3.9 The Injury Management (Early Intervention) Policy (EIP) was introduced by Australia Post in 1999 'as a mechanism to enable management to assist employees suffering from suspected work-related injury or illness'.⁵

3.10 The EIP program is intended to assist employees suffering from suspected work-related injury or illness to receive medical treatment as early as possible so as to maintain them at work within appropriate medical restrictions or facilitate their earliest return to work.⁶ Australia Post submitted that the following principles underpin the EIP:

2 Communications, Electrical and Plumbing Union (Communications Division), *Submission 10*, p. 9.

3 CEPU (Communications Division), *Submission 10*, p. 9.

4 Australia Post, *Submission 6*, p. 35.

5 Australia Post, *Submission 6*, p. 13.

6 Australia Post, *Submission 6*, p. 13 and Appendix 2 – Injury Prevention (Early Intervention) Program, p. 4.

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- An employee has responsibility to report as soon as possible any injury or illness which may affect work performance or safety of the employee or co-workers, and to actively seek appropriate treatment.
 - All Australia Post employees who report illness or injury, where the illness or injury may have been work-related, may participate in the EIP.
 - Participation in the program does not affect an employee's rights and entitlements to workers' compensation. All employees reporting an illness or injury will be advised of their rights and entitlements under the SRC Act.
 - Employees requiring treatment have the right to attend an Australia Post FND or a doctor of their choice. An employee can choose to accept or reject a recommended course of treatment by any treatment provider.
 - Where an employee chooses to attend an FND for treatment, limited medical treatment will be provided at Australia Post's expense.⁷
 - If an employee attends their own doctor, the cost of treatment is borne fully by the employee, unless liability under the SRC Act for the injury has been accepted by Australia Post.
 - Information on an employee's medical condition must be kept separate from other employee information and maintained confidentially. Access to this information is limited to those with a legitimate reason to know.
 - An Australia Post supervisor may accompany an employee to a doctor's surgery or hospital to support the employee and ensure that the doctor/hospital is aware of Australia Post's 'commitment to assisting employees to remain at work or return to work quickly and, to provide information on the range of tasks available to the employee'.
 - A supervisor accompanying an employee is not entitled to request or receive information of a medical or personal nature from the doctor, nor is the doctor empowered to provide such information unless authorised by the employee.
 - Any discussions regarding work restrictions which occur between the supervisor and the doctor—whether treating or assessing the employee—should where possible be carried out in the employee's presence.
 - A supervisor may contact an employee's treating doctor to explore the availability of alternative duties or to clarify any recommended, work-related medical restrictions.⁸

7 Australia Post's submission (Appendix 2, p. 8) indicates that 'the early intervention program provides for a reasonable number of treatments at Australia Post's expense, for injuries or illness where a work relationship may be indicated, provided such treatments are undertaken or are recommended by an Australia Post nominated doctor'.

8 Australia Post, *Submission 6*, Appendix 2 – Injury Management (Early Intervention) Program, pp 4–6.

3.11 Australia Post advised the committee that the substantial majority (approximately 90 per cent) of referrals to FNDs occur under the EIP. In 2008–09 for example, 4124 appointments were made with FNDs under the EIP compared with 410 appointments made following a direction by Australia Post to attend an FND for a fitness for duty assessment. These figures are consistent with the figures for the previous two financial years.⁹

Situations where Australia Post may direct attendance at an FND

Direction under the SRC Act

3.12 As a 'rehabilitation authority' under the SRC Act, Australia Post may assess an injured or ill employee's 'capability of undertaking a rehabilitation program'.¹⁰ In so determining, Australia Post can require an employee to undergo an examination 'by a legally qualified medical practitioner'; 'a suitably qualified person (other than a medical practitioner)', or 'a panel comprising such legally qualified medical practitioners or suitably qualified persons (or both)' as nominated by Australia Post.¹¹

3.13 Under the SRC Act, Australia Post has the power to direct an employee to be medically assessed for the purposes of a claim for compensation by 'one legally qualified medical practitioner nominated by the relevant authority'.¹² If an employee refuses or fails, without reasonable excuse, to undergo such an examination or in any way obstructs the examination, the employee's right to compensation under the SRC Act is suspended until the examination occurs.¹³

3.14 In figures provided to this committee for the purposes of Senate Estimates by Australia Post, it is evident that Australia Post directs only a very small number of employees to attend an FND under the SRC Act each year. In 2006–07 of the total 4295 Australia Post FND appointments that occurred nationally, only 10 arose from directions under the relevant provisions of the SRC Act. In 2007–08 (to 31 May 2008) only 5 such appointments were made out of a national total of 4206 FND appointments.¹⁴

Fitness for duty assessments

3.15 The second instance in which Australia Post claims it may direct employees to attend an FND is under clause 10 of its *Principal Determination*.

9 Australia Post, *Submission 6*, p. 37.

10 *Safety, Rehabilitation and Compensation Act 1998*, ss. 36(1).

11 *Safety, Rehabilitation and Compensation Act 1998*, ss. 36(2).

12 *Safety, Rehabilitation and Compensation Act 1998*, s. 57.

13 *Safety, Rehabilitation and Compensation Act 1998*, ss. 57(2).

14 Environment, Communications and the Arts Committee, Senate Estimates, May 2008, answers to questions on notice, Australia Post, question 44, available: www.aph.gov.au/Senate/committee/eca_ctte/estimates/bud_0809/bcde/index.htm.

3.16 Section 89 of the *Australian Postal Corporation Act 1989* relates to the staff of Australia Post and provides that:

- (1) Australia Post may engage such employees as are necessary for the performance of its functions.
- (2) The terms and conditions of employment shall be determined by Australia Post.

3.17 Australia Post's *Principal Determination* covers employment matters for Australia Post employees including leave entitlements, studies assistance and allowances. Clause 10 of the Determination, which was amended by *Determination No. 6 of 2006* states that:

- (a) Australia Post may direct an employee to:
 - (i) Obtain and furnish to Australia Post a report from a registered medical practitioner concerning a medical assessment of the employee's fitness to perform all or part of his or her duties; and/or
 - (ii) Submit to a medical examination by a registered medical practitioner determined by Australia Post, for the purpose of a medical assessment and a report to Australia Post concerning the employee's fitness to perform all or part of his or her duties.¹⁵

3.18 Australia Post has argued that under the Determination, it 'may require an employee to attend a medical examination to assess the employees' fitness for duty in order to safeguard the employee or co-workers' health and safety'.¹⁶ This is known as a 'fitness for duty assessment' and differs to medical assessments under the SRC Act in relation to workers' compensation.

3.19 Australia Post contends that when directed to attend an FND for a fitness for duty assessment, an employee must comply with that direction as per clause 10 of the Determination.¹⁷ Failure to comply with such a direction 'without reasonable cause' may result in the employee being 'subject to the Employee Counselling and Discipline Process'.¹⁸

3.20 According to the figures provided by Australia Post, there were 410 directions to attend FNDs made under clause 10 in 2008–09, and similar numbers made in the preceding two financial years.¹⁹

15 Australia Post, *Submission 6*, Appendix 1 – Principal Determination, p. 10.

16 Australia Post, *Submission 6*, Appendix 2, p. 7. Section 89(2) of the Australian Postal Corporation Act 1989 states that 'The terms and conditions of employment shall be determined by Australia Post' and it is this statutory power that enables Australia Post to make determinations.

17 Australia Post, *Submission 6*, Appendix 1 – Principal Determination, p. 10.

18 Australia Post, *Submission 6*, Appendix 1 – Principal Determination, p. 11.

19 Australia Post, *Submission 6*, p. 37.

Australia Post's use of the Principal Determination

3.21 The committee received evidence from over forty past and present Australia Post employees and from the unions representing them, regarding their experiences of being injured while working at Australia Post. A common story in a large proportion of those employee's accounts was that they had been verbally threatened with disciplinary action by their manager if they refused to attend an FND immediately upon being injured.²⁰

3.22 For example Mr Chlebowczyk, a mail officer at the Bendigo Mail Centre, complained to the CEPU about being threatened with being 'coded' if he refused to attend an FND following suffering a back injury at work. Upon being injured, Mr Chlebowczyk visited his family doctor. Mr Chlebowczyk's submission claims that Australia Post was not content with his treating doctor's medical opinion, and instructed him to visit a FND. When Mr Chlebowczyk refused to see an FND because '[he] was in no state to move, much less go for another doctor's consultation',²¹ he was informed that he would face disciplinary action if he refused to attend an FND.

3.23 Mr Chlebowczyk discussed the threatened disciplinary action with his union (the CEPU) who informed him that as the direction to attend an FND was not being made under the SRC Act, attendance was not compulsory. Attached to Mr Chlebowczyk's submission²² is correspondence between the CEPU and Australia Post regarding the matter. In its letter to the CEPU, Australia Post indicated that Mr Chlebowczyk's appointment with the FND was made under the EIP. However, the letter later contradicts this statement, and goes on to suggest that the direction that Mr Chlebowczyk attend the FND had been made under the *Principal Determination*, stating:

As you are aware, the Principal Determination, clause 10 enables Australia Post to refer an employee for a medical assessment concerning fitness for duty to perform all or part of the employee's duties.²³

3.24 In its reply, the CEPU questioned the lawfulness of using clause 10 to direct an employee to attend an FND in those circumstances. The CEPU stated that a senior manager at Australia Post had provided undertakings that clause 10 would:

...only be used under certain circumstances (which are quite different from those pertaining to the current case).²⁴

3.25 Furthermore, the CEPU stated that:

20 See for example: Name Withheld, *Submission 19*; Name Withheld, *Submission 30*; Name Withheld, *Submission 31*; CEPU, *Submission 10*, attachments 3, 5, 15, 20 and 24.

21 CEPU (Communications Division), *Submission 10*, attachment 3.

22 Which is attachment 3 to CEPU (Communications Division), *Submission 10*.

23 CEPU (Communications Division), *Submission 10*, attachment 3, p. 3.

24 CEPU (Communications Division), *Submission 10*, attachment 3, p. 4.

It is quite clear that if your wish to have Mr Chelbowczyk [sic] medical condition assessed you need to provide him with a direction under section 57 of the Safety, Rehabilitation and Compensation Act [which relates to an employee's capability of undertaking a rehabilitation program].²⁵

3.26 While Australia Post was adamant in its evidence to the committee that 'employees can choose to see their own doctor' under the EIP,²⁶ the letter written by Australia Post to the CEPU in Mr Chlebowczyk's case demonstrates that if employees choose not to visit an FND, or not to participate in the EIP, then Australia Post will use clause 10 the Determination to require them to do so. Furthermore, Australia Post's own internal guidelines on the use of the Determination also indicate that it is their policy to require injured workers to take part in the 'voluntary EIP.' The internal guidelines on the use of the Determination state that:

Where an employee does not accept an offer to attend an Australia Post nominated doctor for treatment, and is provided with a certificate of incapacity from another treating doctor, this Determination would be used to direct the employee to attend a fitness for duty assessment to determine whether they are able to undertake all or part of their duties.²⁷

3.27 Mr Chlebowczyk's case study highlights one of the key issues of contention and concern with Australia Post's approach to injury management: the lack of clarity amongst both managers and employees about the use of clause 10 directions. Specifically, it highlights the lack of certainty over whether, and in what circumstances, Australia Post has the authority to use clause 10 directions to require injured workers to visit an FND immediately upon being injured.

Legal status and scope of the Principal Determination

3.28 During the inquiry, questions arose as to the legal standing of the *Principal Determination*. On the issue Mr Steve Kibble, the Deputy Chief Executive Officer of Comcare stated that while it 'is not an unusual power that employers have to direct their employees to undertake fitness for duty assessments', it is unusual for that power to be contained in, and have the force of, subordinate legislation.²⁸

3.29 While section 102 of the *Australia Postal Corporation Act 1989* provides for the power to make regulations under the Act with respect to certain matters, the list of examples of matters on which regulations may be made in paragraphs 102(c)–(h) does not include any matter resembling those covered by clause 10 of the Determination.

25 CEPU (Communications Division), *Submission 10*, attachment 3, p. 4.

26 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 2.

27 Australia Post, *Submission 6*, Appendix 6 – Guidelines for the Use of Determination 10A – fitness for duty, pp 1–2.

28 Mr Steve Kibble, Deputy Chief Executive Officer, Comcare, *Committee Hansard*, 12 February 2010, p. 85.

3.30 In its submission, Australia Post stated:

In addition the underpinning subordinate legislation which prescribes minimum terms and conditions is the Principal Determination (terms and conditions of employment for Australia Post employees established under section 89 of the *Australian Postal Corporation Act 1989*).²⁹

3.31 However, *Determination No. 6* (which is the relevant instrument amending the *Principal Determination*) is not listed on the Federal Register of Legislative Instruments³⁰ and, given that it was made after the *Legislative Instruments Act 2003* came into effect, this means that the Determination is either not a legislative instrument (and therefore is not required to be registered) or is an unenforceable legislative instrument.³¹ If the Determination is not a legislative instrument, then its status would appear to be that of an in-house policy or procedure.

3.32 Of greater concern to the committee is the disagreement between the unions and Australia Post with respect to the scope of the Determination. As noted above, it seems that the Determination is being used to require injured employees to also attend an FND even when they choose to visit their own doctor.

3.33 In its submission, and in its correspondence with Australia Post, the CEPU argued that the Determination should not be used for that purpose. Specifically, the CEPU indicated that the comments of Senior Deputy President Drake, of the (then) Australian Industrial Relations Commission, in *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and Australian Postal Corporation* (C2005/5770), restrict the legal use by Australia Post of clause 10 of the *Principal Determination*.³² In that case, which related to a similar provision in the *Australia Post General Conditions of Employment Award 1999* (the Award), Senior Deputy President Drake stated that:

The ordinary and natural meaning of the words used in the [Award's] clauses and their context in the award make it clear that it is the purpose of those clauses to allow the employer to obtain medical evidence to ascertain the fitness of an employee who Australia Post may consider is possibly unfit or incapable of discharging their duties.³³

3.34 The practical effect of Senior Deputy President Drake's judgment was that Australia Post was no longer able to use the fitness for duty provision under the Award to require injured employees to visit an FND for the purposes of workers' compensation or sick leave applications. The CEPU contends that in response,

29 Australia Post, *Submission 6*, p. 7.

30 <http://www.comlaw.gov.au/comlaw/comlaw.nsf/frli?OpenForm&Expand=1.1>.

31 Under section 31 of the *Legislative Instruments Act 2003*.

32 CEPU (Communications Division), *Submission 10*, p. 5.

33 *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and Australian Postal Corporation* (C2005/5770), 8 May 2006, paragraph 10.

Australia Post amended the *Principal Determination* in an attempt to continue this practice.³⁴ The CEPU submitted that, because the *Principal Determination* is a policy document, the provisions of the Award prevail to the extent of any inconsistency. Therefore, the CEPU contends that Australia Post's use of the Determination to require attendance at an FND under the EIP is invalid.³⁵

3.35 However, Australia Post highlighted in its evidence that:

At no stage have the programs implemented at Australia Post been found to be unlawful by any court or tribunal. To the contrary, the program has been endorsed as best practice.³⁶

Committee comment

3.36 The committee notes the evidence provided by either side of this issue regarding the legal status of Australia Post's *Principal Determination*. However, the committee does not consider that it is in a position to determine this issue one way or the other. Nevertheless, it is clear to the committee that the lack of certainty about the issue, and particularly the disagreement between the unions and Australia Post, is impacting adversely on employees and reducing the effectiveness of Australia Post's injury management program.

3.37 It is evident that both managers and employees are confused as to when an employee can be directed to visit an FND. The evidence given to the committee by Mr Paul Lucignani, a member of the CEPU and an Australia Post delivery officer reflected the lack of knowledge amongst employees about their rights and obligations. Mr Lucignani told the committee that when he was injured at work:

I went to my own doctor first and then I was directed to go to an FND. I did not know I had a choice. I did not think I had a choice. I was directed to go.³⁷

3.38 Mr James Metcher, Secretary of the Postal and Telecommunications Branch, NSW Communications Division of the CEPU explained the negative effect of this lack of knowledge on an injured worker:

When [employees] do have an injury, they do not know and they are not educated about the process of what they are supposed to do when they have an injury. The first port of call is their supervisors and managers for guidance, and where the supervisors and managers are coached under this scheme on how they are expected to be dealing with these arrangements

34 CEPU (Communications Division), *Submission 10*, p. 5.

35 CEPU (Communications Division), *Submission 10*, pp 28–9.

36 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 1.

37 Mr Paul Lucignani, Member, CEPU, *Committee Hansard*, 12 February 2010, p. 62.

under the direction of the HR departments, this is where the employee ends up caught up in the scheme.³⁸

3.39 Without clarity amongst both employees and managers as to their rights and obligations under the EIP, there is scope for the unintended misuse of injury management processes. This could lead to unnecessary tension and resentment between employees and managers. It appears to the committee that this is what has occurred at Australia Post. Injured workers are receiving conflicting advice and directions from their union and their employer, which, in some cases, has resulted in uncertainty and resentment and led to Australia Post's injury management process not being as effective as it could be for all parties concerned.

3.40 Based on the evidence presented, it is clear to the committee that there is a need for employees and management to develop well-defined principles regarding when employees *must* attend FNDs and when they *may* attend FNDs. Both parties need to cooperate in good faith to ensure that the use of facility nominated doctors in the injury management process is lawful, fair and unambiguous, and that employees and managers are adequately informed of their rights and responsibilities.

Proposed new model for the use of facility nominated doctors

3.41 The committee is pleased to report that Australia Post and the unions representing its employees have recently demonstrated a commitment to, and taken steps towards, resolving this issue in the context of negotiating a new enterprise agreement. In a joint submission dated 31 May 2010, Australia Post and the CEPU informed the committee that 'in-principle consensus' has been reached between them regarding a proposed new model for the use of FNDs.³⁹

3.42 According to the joint submission, under the new proposed arrangements:

...when an employee reports a possible work-related injury to their manager, they will be advised that they can elect to receive treatment from an Australia Post Medical Advisor (FND) or their own doctor.⁴⁰

3.43 If an employee chooses to visit an FND, the parties have agreed that treatment will continue to be covered by Australia Post in the same manner in which it is presently—that is up to four FND appointments, up to four physiotherapy appointments, and the costs of x-rays, tetanus injections and basic medication.⁴¹

3.44 Under the in-principle agreement, if an employee chooses to be treated by their own doctor:

38 Mr James Metcher, Secretary, Postal and Telecommunications Branch, NSW, Communications Division, CEPU, *Committee Hansard*, 12 February 2010, p. 60.

39 Australia Post and the CEPU, *Submission 37*, p. 2.

40 Australia Post and the CEPU, *Submission 37*, p. 3.

41 Australia Post and the CEPU, *Submission 37*, attachment 4.

...they must take an Australia Post 'WorkReady' pack to their doctor, which contains information about their job and the duties available and a WorkReady Report to be completed by the doctor and returned to Australia Post.⁴²

3.45 The joint submission included a draft WorkReady pack which describes the various delivery and sorting tasks available to Australia Post employees, and the physical requirements of each task. Treating doctors will then be required to complete a WorkReady Report detailing the number of hours per day the injured employee is capable of working, and the physical tasks that they are capable of performing.

3.46 Under the in-principle agreement, there will be limited circumstances in which an employee who has chosen to attend their own doctor may be directed to attend an FND by their manager. These circumstances are if:

- their treating doctor does not provide a completed WorkReady Report; or
- 'there is conflicting evidence which seriously questions the employee's own doctor's advice on the WorkReady Report'.⁴³

3.47 The joint submission states that:

...an oversight mechanism will be established, where Australia Post and the unions will meet on a regular six-monthly basis to review these referrals and seek further information, as permitted and required.⁴⁴

3.48 While the details of this in-principle agreement are yet to be finalised, the committee commends the CEPU and Australia Post on their progress to date. The proposed agreement appears to resolve one of the central issues of contention with Australia Post's injury management program—the lack of clarity as to the circumstances in which managers may direct employees to attend FNDs.

3.49 In addition, the proposed model will resolve the dispute regarding Australia Post's use of the *Principal Determination* as a basis for directing employees to attend FNDs. The committee understands that the proposed model will be set out in the new enterprise agreement between Australia Post and its employees, which will become the source of Australia Post's power to direct employees to attend FNDs in the above agreed circumstances. The joint submission states that 'as a consequence, the section of the *Principal Determination* that underpins our current FND system will be removed'.⁴⁵

3.50 The committee urges both parties to continue to work in good faith to develop the details of the new scheme. In particular, the committee recommends that both parties ensure that employees and managers are well-informed of their rights and

42 Australia Post and the CEPU, *Submission 37*, p. 3.

43 Australia Post and the CEPU, *Submission 37*, p. 3.

44 Australia Post and the CEPU, *Submission 37*, p. 3.

45 Australia Post and the CEPU, *Submission 37*, p. 3.

responsibilities under the scheme, and that adequate oversight mechanisms are in place to ensure that any emerging issues with the new scheme are dealt with promptly and fairly.

Recommendation 1

3.51 Noting the in-principle agreement reached for the use of Facility Nominated Doctors, the committee recommends that Australia Post and the unions representing its employees continue to work in good faith to develop the details of the new policy within the context of the new enterprise agreement. The committee urges both parties to ensure that once a lawful and fair agreement has been reached, both sides work to ensure that employees and managers are well-informed of their rights and obligations with respect to injury management processes.

Chapter 4

Key Issues:

The use of FND assessments to determine workers compensation claims

4.1 A second issue that was central to the inquiry was the contention by unions and employees that Australia Post has been using FND assessments obtained under the EIP and fitness for duty processes as evidence in workers compensation claims.

4.2 In its submission, the CEPU outlined the common practice within Australia Post when an employee is injured in the workplace:

Australia Post employees have little choice – they must visit a FND if directed. The FNDs in over 90% of cases send that employee back to work – even if it is to watch TV in a work lunchroom.

But if an employee follows the advice of a family doctor to take time off from work to recover and recuperate, what happens?

When the employee submits the official paperwork indicating that they experienced an incident or injury at work...it is referred to an internal workers' compensation delegate.

The delegate considers the advice of the family doctor and the FND – then issues a determination whether to accept liability for the injury/illness and liability for treatment costs and loss of time (Normal Weekly Earnings).¹

4.3 A number of concerns were raised regarding this issue, including whether it is in breach of Comcare's policies, or the *Privacy Act 1988*.²

Does the practice breach Comcare's policies?

4.4 In its submission, Australia Post stated that it is allowed to consider FND fitness for duty assessments when making decisions regarding workers' compensation claims because:

Under the provisions of the SRC Act and associated licence conditions Australia Post Claims Managers have the power to do all things necessary or convenient to be lawfully done for, or in connection with, the performance of functions under the SRC Act...

Having regard to these provisions Claims Managers are empowered to make decisions in relation to claims on the evidence provided to them or

1 CEPU (Communications Division), *Submission 10*, p. 20.

2 Chapter 5 discusses the related matter of Australia Post allegedly preferring the assessments of FNDs over family doctors and specialists.

where necessary seek additional evidence to assist with making a decision...

A Claims Manager will consider a fitness for duty assessment, along with other relevant information, when deciding whether a period of absence from duty should be accepted and paid as incapacity under the provisions of the SRC Act.³

4.5 However, the CEPU submitted that the practice breaches Comcare's policies, specifically its jurisdictional policy advice No 2000/05, entitled *Application of "Fitness for Duty" Provisions*, which states:

If information regarding an employee's medical condition is collected for an employment related purpose (for example, to record absences from work or to assess their fitness for duty) it should not, in principle, be used for a compensation-related purpose (for example, to support a decision to continue or cease liability).⁴

4.6 Ryan Carlisle Thomas Lawyers agreed with the unions on this issue, and in their submission explained the implications of an injury not being managed under the SRC Act:

...Australia Post's right to suspend all entitlements under the SRCA when a worker "unreasonably" refuses to participate in a return to work/rehabilitation program even when the worker is following the advice of their own doctor, is excessively harsh and used by Australia Post without hesitation as a weapon to pressure workers to return to work or risk being left without income and without access to medical treatment under the SRCA.⁵

4.7 In its submission, the CEPU informed the committee that it had raised the apparent inconsistency with Comcare, and was told that:

...Comcare can conclude that Australia Post's IMP [Injury Management Program] has been established as a mechanism to effectively manage employees injured at work by adopting the best practice approach of making available, through an FND, early diagnosis and treatment of injuries with an emphasis on matching an employee's current functioning to available duties in the workplace.⁶

3 Australia Post, *Submission 6*, p. 30.

4 Comcare, Jurisdictional Policy Advice No 2000/05, *Application of "Fitness for Duty" Provisions*, p. 2, available from www.comcare.gov.au/forms_and_publications/jurisdictional_policy_advices/jurisdictional_policy_advices_january_1999_-_december_2006 (accessed 2 April 2010).

5 Ryan Carlisle Thomas Lawyers, *Submission 8*, p. 5.

6 CEPU (Communications Division), *Submission 10*, p. 23.

4.8 Comcare also provided the committee with the results of a number of recent audits of Australia Post's compliance with the SRC Act.⁷ Mr Kibble, Comcare's Deputy Chief Executive Officer, stated that 'the audit did not identify any systemic issues with Australia Post's injury management system'.⁸

Privacy concerns

4.9 Australia Post's use of medical information given by employees for the purpose of fitness for duty assessments or under the EIP being used for the purpose of determining compensation claims also raises questions about compliance with the *Privacy Act 1988*.

4.10 The jurisdictional policy advice issued by Comcare in 2000, part of which is extracted above, states that 'with the employee's written permission' medical information obtained from an employee for an employment related purpose, may be used to determine a compensation claim.⁹ The advice continues:

Determining authorities which are also employing authorities may wish to consider seeking permission to grant access as a matter of course when they refer employees for fitness for duty examination.¹⁰

4.11 In its submission, Australia Post claimed that Principle 10 of the Information Privacy Principles and Principle 2 of the National Privacy Principles enable Australia Post to use medical information gathered by way of a fitness for duty assessment because:

Principle 10 of the Information Privacy Principles allows the use of personal information where 'the purpose for which the information is used is **directly related** to the purpose for which the information was obtained'.

Principle 2 of the National Privacy Principles allows the use of personal information for a secondary purpose where:

- (i) the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection; and
- (ii) the individual would reasonably expect the organisation to use or disclose the information for the secondary purpose.¹¹

7 Comcare, additional information, 10 February 2010, 'Claims Management Systems Audit Report'; 'Rehabilitation Management Systems Audit Report'; and 'Injury Management Systems Supplementary Audit Report'.

8 Mr Steve Kibble, Deputy Chief Executive Officer, Comcare, *Committee Hansard*, 12 February 2010, p. 81.

9 Comcare, *Jurisdictional Policy Advice No. 2000/05 Application for "fitness for duty" provisions*, 27 June 2000.

10 Comcare, *Jurisdictional Policy Advice No. 2000/05 Application for "fitness for duty" provisions*, 27 June 2000.

11 Australia Post, *Submission 6*, pp 32–33. Emphasis from original submission.

4.12 Australia Post argued that assessments by FNDs under the EIP and the Determination are 'directly related' to an employee's entitlements under the SRC Act because the EIP:

- (a) is intended only for injuries where a work relationship is indicated;
- (b) states that it interacts and must be read in conjunction with existing Australia Post policies and relevant legislation, including the Safety, Rehabilitation and Compensation Act; and
- (c) expressly states that, although FND assessment is not a medical examination for the purposes of establishing liability under the SRC Act, where appropriate the information may be accessed by the Claims Manager to assist in the determination of liability.¹²

4.13 The privacy principles quoted above only apply in the absence of consent. Australia Post advised that it obtains express consent from employees to use and disclose private, personal and medical information when 'an employee signs the current claim forms for compensation'.¹³ Furthermore, Australia Post stated that the information provided to employees when they are directed to attend a FND examination advises employees that:

The doctor will send your fitness for duty report to your supervisor or manager...If you submit a workers' compensation claim under the [SRC Act] the doctor may be requested to provide a copy of his or her report to a workers' compensation delegate.¹⁴

4.14 This approach, by way of Australia Post's claim form, has been approved by Comcare and is deemed by Comcare to meet the requirements of the SRC Act.¹⁵

4.15 With specific regard to Comcare's jurisdictional advice, Australia Post stated that it did:

...not accept that any of its policies or procedures related to employee health and safety, including EIP and FFD [fitness for duty] processes are in breach of the Privacy Act or Comcare policy.

There has been no finding that Australia Post has breached the Privacy Act or the Comcare jurisdictional advice...¹⁶

Committee comment

4.16 The committee is satisfied that Australia Post's use of FND assessments has been determined by Comcare not to breach Comcare's policies or privacy principles.

12 Australia Post, *Submission 6*, pp 32–33.

13 Australia Post, *Submission 6*, p. 31.

14 Australia Post, *Submission 6*, p. 33.

15 Comcare, *Submission 13*, p. 8.

16 Australia Post, *Submission 6*, p. 34.

However the committee suggests that there are further steps that Australia Post could take to better inform its employees and managers about the use of FND information, and to ensure its policies are consistent with best practice.

4.17 The committee recommends that every time an Australia Post employee attends an FND, either voluntarily or compulsorily, the uses to which the FND's medical assessment may be put, must be made clear in advance to the employee. Australia Post should bear the onus of ensuring that this occurs, and that its employees understand the implications of giving information to an FND. The committee advises that this information should be clear and upfront, and not contained in the fine print of EIP forms, compensation claim forms or other forms.

4.18 Furthermore, based on Comcare's advice that fitness for duty assessments should not, in principle, be used for compensation-related purposes, the committee recommends that Australia Post cease the practice of using medical assessments under the EIP as evidence in compensation claims. In the committee's view, it is inappropriate for employees to be required to attend an FND outside of the workers' compensation process, and for information obtained during that process to be used against their interests in determining a workers' compensation claim.

4.19 This process appears to be undermining the effectiveness of the EIP by causing employees to be sceptical of the objectives of the EIP. The committee considers that the EIP would be more effective in assisting workers to return to work and recover from injury, if employees felt assured that EIP medical assessments would not undermine their claims for workers' compensation. Accordingly, the committee recommends that the EIP and workers' compensation processes should be separated, and that medical information from the former should not be used in the latter.

Impact of the proposed new model for use of FNDs

4.20 The in-principle agreement reached between Australia Post and the CEPU regarding the use of FNDs may go part of the way towards addressing the committee's concerns related to this issue, by limiting and clarifying the circumstances in which employees may be directed to attend an FND.¹⁷ The new process also has the potential to reduce the perception amongst employees of being compelled to give information to an FND which may then be used against their interests. This will also diminish the current level of scepticism amongst employees about the EIP.

4.21 The proposed model also creates an opportunity for employees to be informed of the implications of giving information to FNDs at the point at which they are given the option of choosing to visit an FND or their own doctor under the EIP. The committee recommends that at that point, injured employees be given clear advice about the uses to which FND assessments may be put, to enable them to choose the option which best suits their interests.

17 The details of this agreement are discussed in chapter 3.

4.22 However, the proposed new FND model does not entirely resolve the issue of FND assessments under the EIP being used to resolve workers' compensation claims, as there remain instances in which employees may be compelled to attend an FND.¹⁸ The committee maintains its view that in circumstances where an employee is compelled to give information to an FND outside of the workers' compensation process, that information should not ordinarily be used against their interests in determining a workers' compensation claim, as a matter of principle.

Recommendation 2

4.23 The committee recommends in the strongest terms that Australia Post consider ceasing the practice of using medical assessments obtained under the Injury Management (Early Intervention) Policy for workers' compensation purposes.

4.24 The committee further recommends that Australia Post ensure that every time an employee attends a Facility Nominated Doctor (FND), whether voluntarily or compulsorily, the employee is advised of the uses to which the FND's medical assessment may be put. The committee urges Australia Post to consult with the unions representing Australia Post employees to develop appropriate material to inform employees of the implications of FND visits.

18 These are discussed in chapter 3.

Chapter 5

Key issues:

Return to work and appropriate duties

5.1 Central to the unions' criticisms of Australia Post's injury management program is the claim that Australia Post employees are routinely returned to work before they are physically ready, and in inappropriate duties, following an injury.¹

5.2 The claim raises two distinct, but interrelated issues: whether injured employees are being forced to return to work before they are physically ready; and whether on their return to work, injured employees are being required to undertake duties that are both appropriate to their physical capacity and satisfying. The two issues are interrelated, with injured employees claiming that they are either being returned to work before they are physically capable and being given routine or unnecessary work to perform, or that they are being required to work at a level beyond their physical capacity. As they tend to arise together, the issues of return to work and appropriate duties are discussed together throughout this chapter.

5.3 For example, the committee heard evidence from Mr Trevor Crawford, a member of the CEPU, that he suffered an injury at work which resulted in a brain haemorrhage and a broken rib. Mr Crawford told the committee that:

Initially, they wanted me to go back [to work] for four hours a day. I was dizzy and I was quite ill...When I went back to work on the first day for two hours, I was extremely ill the next day. I was very sick and I could not come back to work.²

5.4 Mr Crawford told the committee that he returned to the FND:

...who then directed me to go back to work for 45 minutes a day. How useful can you be to an organisation when you get sent back to work for 45 minutes a day? I was not allowed to drive. I was supposed to take a 15-minute break in the middle of those 45 minutes. I was not allowed to stand while I was at work...

I was doing a duty which I was totally unfamiliar with. It was a duty that was of no use to anybody because I probably made so many mistakes that

1 See for example CEPU (Communications Division), *Submission 10*, p. 12 and CWU, *Submission 9*, case studies at attachments 1 to 26.

2 Mr Trevor Crawford, Member, Postal and Telecommunications Branch, Victoria, Communications Division, CEPU, *Committee Hansard*, 12 February 2010, p. 62.

someone else would have had to basically redo it anyway. They just wanted you to be seen to be at work...³

5.5 The unions, as well as a number of Australia Post employees, submitted that there is a range of reasons for the premature return of Australia Post workers to work. Mr Ed Husic, Secretary of the Communications Division, CEPU explained that:

The way that the system works is that it loads up all this pressure to go to an FND to be put back to work quickly, even if the restrictions are so great that in some cases, as we would have shown, you have weight restrictions where you cannot lift anything over a kilo. So I do not know what you can feasible lift through the day, especially if you are a driver, but the attitude is: 'You should just get back to work.'⁴

5.6 According to the unions and Australia Post workers, this pressure comes from a number of directions, principally:

- the system of bonuses paid to Australia Post managers to reduce Lost Time Injuries; and
- the relationship between Australia Post and InjuryNET.

5.7 However, Australia Post, as well as a number of Australian and international experts on workplace injury management, gave evidence that returning employees to work as early as possible on appropriate duties is in the best interests of injured workers.

Early return to work as best practice

5.8 Throughout the course of the inquiry, it became evident to the committee that the early return to work of injured employees is a key objective of the EIP. The committee heard evidence from a range of experienced medical practitioners, with expertise in workplace injury rehabilitation, about the differing views amongst doctors and current research regarding best practice in workplace injury management.

5.9 The committee heard that many doctors simply issue medical certificates stating that an injured employee requires time off work, when it is not medically necessary for the employee to take leave. For example, Dr Wyatt told the committee that:

[General practitioners] are unfamiliar with what happens in the workplace, and writing a certificate is something that often gets done without much thought to the longer-term consequences.⁵

3 Mr Trevor Crawford, Member, Postal and Telecommunications Branch, Victoria, Communications Division, CEPU, *Committee Hansard*, 12 February 2010, p. 62.

4 Mr Ed Husic, Secretary, Communications Division, CEPU, *Committee Hansard*, 12 February 2010, p. 63.

5 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 71.

5.10 Similarly, Dr Milecki stated that:

General Practitioners are very good at making diagnoses and providing treatment to patients but, unfortunately, they have not been trained fully—or adequately, as far as I am concerned—in managing the return to work. The real challenge in workers compensation is assisting people back to work, because, without that, the recovery is hampered and the disability—especially unnecessary disability—is lengthened.⁶

5.11 This view was highlighted in the report of the American College of Occupational & Environmental Medicine, discussed in the submission by Dr Jennifer Christian from the 60 Summits Project, entitled *Preventing Needless Work Disability by Helping People Stay Employed*. The report found that:

[A] large fraction of today's absence from work attributed to medical conditions (work disability) is not actually medically-required in industrialized countries such as Australia, Canada and the U.S. Rather, it is the result of the poor functioning of the process that determines whether an injured, ill, or aging person will stay at work or return to work. Importantly, the likelihood of an optimal eventual outcome is falling steadily with every additional day away from work.⁷

5.12 The argument that medically unnecessary time off work can have detrimental impacts on a patient's physical and mental health was raised by a number of medical practitioners with specialisations in the injury management area. For example, Dr Wyatt, stated that:

...being out of work in the long term is actually more dangerous to your health than working in any dangerous industry like working on an oil rig or working in forestry.⁸

5.13 Dr Wyatt further explained that:

Rehabilitation involves getting people back into the work and re-integrating them and really getting them active. Sitting at home in front of the telly is not productive in terms of the person's rehabilitation...⁹

5.14 Dr Milecki told the committee that his experience corroborates that evidence:

In my 25 years of operating as a doctor and seeing a lot of occupational patients I may have seen the very occasional case, and I am talking vanishingly rare, where by keeping somebody at work their condition has worsened, that they are harmed.¹⁰

6 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 26.

7 60 Summits Project, *Submission 1*, p. 1.

8 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 70.

9 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 71.

10 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 29.

5.15 InjuryNET Program Manager, Mr Papagoras, explained that InjuryNET's approach is designed to put into practice the evidence that reducing time off work benefits an injured worker's recovery. He stated that:

The systems designed by InjuryNET aim to minimise time off work that is not medically necessary and to encourage employer support.¹¹

5.16 In its evidence to the committee, Australia Post also highlighted that one of the key features of its EIP is to assist injured workers to return to work 'at the earliest possibility'¹² in order to put medical evidence of best-practice into effect. Dr Barbour, the Manager of the Corporate Injury Prevention and Management Unit at Australia Post told the committee that:

[Australia Post] commenced [the EIP] in the mid-1990s, solely for the purpose of knowing that the employer needs to work with its employees to make sure that, if there is a reported injury, that the employee is assisted to get the earliest medical treatment and, if at all feasible, to return to work at the earliest opportunity.¹³

5.17 Comcare's publication entitled *Rehabilitation: Managing Return to Work*¹⁴ notes the medical evidence suggesting the benefits of early return to work, but also highlights the importance of appropriate duties being available for injured workers:

The provision of suitable duties emerges as a significant factor in successful return to work outcomes. Comcare/Campbell's research found that injured employees, who considered they were given suitable duties upon return to work, were more likely to report a durable return to work. Suitable duties were perceived as tasks that respected the limits of their incapacity and were compatible with their chosen work environment and skill level. Injured employees who were given considerably different duties, or a position below their former position, upon return to work did not believe they had been given suitable duties.¹⁵

11 Mr Harry Papagoras, Program Manager, InjuryNET, *Committee Hansard*, 12 February 2010, p. 24.

12 Dr Michael Barbour, Manager, Corporate Injury Prevention and Management Unit, Australia Post, *Committee Hansard*, 12 February 2010, p. 11.

13 Dr Michael Barbour, Manager, Corporate Injury Prevention and Management Unit, Australia Post, *Committee Hansard*, 12 February 2010, p. 11.

14 Comcare, *Rehabilitation: Managing Return to Work*, 2001, available: www.comcare.gov.au/forms_and_publications/publications/injury_management/?a=42680 (accessed 9 February 2010).

15 Comcare, *Rehabilitation: Managing Return to Work*, 2001, available: www.comcare.gov.au/forms_and_publications/publications/injury_management/?a=42680 (accessed 9 February 2010).

5.18 With respect to appropriate duties being available on an injured worker's return, Australia Post submitted that it 'has processes in place to determine the appropriateness of duties assigned to injured workers',¹⁶ including that:

all activity relating to return to work is based on medical evidence. Where an employee's capacity to work is affected by an injury, medical evidence is required to ensure the duties performed in a return to work will not exacerbate that injury...¹⁷

5.19 Furthermore, Australia Post submitted:

Australia Post's rehabilitation processes (including return to work processes for injured workers on modified duties) are audited in accordance with Australia Post's licence requirements – such audits have established that Australia Post's systems are fundamentally sound and accord with Comcare's best practice recommendations on injury management.¹⁸

5.20 While Australia Post claims that its EIP is designed to implement a best practice approach to injury management, it is clear that in some instances injured workers are not receiving a best practice approach. This is evidenced by Mr Crawford's story of being forced to return to work to do a job that was of no benefit, and the many other similar stories submitted to the committee.

5.21 Dr Wyatt explained that, in her opinion, the gap between Australia Post's intentions and the experiences of injured workers arises from the lack of involvement of injured workers in their rehabilitation process. Dr Wyatt commented that:

Without knowing the details of Mr Crawford's case, it really sounded like a perfect example. It is not what happens so often; it is how it is done...If Mr Crawford felt part of the decision-making process and was coming back to work doing something out of his normal territory, something he could cope with, and he felt he could talk to his supervisor if there were a problem, who said, 'Hey Joe, how are you going?' and his workmates were happy to see him, one could see it as a very important and productive part of his rehabilitation. If, as he describes, he has the sense 'I have to, I'm unproductive, this is part of statistics and it's not me,' then the context changes completely.¹⁹

16 Australia Post, *Submission 6*, p. 24.

17 Australia Post, *Submission 6*, p. 24.

18 Australia Post, *Submission 6*, p. 24.

19 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 71.

5.22 Dr Wyatt emphasised that:

A person should feel some sense of control and trust, that they have a voice and there is a sensible ambience in the workplace.²⁰

5.23 Dr Milecki agreed with Dr Wyatt's assessment and surmised that the issues raised during this inquiry are not a result of Australia Post's EIP being faulty, but are a result of a poor relationship between the various parties involved: Australia Post; employees; and unions. Dr Milecki said:

There seems to be quite a lot of union involvement and that has more to do with Australia Post's relationships rather than the program itself.²¹

Lost Time Injury management bonuses

5.24 The unions argued that one of Australia Post's main reasons for returning injured employees to work in inappropriate duties is to reduce the lost time injury (LTI) frequency rate,²² which Australia Post has acknowledged can be linked to a manager's performance appraisal and bonus.²³

5.25 Mr Ed Husic, the Secretary of the Communications Division of the CEPU explained:

Put simply, Australia Post wants to cut its lost time injury stats. It gives its managers an incentive to cut these stats through financial reward. It gives a lucrative, secret contract to InjuryNET, a company that, with almost a nod and a wink, says it possesses 'an awareness of the financial impact of medical decisions on organisations and injured employees'.

In return InjuryNET gives Post a network of company doctors referred to as facility nominated doctors that more than nine times out of 10 send workers back to work.²⁴

5.26 Similarly, the Victorian Postal and Telecommunications branch of the CWU submitted that:

These company doctors are under pressure to return injured workers to the workplace straight away even if it is not safe to do so. The union has many case-studies of employees with serious injuries including broken bones being returned to work the next day.²⁵

20 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 70.

21 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 38.

22 CEPU (Communications Division), *Submission 10*, pp 14–17; CWU, *Submission 9*, p. 2.

23 Australia Post, *Submission 6*, p. 26.

24 Mr Ed Husic, Secretary, Communications Division, CEPU, *Committee Hansard*, 12 February 2010, p. 56.

25 CWU, *Submission 9*, p. 2.

5.27 The case study of Australia Post worker, Mr Sean O'Keefe, is an example of the alleged behaviour of a number of Australia Post managers.²⁶ Mr O'Keefe was bitten by a dog on his postal delivery round, and was accompanied to an FND appointment that day by his manager. In learning that the FND considered Mr O'Keefe unfit to return to work immediately, the manager told the FND that there were suitable duties for Mr O'Keefe to perform, and that he should be required to work the next day.

5.28 The committee also received evidence about supervisors being so reluctant to accept LTIs that they insist an employee appear at work simply to sign in, despite the fact that the supervisor acknowledges that the employee cannot do any meaningful work. For example, the submission of Mr Noel Rea attached to the CWU's submission states that:

I felt in so much pain that I couldn't come to work. My manager...insisted that I come to work, he told me that all I had to do was 'to come in, sign on and have a cup of coffee and then I would be allowed to go home.'²⁷

5.29 The unions argued that this evidence indicates that managers' first concern is with avoiding LTIs rather than rehabilitating employees. The CWU also contended that the incentives for managers to avoid their staff suffering LTIs have resulted in managers finding 'loopholes' to avoid liability for workplace injuries.²⁸

5.30 A number of medical professionals submitted that they disagree with this general sentiment amongst Australia Post employees, and stated that their experiences of Australia Post's early intervention program had been positive.²⁹

5.31 Mr McDonald, the Group Manager for Corporate Human Resources at Australia Post, defended the use of LTIs as a performance measure for managers stating that it 'is an established key performance indicator on safety performance'.³⁰ Mr McDonald added:

It generally becomes a very small part of the [manager's] overall bonus. In most cases it would be around five percent of the total bonus payable.³¹

5.32 Dr Barbour, the Manager of the Corporate Injury Prevention and Management Unit at Australia Post quantified this as a maximum of around \$375 per annum for a

26 CWU, *Submission 9*, attachment 18.

27 See for example CWU, *Submission 9*, attachment 23.

28 CWU, *Submission 9*, p. 3.

29 Name Withheld, *Submission 2*, p. 1; Dr David Allen, *Submission 3*, p. 1.

30 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 17.

31 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 17.

manager on a salary of \$70 000.³² Dr Barbour also expressed the view that it is entirely appropriate for managers to be 'held accountable for their safety performance'.³³

5.33 Dr Mary Wyatt, Chair of the Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians to some extent agreed with this position, arguing that it is not inherently negative for employers to be concerned about reducing the cost of injury management. As discussed above, Dr Wyatt explained that it is actually beneficial to return employees to work as early as possible for their own rehabilitation, and so an employer's interest in returning a person to work is not a negative motivation.³⁴

5.34 The Director of InjuryNET, Dr David Milecki commented that while he does not consider Australia Post is overly focussed on reducing LTIs, LTIs are not the most modern way of measuring an injury management program. He stated:

People focus on LTIs, but clinically the modern way to go about it is no longer to talk about return to work but to talk about staying at work. If a person stays at work, that is going to be far better for them, their recovery, their injury and their future, so focussing on keeping people at work is a good thing.³⁵

5.35 Dr Wyatt agreed with Dr Milecki on this point:

I sit in the camp of thinking that lost time injury frequency is a disaster. There are obviously reasonable measures: lost time helps in terms of safety statistics. But like so many things—key performance indicators—it is now gaming. I think the best value of LTIs is a day down the pub listening to lost time injury stories about how they are prevented. You can try to reduce LTIs by working with people but often what happens is pressure, so it does not become about the worker, it becomes about the statistic. Workers get that; they know what is happening.³⁶

5.36 Instead of LTIs, Dr Wyatt suggested that a better practice would be one where:

Supervisors were accountable for return to work and they actually had to keep a file. On that file were notes et cetera and there was a survey done for the workers—day 1, day 7, day 28. It was one page, four questions—are you happy; are you satisfied with your medical care; are you satisfied with

32 Dr Michael Barbour, Manager, Corporate Injury Prevention and Management Unit, Australia Post, *Committee Hansard*, 12 February 2010, p. 17.

33 Dr Michael Barbour, Manager, Corporate Injury Prevention and Management Unit, Australia Post, *Committee Hansard*, 12 February 2010, p. 17.

34 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 76.

35 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 41.

36 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 75.

the return to work?—et cetera, and supervisors filled out a similar questionnaire.³⁷

5.37 Dr Wyatt explained that this type of survey would be a much more comprehensive measure of whether return to work and injury management programs were successful.³⁸

5.38 While the committee was convinced by the evidence of Dr Wyatt and Dr Milecki on this issue—that it is not inherently negative to ensure that managers' have an incentive to encourage employees back to work as soon as practicable—the issue has ultimately been resolved by the interested parties. In their joint submission to the committee, Australia Post and the CEPU advised that on 19 March 2010, Australia Post signed a Memorandum of Understanding (MOU) with the CEPU and the Community and Public Sector Union in which Australia Post agreed that it:

...will not include Lost Time Injury Frequency Rate targets as a component of bonus payments for Managers. Managers will continue to have obligations under their performance management agreements that require them to observe and apply occupational health and safety policies and procedures. LTIFR targets will, however continue to be a Corporate KPI.³⁹

5.39 The committee commends the CEPU, the Community and Public Sector Union and Australia Post for reaching this, and other agreements in the MOU, and considers it a positive step towards achieving an injury management process that meets the needs of both employees and managers.

The relationship between Australia Post and InjuryNET

5.40 A key question raised during the inquiry was whether Australia Post was influencing the content of FND assessments in order to obtain medical evidence which suited its purposes of returning employees to work prematurely and ultimately denying compensation.

5.41 The unions and many of the Australia Post employees who gave evidence argued that Australia Post routinely prefers the opinions of InjuryNet FNDs over those of other doctors, both in determining compensation claims, as well as in the injury management process.⁴⁰

5.42 The CEPU's submission contains evidence of Australia Post's preference for the opinions of FNDs over non-FNDs in the form of letters from Australia Post to

37 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 75.

38 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 75.

39 Australia Post and CEPU, *Submission 37*, attachment 1.

40 CWU, *Submission 9*, see for example attachment 15.

injured workers⁴¹ which is corroborated by evidence the committee received from employees and other union branches.⁴²

5.43 Similarly, the CWU submitted that, although some FNDs are professional and supportive, others 'are notorious for doing whatever Australia Post management request'.⁴³

5.44 Dr Con Costa, who appeared in a private capacity, argued that the preference of an FND over a treating doctor is inappropriate because:

[Patients] will be more open with the treating doctor. I can imagine a situation where someone whose English is not very good is sent to the company doctor. In my experience, sometimes they do not mind—that is, it is convenient; it is not a major thing—but other times, when there is a significant injury and when they do not perceive that they are receiving the right treatment, the situation breaks down and it is not a therapeutic relationship. The doctor's role becomes that of a policeman, if you like, it is not the ideal way to handle people's health situations.⁴⁴

5.45 Similarly, the CEPU submitted that:

We contend that treating GPs have a far better understanding of their patient's medical history and capabilities. These GPs have equal and requisite qualifications to their FND counterparts. We further contend that no reasonable person could accept that a one hour training/familiarisation course better equips FNDs to understand Post's systems and processes than compared with a "non-FND trained" GP.⁴⁵

5.46 However, Dr Wyatt argued that there are advantages to the experience of both family doctors and FNDs:

A family doctor often has a better sense of the person. Somebody who works in work health problems often have a better sense of the workplace. I do not think one can say one is better in principle than the other; it is how it is managed and it is how the doctor deals with it. I do not think one can generalise.⁴⁶

5.47 Australia Post denied that the opinion of FNDs is routinely preferred over that of other doctors. Ms Walsh, Australia Post's Manager of Employee Relations told the committee that:

41 CEPU (Communications Division), *Submission 10*, p. 20.

42 See for example CWU, *Submission 9*, attachments 2, 4, 10, 12, 14, 15 and 20; and Name Withheld, *Submission 17*.

43 CWU, *Submission 9*, p. 5.

44 Dr Con Costa, private capacity, *Committee Hansard*, 12 February 2010, p. 53.

45 CEPU (Communications Division), *Submission 10*, p. 8.

46 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 74.

There is no policy that says an FND's diagnosis or position in relation to a worker's injury will be preferred over a GP.⁴⁷

5.48 However, Australia Post and InjuryNET also emphasised in their submissions, that it is the training that FNDs receive which makes them familiar with 'Australia Post's operations'.⁴⁸ Mr McDonald, the Group Manager of Corporate Human Services at Australia Post stated:

The difference [between FNDs and other doctors] is that [FNDs] are given an awareness of the Australia Post working areas, so they are able to make judgments when they do an assessment of what that person can or cannot do or of whether there might be an opportunity for the person to do work which is safe and helps the person's rehabilitation.⁴⁹

5.49 According to the CEPU and the case studies provided in its submission, this special knowledge of FNDs about Australia Post's operations forms the justification for Australia Post preferring the opinions of FNDs over treating doctors. For example, in a letter quoted in the CEPU's submission, to Ms Ann Lewis in August 2008, the Australia Post compensation delegate wrote that:

Given [the FND's] knowledge of the availability of suitable duties at your workplace, and Australia Post's capacity to provide suitable duties, [FND's] opinion is preferred and you are therefore considered to have been fit for suitable duties...⁵⁰

5.50 The committee received evidence of similar statements having made by Australia Post in a number of other cases presented to the committee.⁵¹ Thus while there may not be an official 'policy' of preferring FND's opinions over treating doctors, it is clear that Australia Post delegates consider the specialised knowledge that FNDs have of Australia Post's operations an important factor in deciding whether or not to award compensation and in making decisions about an employee's fitness for duty.

5.51 It was also alleged that FNDs tend to give medical opinions and diagnoses favourable to Australia Post as they are not independent from Australia Post. Figures discussed by the committee in the context of Senate Estimates in February 2006, are that 95 per cent of injured workers who attend a family doctor are found unfit for

47 Ms Catherine Walsh, Manager, Employee Relations, Australia Post, *Committee Hansard*, 12 February 2010, p. 9.

48 Australia Post, *Submission 6*, p. 15.

49 Mr Rodney McDonald, Group Manager, Corporate Human Services, Australia Post, *Committee Hansard*, 12 February 2010, p. 7.

50 CEPU (Communications Division), *Submission 10*, p. 20.

51 see for example, CWU, *Submission 9*, attachment 4; CWU, *Submission 9*, attachment 10; CWU, *Submission 9*, attachment 15; CWU, *Submission 9*, attachment 20; CWU, *Submission 9*, attachment 22; CEPU (NSW Postal and Telecommunications Branch), *Submission 11*, p. 5; and Name withheld, *Submission 19*.

work, whereas only six per cent of injured workers who visit an Australia Post FND are deemed to be unfit for work.⁵²

5.52 Dr Con Costa, who appeared in a private capacity, argued that FNDs are not providing an unbiased second opinion:

If that doctor is being paid quite a high fee and is contracted to InjuryNET it is not what we really call a second opinion. It is a paid-for opinion...The importance of any doctor opinion should not be based on who is paying that doctor; it should be an independent opinion by someone who has no interest—is not employed by that third party.⁵³

5.53 In his submission Dr Costa estimated the fees paid to FNDs:

I understand that the average fee [for an InjuryNET doctor for a consultation with an Australia Post worker] per patient contact is around a \$177 per episode. This is a very high fee and would contrast to the standard medical fee in Australia of around \$35 bulk billed and the standard consultation under Worker's Compensation payments under New South Wales WorkCover which is around \$65.⁵⁴

5.54 Australia Post disputed the figures Dr Costa used to argue that FNDs are being well paid to give medical opinions favourable to Australia Post, and stated that FNDs are paid 'a standard AMA-cum-WorkCover rate, which is in the order of about \$30 to \$35'.⁵⁵

5.55 With respect to the payment of FNDs, Mr McDonald from Australia Post stated that:

Facility nominated doctors are paid the standard rate regardless of whether they provide an employee with leave as a result of injury or illness or deem the employees to be fit to work on suitable duties.⁵⁶

5.56 The Director of InjuryNET, Dr Milecki, supported Australia Post position, stating:

When managing work related injuries all doctors are paid by the employer or insurer. The same is the case for the doctors working in the Australia Post injury management program. The fees paid to practitioners are based on standard industry rates—most commonly, the Australian Medical

52 Senator Conroy, *Estimates Hansard*, 13 February 2006, p. 19, available at www.aph.gov.au/hansard/senate/commtee/S9089.pdf.

53 Dr Con Costa, private capacity, *Committee Hansard*, Friday 12 February 2010, p. 49.

54 Dr Con Costa, *Submission 23*, p. 9.

55 Dr Michael Barbour, Manager, Corporate Injury Prevention and Management Unit, Australia Post, *Committee Hansard*, 12 February 2010, p. 8.

56 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 2.

Association schedule of recommended fees. There are no performance fees paid to doctors by either Australia Post or InjuryNET.⁵⁷

5.57 The unions also gave evidence of instances in which Australia Post managers had attended an FND appointment with an employee, and suggested that this practice was evidence of managers having influence over the medical opinions of FNDs. On this issue, Dr Milecki, the Director of InjuryNET stated:

I think it is a great level of support, if you are injured, if your manager takes you to the doctor.⁵⁸

5.58 However with regard to managers participating in the consultation itself, Dr Milecki stated:

We specifically instruct that that is not to happen, although sometimes, from my personal experience, the employees really want the supervisor there—perhaps they are a very young person, or they may not speak the language well and the supervisor speaks their language, or something like that.⁵⁹

5.59 On this issue, Dr Wyatt agreed with Dr Milecki, stating:

I think it is fabulous that a supervisor goes [to an FND appointment], though not necessarily into the consultation but—and I am beginning to sound like a broken record—it depends on the context...If it is seen as support, great; if it is seen as Big Brother, not so great...⁶⁰

5.60 With respect to the allegation that InjuryNET doctors are not independent, Dr Milecki argued:

One thing I have learned about doctors over the years—is that medical practitioners in Australia will not be bullied. They will give their opinion and they will do so in a way that is in the best interests of the patient.⁶¹

5.61 The committee is inclined to agree with Dr Milecki that the vast majority of Australian doctors are unlikely to be influenced or bullied into providing a medical opinion that does not reflect what they consider to be in the patient's best medical interests.

Committee comments

5.62 Having considered the range of evidence presented to it, the committee's view is that the principal reason why FNDs routinely advise the early return to work of

57 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 24.

58 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 33.

59 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 33.

60 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 74.

61 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 26.

injured workers is because of medical evidence which indicates that this provides numerous benefits to injured patients. The committee is not convinced that the reason Australia Post FNDs routinely recommend early return to work is to assist the management and organisational imperatives of Australia Post as the unions contend. Rather the committee believes that this is often a matter of differing medical opinions between GPs and doctors with specialised knowledge of workplace injury management rehabilitation research.

5.63 While the committee commends Australia Post for adopting an approach which is centred on the best interests of injured workers if implemented properly, the committee highlights the need for appropriate and meaningful work to be available to employees returning to work at less than full capacity. The allegations of employees being required to return to work for short periods to watch TV or undertake tasks that they don't feel are valuable indicate that, in certain circumstances, the objectives of a best practice approach to injury management are not being met.

5.64 The committee emphasises the comments of Dr Wyatt that in order for an injured employee to recover properly, they must feel supported and valued in the work environment.⁶² Employees need to be consulted on, and agree to, the work they are required to perform on their return to work, and that work must respect the limits of their capacity and be 'compatible with their chosen work environment and skill level'.⁶³ The committee urges Australia Post to ensure that the duties assigned to injured employees are appropriate, and that employees have substantial input in deciding what those duties are.

Recommendation 3

5.65 The committee recommends that Australia Post develop processes through which injured workers have buy-in to their return to work program, and which ensure that all injured workers are given appropriate work to undertake on their return. Specifically, the committee advises that in each instance, a manager should discuss with an injured employee what duties they are physically capable of, would find satisfying, and would be happy to perform.

5.66 The committee also has concerns about the routine practice of Australia Post managers attending FNDs with employees. The committee highlights the comments of Dr Wyatt and Dr Milecki that while, in certain circumstances, it can demonstrate support for a manager to accompany an injured employee to a doctor, it is generally inappropriate for a manager to attend the consultation itself. The committee has concerns with the high level of involvement by Australia Post managers in FND

62 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 71.

63 Comcare, *Rehabilitation: Managing Return to Work*, 2001, available: www.comcare.gov.au/forms_and_publications/publications/injury_management/?a=42680 (accessed 9 February 2010).

consultations, which appears to be endorsed within the EIP principles. Specifically, as summarised in chapter 3, the EIP principles include that:

...a Supervisor may accompany an employee to a doctor's surgery or hospital to support the employee and to ensure that the doctor is aware of Australia Post's commitment to assisting employees to remain at work or return to work quickly and, to provide information on the range of tasks available to the employee.⁶⁴

5.67 And that:

...any discussions regarding work restrictions which occur between the Supervisor and Australia Post nominated doctor whether treating or assessing the employee must where possible be carried out in the presence of the employee⁶⁵

5.68 The committee has serious reservations regarding whether these principles encourage an inappropriate level of involvement by Australia Post managers in the medical treatment of injured workers, and urges Australia Post to reconsider these aspects of the EIP.

Recommendation 4

5.69 The committee recommends in the strongest terms that Australia Post consider directing managers that they are not to be present in employee medical consultations unless their presence is specifically requested by the employee. The Injury Management (Early Intervention) Policy ought to be revised accordingly.

64 Australia Post, *Submission 6*, Appendix 2 – Injury Management (Early Intervention) Program, p. 5.

65 Australia Post, *Submission 6*, Appendix 2 – Injury Management (Early Intervention) Program, p. 5.

Chapter 6

Committee conclusions

6.1 Due to the level of highly contradictory evidence presented to the committee, it is difficult to accurately gauge the extent to which Australia Post's injury management system is problematic. On one hand, Australia Post argued that:

With around 4,000 referrals under the early intervention program each year to independent doctors, a relatively small number within the three-year period have been presented to this inquiry. We submit they are not representative and do not support the submission that Australia Post's policies and programs are fundamentally or systemically flawed.¹

6.2 Dr Milecki also gave evidence that the number of complaints he receives regarding FNDs under Australia Post's program are relatively small compared to InjuryNET's other clients.²

6.3 However, on the other hand, Secretary and Treasurer of the Victorian Branch of the Postal and Telecommunications Branch of the CEPU, Ms Joan Doyle, told the committee that:

We have only put forward a tiny fraction of the cases we know about, only cases where there is no doubt about medical evidence and we have been proved to be right...It is a systemic problem that needs to be stamped out.³

6.4 In the committee's view, the only objective measure of Australia Post's injury management system is the series of audits conducted by Comcare, in which no systemic issues were found with Australia Post's injury management system. Mr Steve Kibble, Deputy Chief Executive Officer of Comcare explained that:

Generally [Australia Post is] a good performer in terms of rehabilitation and return to work. They are generally regarded by us as a good performer by comparison with others.⁴

6.5 Having considered all of the evidence presented during the course of this inquiry, the committee sees the key problem with Australia Post's treatment of injured and ill workers not being the program itself, but its communications with employees and with unions about the program; the links between EIP medical assessments and

1 Mr Rodney McDonald, Group Manager, Corporate Human Resources, Australia Post, *Committee Hansard*, 12 February 2010, p. 3.

2 Dr David Milecki, Director, InjuryNET, *Committee Hansard*, 12 February 2010, p. 38.

3 Ms Joan Doyle, Secretary and Treasurer, Postal and Telecommunications Branch, Victoria, CEPU, *Committee Hansard*, 12 February 2010, p. 63.

4 Mr Steve Kibble, Deputy Chief Executive Officer, Comcare, *Committee Hansard*, 12 February 2010, p. 83.

the workers' compensation scheme; and the lack of involvement and input that employees have in developing their own return-to-work program.

6.6 Dr Wyatt commented that the problems experienced at Australia Post are not unusual, and are common across the country, as well as internationally. She stated that 'employees are often disenfranchised and employers often struggle'.⁵

6.7 Similar evidence was also presented by international experts from Canada and the United States.⁶

6.8 In her evidence to the committee, Dr Wyatt explained that the situation at Australia Post with regard to injury management has become highly emotional. She explained that:

When you get that you have a lot of perceived injustice and blame so it becomes very hard to read the situation...Often the issue is what control the person has when they go back to work. The best evidence we have about back problems, for example, is that activity is important and people should not be terribly restricted. It does not mean they can do everything, but they should not be unduly restricting their activity.⁷

6.9 The expert medical evidence offered during the inquiry clearly shows that it is in an injured person's best interest to minimise the time they spend away from work, and to return to work as soon as practicable performing satisfying and physically appropriate duties. Australia Post's EIP attempts to put this evidence into practice by allowing employees to access medical services early and at no cost, when they are injured in the workplace. The appropriateness of the 'theory' of Australia Post's injury management program is supported by evidence from Comcare.

6.10 However, the benefits of the program have been frustrated as a result of insufficient employee buy-in, and a lack of clear agreement between Australia Post, supervisors, workers and unions regarding the rights and obligations of each party under the program. In the committee's view the frustration of a fundamentally positive program because of a lack of communication and empathy between the parties involved is extremely disappointing.

6.11 The committee has made four recommendations as to how specific elements of Australia Post's injury management program might be improved. Each relies on good faith negotiation between Australia Post, employees and unions, greater information-sharing, and improved knowledge about Australia Post's injury management programs at all levels. The committee notes that significant good-faith negotiation has already begun—for example with respect to the in-principal agreement

5 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 70.

6 Dr Lisa Doupe, *Submission 22*; The 60 Summits Project, *Submission 1*.

7 Dr Mary Wyatt, Chair, Policy and Advocacy Committee, Australasian Faculty of Occupational and Environmental Physicians, *Committee Hansard*, 12 February 2010, p. 72.

between Australia Post and the CEPU on the new FND policy to be incorporated into Australia Post's new enterprise agreement, and the recent MOU in which Australia Post agreed to abolish bonus payments based on LTIs. The committee urges all parties to continue this constructive process.

Senator Mary Jo Fisher
Chair

Family First

Additional comments

The practices and procedures of Australia Post over the past three years in relation to the treatment of injured and ill workers has been cause for serious concern.

Family First successfully moved for a Senate Inquiry because for too long these serious allegations were ignored by successive governments and the concerns were not properly investigated.

During the inquiry and submission process a number of alarming revelations were brought to light which describe how Australia Post has been forcing its injured staff to return to work well before they have recovered from workplace injuries.

Family First believe that this is largely due to flawed salary bonus policies which are based on "lost time injury" figures. As a result of these salary bonus policies, managers are encouraged to unfairly pressure workers to return to work prematurely when they are still recovering from a workplace injury. In fact, this bonus system may be jeopardising the health and wellbeing of Australia Post employees recovering from workplace injuries.

For example, in a submission to the inquiry, it was revealed how Mr Scott Lynch, an Australia Post employee, was forced back to work simply to sit in a lunch room and watch TV so that the lost time injury figures would could be kept low. This kind of action is outrageous and puts the health of workers at risk.

Furthermore, during the inquiry the committee heard from an Australia Post employee, Mr Trevor Crawford, who described how after suffering a brain haemorrhage and broken rib, he was forced to return to work for just 45 minutes per day, which included a 15 minute break.

He stated,

How useful can you be to an organisation when you get sent back to work for 45 minutes a day? I was not allowed to drive. I was supposed to take a 15-minute break in the middle of those 45 minutes. I was not allowed to stand while I was at work. This was all written into the directions of my return to work program, and that puts you offside straight away. It adds stress to your life. You are wondering what the heck is going to happen next. I was doing a duty which I was totally unfamiliar with. It was a duty that was of no use to anybody because I probably made so many mistakes that someone else would have had to basically redo it anyway. They just wanted you to be seen to be at work, and that was wrong.

Both these examples demonstrate clearly that the salary bonus policies encourage managers to fudge the numbers in order to increase their own pay packet and are inappropriate.

During the inquiry it was also heard how Australia Post has been exercising its powers under the *Australian Postal Corporation Act 1989* to force injured workers to attend InjuryNET facility nominated doctors despite the preference of some workers to attend their own GP.

This has resulted in workers being recommended for modified or light duties in cases where the worker's own GP has declared them unfit for work and raised further questions about the integrity of this program.

Similar concerns were raised by Dr Con Costa about the independence of these opinions,

If that doctor is being paid quite a high fee and is contracted to InjuryNET it is not what we really call a second opinion. It is a paid-for opinion. I do not know if I am explaining myself very well. The importance of any doctor opinion should not be based on who is paying that doctor; it should be an independent opinion by someone who has no interest—is not employed by that third party. That is a worthwhile second opinion. To me, any other second opinion is not really worth while.

Family First does not believe that the medical advice of workers' own GPs should be overridden by the advice of facility nominated doctors who have a conflict of interest.

Subsequent to the hearing, it was announced that a memorandum of understanding was signed between the CEPU and Australia Post to eliminate bonuses based on Lost Time Injuries. Family First welcomes this announcement and the decision to eliminate a flawed incentive program.

Recommendation

Family First recommends that Australia Post conduct a complete review of its salary bonus policies and eliminate any policies which raise a conflict of interest between the financial rewards paid to managers and the health and wellbeing of employees.

**Senator Steve Fielding
Family First Party**

Appendix 1

Submissions

Submissions

- 1 The 60 Summits Project
- 2 Name Withheld
- 3 Dr David Allen
- 4 Confidential
- 5 InjuryNET Australia Pty Ltd
- 6 Australia Post
- 7 Australian Council of Trade Unions
- 8 Ryan Carlisle Thomas
- 9 Communications Workers Union Postal and Telecommunications Victorian Branch
- 10 Communications, Electrical and Plumbing Union (Communications Division)
- 11 Communications, Electrical and Plumbing Union - NSW
Postal & Telecommunications Branch
- 12 Australasian Faculty of Occupational and Environmental Medicine
- 13 Comcare
- 14 Name Withheld
- 15 Name Withheld
- 16 Name Withheld
- 17 Name Withheld
- 18 Name Withheld
- 19 Name Withheld
- 20 Name Withheld
- 21 Name Withheld
- 22 Dr Lisa Doupe
- 23 Dr Con Costa
- 24 Confidential
- 25 Confidential
- 26 Confidential
- 27 Name Withheld
- 28 Name Withheld

- 29** Name Withheld
- 30** Name Withheld
- 31** Name Withheld
- 32** Name Withheld
- 33** Name Withheld
- 34** Mr Darrell Powell
- 35** Ms Debra J Minors
- 36** Confidential
- 37** Australia Post and CEPU

Appendix 2

Public hearings

Friday, 12 February 2010 – Melbourne

Australia Post

Mr Rodney McDonald, Group Manager, Corporate Human Services

Dr Michael Barbour, Manager, Corporate Injury Prevention and Management

Mr Michael Halloran, Manager, Injury Management Strategy and Regulatory Compliance

Mr Glen Marks, Manager, Workplace Claims

Ms Catherine Walsh, Manager, Employee Relations

InjuryNET

Dr David Milecki, Director

Mr Harry Papagoras, Program Manager

Dr Lisa Doupe (private capacity)

Dr Con Costa (private capacity)

Communications Electrical Plumbing Union

Mr Ed Husic, Divisional Secretary (Communications Division)

Mr Jim Metcher, Branch Secretary, NSW Postal and Telecommunications Branch

Ms Rachael James, National Practice Group Leader –Slater & Gordon

Ms Joan Doyle, Secretary/Treasurer, Postal and Telecommunications Branch Victoria

Mr Paul Lucignani, Union Member

Mr Trevor Crawford, Union Member

Australasian Faculty of Occupational and Environmental Medicine

Dr Mary Wyatt, Chair, Policy and Advocacy Committee

Comcare

Mr Steve Kibble, Deputy Chief Executive Officer

Appendix 3

Tabled documents, additional information and answers to questions taken on notice

Tabled documents

Commonwealth safety, rehabilitation & compensation scheme, tabled by Comcare (public hearing, 12 February 2010, Melbourne)

Licence Compliance and Evaluation Process, tabled by Comcare (public hearing, 12 February, 2010, Melbourne)

Additional information

Australian Postal Corporation – Notice of variation of licence, received from Comcare, 9 March 2010

A short explanation of Post Logistics relationship with Australia Post, received from Comcare, 9 March 2010

Claims Management Systems Audit Report, Australian Postal Corporation, 12–16 & 26–30 October 2009, received from Comcare, 9 March 2010

Rehabilitation Management Systems Audit Report, Australian Postal Corporation, 12–16 & 26–30 October 2009, received from Comcare 9 March 2010

Injury Management System, Supplementary Audit Report, Australian Postal Corporation, 2–4 December 2009, received from Comcare, 9 March 2010

Answers to questions taken on notice

Dr Lisa M Doupe (from public hearing, 12 February 2010, Melbourne)

InjuryNET (from public hearing, 12 February 2010, Melbourne)

Australia Post (from public hearing, 12 February 2010, Melbourne)

Comcare (from public hearing, 12 February 2010, Melbourne)

Comcare – correspondence between Comcare and the CEPU (from public hearing, 12 February 2010, Melbourne)