



Grievance Debate
Main Committee
22 August 2011

Ms GRIERSON (Newcastle) (21:09): Rather than the mantra of misery just delivered by the other side I rise to actually highlight what can be achieved by individual members of parliament and by a government that is absolutely committed to a prosperous and fair economy. I have risen on other occasions in this parliament to speak in support of legislation to make superannuation fairer, to defend the rights of our workers and to make our economy a more prosperous one.

Today, I rise to speak of the human consequences of a failure to comply with legislatively mandated superannuation requirements and the toll that this can have on families, and did have on the family of Robert Watson. Four years ago, I put on the record my sympathy for Robert's widow, Kathy, and his eight children and 10 grandchildren. I reiterate those condolences now. In March 2007, a partition wall at a Central Coast construction site collapsed, killing Mr Watson. At the time, Mr Watson's employer was behind on his superannuation payments, denying his family a death benefit of up to \$100,000. This left Mr Watson's family in financial distress at a time when they should have been able to grieve for the loss of a husband and father without additional worries about financial matters. Thankfully for Robert Watson's family, the Construction, Forestry, Mining and Energy Union stepped in and assisted with funeral and other expenses and offered counselling support for the family. I note that Mr Watson was not a member of that union, but that is the sort of action that that union takes to support individuals. I acknowledge particularly the work of former secretary Andrew Ferguson on this particular matter.

At the time, the CFMEU also negotiated an ex gratia payment of \$57,000 for the family from the employer. Although it fell short of the death benefit that his family should have been paid, I do acknowledge the

willingness of the employer to reach that agreement with Robert's family and the union and to go some way to righting their initial wrong.

However, it should never have come to this. No worker should have to worry about whether his superannuation guarantee is being paid by his employer. The \$174,000 fine imposed on the head contractor and subcontractor earlier this year by the Industrial Court of New South Wales, after a WorkCover investigation, which of course has taken quite a long time, cannot undo the financial and emotional damage that was done.

In 2007, I raised on three occasions in parliament, including twice as the Chair of the Joint Committee of Public Accounts and Audit, Mr Watson's tragic case. To its credit, the Australian Taxation Office took heed of those warnings, sought extra resources and commenced a more rigorous approach towards the investigations into the non-payment of superannuation entitlements. This investigation has since yielded some very positive results. The ATO has discovered that unpaid superannuation over the past five years has totalled \$1.3 billion, with the most affected employees being in low-income, casual or part-time employment, especially in the trucking industry, which is interesting, and the auto repair and electrical services industries. This year, the ATO has already collected a total of \$294 million in unpaid superannuation and penalties and it expects to investigate a further 17,000 complaints about the non-payment of superannuation entitlements next year.

Many small businesses not only are not complying but also are unaware of their superannuation obligations, as well as other responsibilities they owe to their employees, and with approximately 50 per cent of small businesses actually failing within the first five years of their operation, workers can be left in a precarious position and significantly out of pocket.

It is often workers and contractors who lose out when a company goes into liquidation and there is little left over to pay outstanding entitlements. That is why it is encouraging to see that the ATO is not simply adopting a rigorous and punitive stance but is working to ensure that employers are aware of their superannuation and taxation responsibilities through greater online information sharing and preventative initiatives. The long-term implications of employers not paying superannuation contributions for families can be destabilising. If

an employer is not paying the required payments, a worker may reach retirement age and have significantly less money saved than they would have; thus necessitating that they stay in the workforce or organise alternative income. Many people, just like in the case of Robert and Kathy Watson, would not know that their employer was not paying superannuation contributions until it is too late. I would like to publicly acknowledge and thank Joanne McCarthy, a journalist of the Newcastle Herald for her ongoing attention to this matter over the past four years.

But today, through the Securing Super reforms introduced by this Government, we hope to prevent situations such as this arising again by implementing some of the recommendations of the Cooper review of superannuation. This will require that employees receive information on their payslips about the actual amount of superannuation being paid into their account and quarterly notifications from their superannuation fund if regular payments cease. It is that sort of assurance that every employee needs. By providing employees with more timely information the risk of superannuation default is substantially reduced. The Securing Super reforms also increase the enforcement powers of the ATO and the Fair Work Ombudsman, who will be given stronger powers to ensure that businesses pay their employees superannuation entitlements by extending the director's penalty regime to cover unpaid super entitlements and improve the capacity of the ATO to police super payments. These reforms were part of the 2011-12 budget and will go a long way to protecting workers' rights to superannuation.

There is one further matter that I would like to bring to the attention of the house: Last week I updated the house on the disturbing release of hexavalent chromium over the suburb of Stockton in my electorate and the unacceptable delay by both the company responsible, Orica, a multinational firm, and the New South Wales government to notify affected residents.

It is with deep regret and some anger that I advise the house of further developments. Last Friday, Orica released a quantity of highly poisonous arsenic above allowable levels into the Hunter River—and this is right in the city of Newcastle. This isn't somewhere up the river or far away; this is just kilometres from where I live. According to details provided by Orica, 1.2 megalitres of industrial waste released into the river contained 0.067 milligrams per litre of arsenic, well above the allowable limit of 0.05 milligrams per litre.

This, however, was not the end of the bad news. Nor was it an isolated incident. According to reports in the media today, this latest incident represented the 131st time since 2000 that Orica has breached its pollution license.

It is no surprise therefore that residents in Stockton and in other areas surrounding the plant, including Mayfield, Carrington, Fern Bay, Maryville, have very little confidence in the safeguards to prevent or manage such industrial accidents on their doorsteps.

Since I spoke to the House on the issue last week, I note that Premier O'Farrell, in the face of sustained political pressure, announced an inquiry into the leak of hexavalent chromium. It is abundantly clear however that the terms of reference of this inquiry do not go far enough. If the residents of Stockton are to have any confidence, the inquiry must examine why New South Wales environment Minister Parker waited almost 2½ days to notify the residents of Stockton and why she was able to advise the state member for Newcastle, Tim Owen, her colleague, of the leak almost 24 hours before either Parker or Owen advised Newcastle constituents.

As the Sydney Morning Herald noted today, the inquiry will not reassure anxious voters unless it also asks hard questions of the NSW Environment Minister and senior officials about the seemingly outrageous delay in informing potentially-affected residents of the chromium leak. San Clemente Catholic school in my electorate chose to do their fun run the next morning, for the whole school, taking them to Stockton to do that. Perhaps they would not have done that if they had been informed.

The inquiry, though, if it is to have any relevance to the residents who live side by side with these industries every single day, must examine the broader impact of industrial activities on Kooragang Island and the Port of Newcastle on surrounding residents.

I have written to New South Wales Premier Barry O'Farrell to reiterate the urgent need for publicly accessible 24/7 air and water quality monitoring as well as 24/7 alert and notification systems to be put in place in Newcastle. I have also questioned the adequacy of the provisions and enforcement practices under the New South Wales Environment Protection Act and requested they be urgently reviewed.

The New South Wales Government's handling of this incident to date has been nothing but deplorable. This inquiry, however, does present an opportunity to learn from these appalling mistakes and secure a better long-term balance between Newcastle's industry and the right of nearby residents to live free from the fear of harmful pollution and to know that their health and welfare are being taken very seriously.