

**INQUIRY INTO BUDGET PROCESS FOR INDEPENDENT
OVERSIGHT BODIES AND THE PARLIAMENT OF NEW
SOUTH WALES**

Organisation: Workers Compensation Independent Review Office
Date Received: 26 November 2019



Workers Compensation
independent review office

**NSW UPPER HOUSE PUBLIC ACCOUNTABILITY COMMITTEE INQUIRY – BUDGET
PROCESS FOR OVERSIGHT BODIES AND NSW PARLIAMENT**

SUBMISSION BY THE WORKERS COMPENSATION INDEPENDENT REVIEW OFFICER

26 November 2019

Workers Compensation Independent Review Office

Level 4, 1 Oxford Street Darlinghurst NSW 2010

13 9476

contact@wiro.nsw.gov.au

www.wiro.nsw.gov.au

EXECUTIVE SUMMARY

1. The Workers Compensation Independent Review Office (WIRO) is an independent oversight body that together with the Independent Legal Assistance and Review Service (ILARS) (which it manages) plays a vital role in the NSW workers compensation system.
2. The Workers Compensation Independent Review Officer (Officer) is a statutory officer, appointed by the Governor, however the staff of the office are employed under the Government Sector Employment Act 2013 (GSE Act) by the Department of Customer Service. Notwithstanding that the WIRO's functions are funded from a statutory fund, the budget and expenditure is overseen and managed by the Department which also forms the public sector umbrella in which WIRO operates. Lack of financial and budgetary independence has caused a number of problems.
3. There has been confusion and tension in management and communications between the Officer and the relevant Department.
4. A complex relationship exists between State Insurance Regulatory Authority (SIRA), as Regulator, and WIRO which has as one of its statutory functions:

"To Inquire into and report to the Minister on such matters arising in connection with the operation of the Workers Compensation Acts as the Independent Review Officer considers appropriate or as may be referred to the Independent Review Officer for inquiry and report by the Minister."

The effect of this provision could be that the Regulator is subject to inquiry by WIRO in certain areas.

5. Although the WIRO is funded pursuant to the Workplace Injury Management and Workers Compensation Act 1998 (1998 Act) directly from the Workers Compensation Operational Fund, and not from Consolidated Revenue, it lacks financial independence as both the Regulator and the Department purport to exercise control over the budget and expenditure of the WIRO.
6. The WIRO has a heightened obligation to ensure transparency and fairness when dealing with employees in various Government entities, to ensure public confidence in the system, and must be assured of complete independence when exercising its functions, in particular in making any commentary, report or suggestion in relation to the process or manner in which the Government discharges its obligations to injured workers and other stakeholders.

INQUIRY TERMS OF REFERENCE

Clause 1 of the Inquiry's Terms of Reference provides that the Public Accountability Committee (the Committee) will *"inquire into and report on the budget process for independent oversight bodies..."*

The Workers Compensation Independent Review Office (WIRO) is such an independent oversight body, although not particularly mentioned in clause 1(a) and submits that its budgetary processes and consequent constraints are directly relevant to this Inquiry. While WIRO funding is provided through the Workers Compensation Operational Fund, its experience has been that the Department and/or the cluster exercise control over budget and have imposed limits on expenditure, including essential Inquiries as described below, without giving due consideration as to whether the expenditure was necessary to carry out WIRO's statutory functions.

WIRO would welcome being subject to recommendations of the committee with respect to an independent oversight body that forms part of a departmental or cluster system.

WORKERS COMPENSATION SCHEME

The Workplace Injury Management and Workers Compensation Act 1998 (the 1998 Act) contains the provisions establishing the workers compensation system in New South Wales.

Significant reforms occurred in 2012 including the establishment of the WIRO. Further legislative reforms including the *State Insurance and Care Governance Act 2015* provide a foundation for the current system which is operated by Insurance and Care NSW (icare) as the assessor of claims and funds manager, supported by an insurance company to manage and pay claims, regulated by the State Insurance Regulatory Authority (SIRA) and including determination of disputes by the Workers Compensation Commission.

Workers compensation is a core issue for Government, the Opposition and cross-benchers and most especially workers, employers, unions and the community generally. It is also an important issue for service providers including doctors and lawyers. The compensation scheme is complex and emotive, dealing with vulnerable injured workers and their families, and the various stakeholders and advisers often have conflicting interests. The history has been divisive and hard fought.

One important financial consideration in relation to the scheme has always been that it has been characterised and treated as being "off balance sheet" for the New South Wales Government as an independent statutory scheme funded directly by employers and administered by an independent board and regulator. There is no recourse to the New South Wales Government for the liabilities of the workers compensation scheme.

WIRO'S FUNCTIONS

The office of the WIRO was established as an independent body as part of the major reforms by the Government in 2012. The then Treasurer, Mr M Baird MP in his Second Reading Speech described the Officer in the following terms:

"The WorkCover Independent Review Officer will have the dual roles of dealing with individual complaints and overseeing the workers compensation scheme as a whole. It

will be an important accountability mechanism for the workers compensation scheme.”

The Workers Compensation Independent Review Officer is appointed by the Governor. Part 3 of Chapter 2 of the 1998 Act contains the relevant provisions about the appointment of the WIRO.

WIRO has several functions set out in section 27 of the Act to ensure that the workers compensation system in NSW operates fairly and efficiently:

27 Functions of Independent Review Officer

The Independent Review Officer has the following functions:

- (a) to deal with complaints made to the Independent Review Officer under this Division,
- (b) (Repealed)
- (c) to inquire into and report to the Minister on such matters arising in connection with the operation of the Workers Compensation Acts as the Independent Review Officer considers appropriate or as may be referred to the Independent Review Officer for inquiry and report by the Minister,
- (d) to encourage the establishment by insurers and employers of complaint resolution processes for complaints arising under the Workers Compensation Acts,
[WIRO notes this function is performed by SIRA as at 1 January 2019]
- (e) such other functions as may be conferred on the Independent Review Officer by or under the Workers Compensation Acts or any other Act.

In September 2012, the Government established the Independent Legal Assistance and Review Service (ILARS) which WIRO manages. It provides funding to enable workers to obtain legal advice from independent lawyers about their rights and entitlements under the workers compensation legislation and funding for legal representation where it is necessary to pursue a claim or dispute with the insurer.

The WIRO and ILARS are recognised unanimously amongst scheme stakeholders and service providers as essential to the continued and sustained functionality and viability of the system.

Since 2012 WIRO has provided support to more than 35,000 injured workers dealing with inquiries and complaints. WIRO has provided over 100,000 grants of funding to enable injured workers to access legal advice. As an example of WIRO's important and proactive role in the system, in 2017 alone ILARS provided funding to enable over 2,500 workers to obtain independent legal advice in relation to the potential cessation of their weekly payments on or about 25 December 2017.

INDEPENDENCE OF WIRO

WIRO's independence, coupled with its strong consultative processes and analytical capability, provides a powerful service to workers and employers, the people of New South Wales and ultimately the Government. It also builds trust in the workers compensation system and more generally in the Government.

The then Secretary (Customer Service) in a note to departmental staff relating to "Customer Service Matters" on 9 August 2019, stated:

“Independence is often brought up in discussions about the public service. In our cluster, we have a number of independent organisations that provide regulatory services across a range of areas. Good regulation can only occur when regulatory agencies provide consistent, reliable and independent service. In turn, this independence is crucial to ensure that people NSW trust these organisations and work, which in turn delivers value to communities, citizens and government processes.

Our independent organisations include the....Workers Compensation Independent Review Office, Workers Compensation Commission, State Insurance Regulatory Authority... and the Independent Pricing and Regulatory Tribunal.”

WIRO also supports the comments of the Commissioner of the Independent Commission Against Corruption that:

“It is axiomatic that ICAC’s independence must not be undermined in any way, whether directly or indirectly. ICAC is not a Government agency. Given its legitimate legislative independence, its ultimate accountability is to Parliament and not to Government”

(Transcript 21 October 2019, Committee on the Independent Commission against Corruption, Review of the 2017-2018 Annual Reports of the ICAC and Inspector of the ICAC).

WIRO’S STRUCTURE

The Officer is a statutory appointment and not subject to direction from the Minister. This is important because it means that WIRO can undertake its functions and make recommendations without political interference.

WIRO is provided services by the Department of Customer Service and like a number of other ‘agencies’ the WIRO is independent and operates autonomously.

However, WIRO is not identified as either a ‘departmental agency’ or ‘separate agency’ under Parts 2 or 3 of Schedule 1 of the GSE Act.

Due to the agency not being identified as a ‘departmental agency’ or ‘separate agency’ in the GSE Act, the officer is not a ‘head of an agency’ and therefore cannot exercise any of the powers and functions ascribed to heads of agencies under Division 3 or Part 4 of the GSE Act.

The 1998 Act in its provisions which deal with the establishment of the office and the public service arrangements under the GSE Act compel WIRO to have its organisational structure and staff budget ‘approved’ by the Department, to engage staff through the Department and comply with numerous other policies and processes decreed by and utilised in the Department.

Under Departmental structures the Workers Compensation Independent Officer has no ‘delegations’ and does not exercise any control or approval functions over expenditure, procurement, recruitment, contracting or any other financial or fiscal function.

BUDGET, FINANCIAL MANAGEMENT, ACCOUNTABILITY AND TRANSPARENCY

Funding arrangements

WIRO supports the statement by the Committee Chair in this Inquiry's media release (14 October 2019) that, *"it is important that these bodies (independent oversight bodies) receive adequate funding and just as importantly, that the process for setting their budgets is transparent."*

Section 35(2)(c) of the 1998 Act provides that the following is to be paid from the **Workers Compensation Operational Fund**:

"The remuneration of the Independent Review Officer and staff of the Independent Review Officer and costs incurred in connection with the exercise of the functions of the Independent Review Officer."

From the inception of WIRO in 2012 WorkCover (now SIRA) controlled the staffing and general expenditure of WIRO because it controlled the Workers Compensation Operational Fund. Subsequently the Workers Compensation Operational Fund was transferred to the control of SIRA through the implementation of the *State Insurance and Care Governance Act 2015*. SIRA initially fell under the Department of Finance, Services and Innovation and is now the part of Department of Customer Service.

The Workers Compensation Operational Fund is resourced through payments directed from the Insurance Fund as approved by the Minister (having regard to the estimates, provisions and determinations made by SIRA under section 38 of the 1998 Act and any need for additional funding to provide for the proper exercise of SIRA's functions), mandated contributions by insurers, self-insurers and deemed insurers, investment earnings accruing from the investment of the Fund and other monies received by SIRA and not otherwise appropriated (Section 35 of the 1998 Act).

SIRA has sought to control WIRO's expenditure most recently evidenced by the announcement of an internal audit by actuaries Deloitte overseen by the SIRA Risk and Audit Committee of expenditure outflow from the Fund for the WIRO. The stated objective of the audit is "to assess whether the internal controls are adequately designed and operating effectively in relation to the management of the expenditure of the Fund for the WIRO". The 'terms of reference' propose to assess *"the effective and efficient use of Fund resources"* by examining that *"Policies and procedures are in place to provide guidance with procurement and remuneration; Expenditure is procured in accordance with the Procurement Policy to ensure value for money, including conflicts of interest; Expenditure incurred is reviewed and approved in accordance with the Delegations of Authority; Corporate cards expenditure is reviewed and approved for appropriateness; Remuneration and allowances to staff are reviewed and approved in accordance the relevant Award or Policies"*.

WIRO has observed that the measures of effectiveness and efficiency proposed to be examined are the policies and procedures of the Department within which SIRA sits.

SIRA also seeks through the internal audit to ensure that 'budgets are appropriately managed' and proposed examining that *"Annual budgets are developed in consultation with key stakeholders; Budgets are approved by the appropriate Delegate; Actual expenditure against*

approved budgets is regularly examined and variations are followed-up and actioned; Expenditure is incurred within approved budgets.”

This imposes a fetter on statutory independence and a level of control not contemplated by the 1998 Act.

Pursuant to its statutory inquiry function it is conceivable that the WIRO may consider it necessary, or be directed by the Minister, to inquire into the functioning of SIRA in connection with the operation of the legislation. There may be perceptions of conflict and questions as to transparency and accountability where SIRA controls WIRO's funding.

Budget

WIRO is responsible for setting its own budget, based on year on year accumulation of information and forecasting and its knowledge of proposed reforms, Government initiatives and system and scheme imperatives. A sum is effectively drawn down from the Insurance Fund to the Workers Compensation Operational Fund to account for budget expenditure. WIRO has never exceeded projections. WIRO's budget process is managed by the Department. WIRO provides all information required of the Department to complete its requirements.

Resourcing and staffing

Staffing, salary levels and promotional opportunities within WIRO are subject to the requirements of the *Government Sector Employment Act 2013*, the Public Service Commission and the Department of Customer Service.

The Officer is appointed by the Governor under Section 24 of the 1998 Act which also provides in section 24(6) that persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable be Independent Review Officer to exercise his or her functions. The officer is not designated as a 'head of a Public Service agency' for the purposes of the *Government Sector Employment Act 2013*

However, section 59 of the *Government Sector Employment Act 2013* provides that persons so employed (or whose services the Independent Review Officer makes use of) may be referred to as officers or employees, or members of staff, of that Officer. Section 47A of the *Constitution Act 1902* precludes that Officer from employing staff.

Staff are employed by the Department of Customer Service to enable the Independent Review Officer to fulfil his or her functions. WIRO has a unique and bespoke need for committed, highly skilled and experienced staff and in particular, qualified practising lawyers with expertise in workers compensation. Whilst WIRO seeks out and employs specialist skilled staff, the Department's contracts of employment refer to the ability for the Department to apply its staffing policies from time to time and to shift and move the employee to any other function of the Department. Staff cannot be easily replaced or recruited as their degree of technical proficiency and acumen cannot be replicated.

This 'flexibility' provides a level of uncertainty and concern for those who have sought out employment with WIRO.

WIRO currently employs between 45 and 50 full-time staff and draws on contingent contractors to fulfil current and often immediate needs, particularly in the area of data entry and as a result of reforms and changes to the scheme. Although WIRO is dependent on short-term specialist labour hire this is a particular area of difficulty within the public sector cluster context.

The department pay structure is determined by the *Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007*. That Award provides for the 'structure' and hierarchy by which WIRO must determine its organisational structure. The Award does not adequately or appropriately allow for a leveraged structure. There is no 'middle management' or 'senior officer' level in the Award between graded clerical and administrative staff and senior executives. Under the GSE Act there is reference to numerous Awards which provide for different structures and pay levels dependent on the skills, capabilities and duties of the employees covered. WIRO has raised the inadequacy of the Award in the past however no alternative arrangements have been identified.

In addition, in a further hampering of its independence and lack of recognition of the office's independence and bespoke needs from inception, WIRO has been held to the departmental efficiencies (reductions in Senior Executives, reductions in high graded employees, restriction in the use of contractors) and has had to provide a 'business case' for department head approval to undergo any recruitment process.

Due to the restricted structure under the Award and WIRO's need for skilled subject matter experts, both to manage complaints and enquiries of injured workers about insurers and to manage funding grants, WIRO is simply unable to compete with the private sector market and finds it difficult to recruit the staff it needs. WIRO This is particularly burdensome as the role and functions of WIRO have expanded in the past two years and are mooted to expand further.

Cluster services

WIRO makes a contribution (factored into its budget, calculated by the Department on a per capita basis and paid from the Workers Compensation Operational Fund) to the Department for use of services such as ICT, People & Culture (Human Resources), premises and other ancillary day to day expenses. That contribution is paid from the Workers Compensation Operational Fund. Nonetheless, the department imposes its year on year internal efficiency drives on WIRO as if it were not independent and funded independently of the department.

In providing services to WIRO the various departmental services abide by their internal policies and procedures which often conflict with WIRO's needs depriving WIRO of the ability to be agile and adaptable and to appropriately resource itself to fulfil its statutory functions and the government sector core values.

Fetters on exercise of statutory functions

Importantly, SIRA and the Department of Customer Service also have assumed control over the funding of proposed projects and inquiries by WIRO.

One of WIRO's statutory functions in Section 27(c) of the 1998 Act is:

"To inquire into and report to the Minister on such matters arising in connection with the operation of Workers Compensation Acts as the Independent Review Officer considers

appropriate or as may be referred to the Independent Review Officer for inquiry and report by the Minister.”

Pursuant to this specific power WIRO has initiated two significant inquiries. The Parkes Project commenced in December 2014 and was managed by subject matter experts contracted to WIRO. The inquiry was designed to identify mechanical anomalies, ambiguities and operational issues arising from the complex interaction of the Acts, Regulation and Guidelines governing the scheme. The Project was to provide a final report with recommendations for improvements to the scheme. All recommendations were to align with government policy. All major scheme stakeholders were invited to provide representation to the Project's Advisory Committee and consensus was reached with respect to 12 key issues in need of attention. These were unanimously endorsed as a statement of principles. An interim report was provided to the Minister outlining progress which sought funding beyond June 2015. No additional funding was made available by the Minister and consequently the Project was suspended.

The Effeney Hearing Loss Project considered important innovation in the method of measuring and compensating workers with industrial deafness. The recommendations would have provided annual savings for insurers of over \$10M but was not supported by the Department of Finance Services and Innovation. Funding was not approved for the continued contracting of the medical professional leading the project.

WIRO's experience in relation to the cessation of these two important inquiries demonstrates the impact of its lack of *financial* independence on its true independence and ability to carry out its statutory functions. WIRO has not embarked on any further inquiries pursuant to its function under section 27 of the 1998 Act due to this issue.

RELATIONSHIP WITH PUBLIC SECTOR

WIRO interacts with the broader public service in several capacities.

First, public sector employees have rights and entitlements pursuant to the workers compensation legislation. The financial aspects are managed by the Treasury Managed Fund under icare.

WIRO provides the same services in relation to inquiries, complaints and provision of funding for independent legal services to government employees as to other injured workers in the state. A complication in the relationship which is not common in the broader private sector except self-insurance, is that government agencies have a role in administering, managing and determining claims and return to work outcomes. Accordingly, in exercising its complaints function WIRO may need to deal with individual agencies or entities in attempting to resolve particular issues.

This can mean having to deal with individual school principals in addition to the education department on individual cases. As an example, a particular issue recently highlighted in the media is the high incidence of bullying of teachers in government schools resulting in psychological injury where the teacher has been returned to their same school.

In her 'State of the NSW Public Sector Report' 2019, the Public Service Commissioner reported:

Bullying has many harmful consequences for the physical and mental health of victims and witnesses. It is a major contributor to increased costs for organisations because of reduced employee productivity, motivation and commitment. It also significantly inhibits the creation of a positive workplace culture.... The fact that bullying rates haven't fallen is concerning and points to a need for the sector to revisit its approaches, frameworks and actions to ensure that it is at the forefront of addressing bullying.

The flow on effect of bullying complaints is an increase in psychological injury claims.

Second, WIRO collects information and data and observes trends. There are several worrying anomalies or trends in relation to workers compensation claims by public servants. For example, the observed increase in psychological injuries particularly in education and health gives rise to increased cost due to the departmental management of the sensitivities around claims and the provision of safe and durable return to work options. This has a 'knock-on' effect with the urgent need for replacement staff and additional cost.

CUSTOMER SERVICE

In April the Government announced the creation of the Department of Customer Service and announced its five key policy priorities.

Significant reforms of the public sector have commenced and are continuing, including the creation of customer service teams and realignment projects in the workplace which are aimed at delivering against these priorities and helping to positively transform the lives of NSW citizens, businesses and the broader community.

The then Secretary (Customer Service) in his memorandum of 9 August 2019 explained the objectives and implementation of the customer service strategies and priorities using IPART as an example. He wrote:

"IPART makes decisions about pricing essential services like water, gas and electricity. The agency also undertakes compliance and enforcement activities across water and energy businesses... as well as special reviews on behalf of the Government. Its purpose – providing independent regulatory decisions and advice to protect and promote the ongoing interests of consumers, taxpayers and citizens of New South Wales – strongly aligns with our customer focus and the overarching objectives of the cluster.

IPART's independence means that, whilst it's part of the cluster, it is a separate agency that operates autonomously. It has a Tribunal made up of people who are statutory appointments and not subject to directions from the Minister. Why is this important? Because IPART can set prices, take enforcement actions and make recommendations without political interference. IPART's independence, coupled with its strong consultative processes and analytical ability, provides a powerful service for people of New South Wales and the Government. It also builds trust in our services and operations and the Government more generally.

... And we can support IPART in their work by providing customer insights, enhanced data analytics and digital delivery. IPART has a vital role in NSW."

WIRO submits that this analysis and commentary applies equally to WIRO. The NSW workers compensation scheme and other injury compensation schemes are at the forefront of customer/citizen contact in relation to the Government's new focus on customer service.

The customer service cluster has also published whole of government recommendations in relation to customer service. These include reducing effort and wait times, focusing on digitisation of services, improving complaint handling capacity by showcasing a model of "good" complaints handling which includes closing the feedback loop with customers. The objectives also include addressing the apparent lower satisfaction in regional areas, improving customer engagement through building engagement capability across government and communicating to the customer the benefit of NSW Government initiatives.

WIRO has since its inception established a complaints and enquiries handling "Solutions Group", which has developed a protocol with insurers which expects the insurer to respond to a complaint from an injured worker sent by email from WIRO within 48 business hours. Its case management system, "Resolve", enables WIRO to collect data arising from its role in the scheme that is not maintained elsewhere. WIRO provides regular analysis of data to a wide range of groups and regularly publishes data analysis on its website. Its data enables WIRO to observe trends and emerging issues in the scheme which in turn places WIRO in a unique position of leading indicator for the health of the system.

Since its inception WIRO has been a "digital office". WIRO develops and maintains close connections with fintech and regtech start-ups, placing it at the forefront of technical innovation in NSW. WIRO is recognised as a "sandpit" for the NSW Government in innovation and entrepreneurship ecosystems.

WIRO is the primary provider of education to the workers compensation industry and hosts large industry seminars and gatherings of stakeholders and interested persons regularly. These occur throughout the state. The major Sydney seminar has attracted up to 900 registrants in any year. WIRO provides paralegal training courses for law firms interacting with ILARS which includes education about legislation, forms, processes and practice.

ILARS's purpose is to provide funding to independent lawyers to provide legal advice and assistance to injured workers about their rights and entitlements under the workers compensation legislation. Its team members are experienced lawyers or paralegals with highly developed technical expertise in workers compensation law.

The ILARS model is internationally recognised as a world leader. It engages over 900 approved NSW lawyers and has provided funding to assist injured workers in over 100,000 matters since 2012.

PARLIAMENTARY OVERSIGHT

Potential impediments to WIRO independence have been the subject of evidence to the Legislative Council Standing Committee on Law and Justice ("the L&J Committee") in its various reviews of the workers compensation Scheme. The L&J Committee, which is comprised of Government, Opposition and crossbench members, has now on several occasions commented or recommended that the WIRO be designated as a separate entity for financial and accounting purposes.

The L&J Committee in 2014 recommended that the NSW Government amend Part 3 of Schedule 1 of the *Government Sector Employment Act 2013* to designate the WIRO as a separate public sector agency.

In the 2015 reporting year WIRO reported that funding was withdrawn to enable it to complete the Parkes Project Inquiry. WIRO did not undertake any formal inquiries in the 2016, 2017 and 2018 reporting years in circumstances where there was no assurance that funding would be available to pursue this function in accordance with its legislative mandate. In its March 2017 report the L&J Committee recommended (Recommendation 4) that the NSW Government consider the need for the WIRO to complete the Parkes review. However, that recommendation has not been implemented.

In the March 2017 Report the L&J Committee noted (at 3.15) that:

"The absence of financial independence has clearly hampered the work of WIRO. For many stakeholders and injured workers WIRO is seen as a genuinely helpful, independent part of the scheme. Ensuring that the office is able to continue to exercise its functions is clearly in the interests of all scheme participants."

The Report of the 2018 review of the *Workers Compensation Scheme* was issued on 12 February 2019. The L&J Committee had resolved that the 2018 review would focus on the feasibility of a consolidated personal injury tribunal for CTP and workers compensation dispute resolution. The Report recommended consolidation and also recommended (Recommendation 4) that the NSW Government preserve the Workers Compensation Independent Review Office and the Independent Legal Assistance and Review Service in the workers compensation scheme. The Standing Committee noted the strong stakeholder support for the work of the WIRO during all the Committee's reviews and the very broad support for WIRO's role to be expanded to encompass the CTP scheme.

In its 2019 report the L&C Committee noted:

"The committee acknowledges stakeholders views that there is a need to preserve and expand WIRO and ILARS. Retaining this statutory office and the free legal service it administers, ILARS, is essential for the workers compensation scheme, and would be equally valuable to claimants in CTP disputes."

The various issues and constraints identified in this submission will become more pronounced and problematic should WIRO be given an expanded role in the NSW motor accident scheme.

CONCLUSION

The experience of the WIRO is that the administrative arrangements in relations to budgeting and expenditure, staffing, government policies and initiatives generally are not a comfortable fit, cause unnecessary complexity, tensions and delay and can interfere with the independence of the Office.

The 2015 Inquiry into the Environmental Protection Authority by General Purpose Standing Committee No 5 (Report number 40) also highlighted the difficulties, complexities and inappropriateness of fitting an independent agency in the departmental administrative structure.

It is noted that the Government's Response to that Report included in relation to Recommendation 1 that *"The Government is currently reviewing the governance framework for all statutory entities in New South Wales. The governance regime of the NSW EPA will be one of the first entities to be reviewed under this framework."* It might be anticipated that the results of this review process would be of assistance to the Committee.

Kim Garling

Workers Compensation Independent Review Officer

26 November 2019