



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mrs Giulia Jones MLA (Chair), Ms Bec Cody MLA (Deputy Chair), Mr Deepak-Raj Gupta MLA

Evaluation of Current ACT Policing Arrangements

ANSWER TO QUESTION TAKEN ON NOTICE AT A PUBLIC HEARING

16 June 2020

Asked by: Mrs G Jones MLA – Committee Chair

In relation to: The Evaluation of Current ACT Policing Arrangements

Question:

THE CHAIR: Right. From that perspective, that is good to know. Can I ask, on notice, because I am sure that it is quite detailed if you could consider what it is exactly about the Comcare model that would be ideal if it changed? Maybe just make a couple of suggestions for us. Otherwise, because we have five minutes left of questioning, I do not think we will get to the heart of it, but I think it would be really helpful.

Proof Hansard reference:

The answer to the Member's question is as follows:–

The Australian Federal Police Association (AFPA) welcomes the question and would like to provide the two suggestions to the question asked by the Committee Chair, Mrs G Jones MLA.

Comcare incapacity payments

We have several members who are unable to work due to mental health issues caused by the experiences of being a police officer—the most prevalent being post-traumatic stress disorder (PTSD). Mental ill-health is a difficult diagnosis. It challenges Comcare's approval processes; each person will have a different experience and recovery time during their mental health journey. Unfortunately, some do not recover and live out their lives with no prospects of recovery with a reduced quality of life. Sadly sometimes the toll is much higher, and AFP members have succumbed to suicide; we have seen too many families and lives destroyed this way.

The issue we wish to raise is that currently AFP members with an incapacity claim accepted by Comcare are entitled to 45 weeks of incapacity payments, at a rate equal to 100% of their regular weekly earnings,

After 45 weeks, this payment is recalculated, leaving our members receiving only 75% of their regular weekly earnings. This means that because the member has become unwell, they are being punished for not recovering within a set time frame. Members are returning to the workplace early due to this financial impact, while still unwell and without being wholly treated. Our experience is that members will repeatedly put the financial security of their family ahead of their wellbeing and recovery.

The AFPA has written to Senator Michaelia Cash, who has ministerial responsibility for Comcare, seeking that current and future AFP employees who have or will have an approved Comcare claim for mental health illnesses be exempted from the 45-week incapacity payment recalculation pursuant to the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (“the SRC Act”).

If that exemption is not granted, the AFPA will assess other avenues to assist members. One such avenue may be an insurance policy taken out for all ACT Policing members which could fill the 25% shortfall in cases where members aren’t able to return to full duties within 45 weeks. Further scoping work would be required to see if this is possible, and if feasible, who could or would pay the premium on the policy.

Presumptive Legislation for Mental Health cases

Another issue that the AFPA would like addressed is presumptive legislation for mental health cases of AFP employees who require medical/Comcare intervention. Currently, Tasmania is the only state in Australia with presumptive legislation for PTSD. Tasmania has an excellent model, and the AFPA would encourage the Committee to explore this legislation.

Further information regarding the Tasmanian presumptive legislation can be found via http://www.premier.tas.gov.au/releases/ministerial_statement_-_ptsd

One of the most significant impediments for AFP employees with mental health conditions seeking assistance from Comcare is the need to demonstrate how the condition was caused as a result of the course of their employment. That is, members are required to put together a statement outlining the incidents that made them ill. For those members, this is a nigh on impossible task due to the mental effects of PTSD. They feel defeated, fail to complete the statement, the claim is then not lodged, the member cannot access the Comcare system, and therefore they cannot begin to recover. The member meanwhile cannot function at work due to PTSD, they burn through their personal leave and are unaided by their employer not granting special leave

The Comcare model was designed to manage physical injury, where a specific incident can be identified as having caused harm. When the cause of the injury could be repeated through small (or large) exposures over extended durations, it can be extremely difficult for those suffering the mental illness to have their claims recognised. The Comcare system does not (or very rarely) accepts or understands the cumulative effects on trauma on the brain. Yet, that is how the vast majority of our members experience PTSD.

Legislative change, which provided a rebuttable presumption in favour of an AFP employee's mental health condition being related to their employment, would overcome this difficulty. Such a scheme would acknowledge the type of work undertaken by AFP employees and recognise the inevitable toll such exposure has upon individuals. It would remove the burden for employees to prove their work caused them harm and instead put the onus upon Comcare to identify why a member's employment in the AFP could not have caused their illness.

Approved for circulation to the Standing Committee on JACS

Signature:

Date:

By

(name)