

INQUIRY INTO 2021 REVIEW OF THE DUST DISEASES SCHEME

Organisation: icare

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Standing Committee on Law and Justice 2021 Review of the Dust Diseases Scheme

ICARE SUBMISSION

December 2021

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Context

Insurance & Care NSW (icare) administers the Dust Diseases Scheme, under the *Workers Compensation (Dust Diseases) Act 1942*. The Dust Diseases Scheme is a no-fault scheme for NSW workers who have developed a dust disease from occupational exposure to hazardous dust.

The Scheme provides compensation benefits to workers with an occupational dust disease and their dependents. Workers under the Scheme also have access to medical, healthcare and related support services such as domestic assistance, mobility aids and equipment, and home modifications, as these relate to their dust disease.

Submission

The Dust Diseases Scheme is focused on providing ongoing assistance to support workers' and their dependents' quality of life, with operating costs funded by an employer levy on workers compensation insurance premiums. Working closely with past and present workers with dust diseases and their families, icare's Dust Diseases Care (DDC) provides timely access to information, personalised care and comprehensive support. icare also funds research, information and education about dust diseases and ongoing assistance to workers and their families. Medical lung screening and health monitoring services are also provided to individual workers and employers to facilitate early detection of occupational hazardous dust exposure.

Our service enhancements and improvements have primarily targeted the following outcomes:

- More timely access to care and support services.
- More choice and convenience for workers in accessing medical screening services to facilitate quicker diagnosis.
- More care and support options for empowered and independent living.
- Additional support for NSW employers to help meet their work, health and safety obligations in respect of protecting their workers at risk of occupational dust diseases due to exposure to hazardous dusts in the workplace.
- Facilitated access to peer support services for workers with dust diseases and their families.

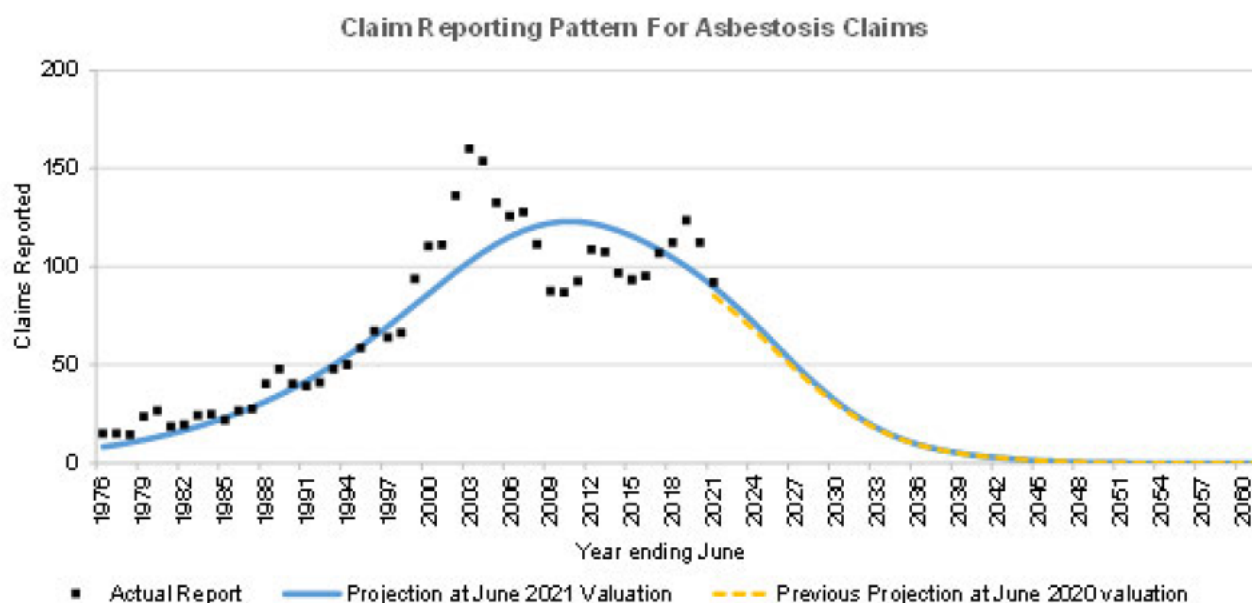
Dust Diseases Scheme Financial Performance

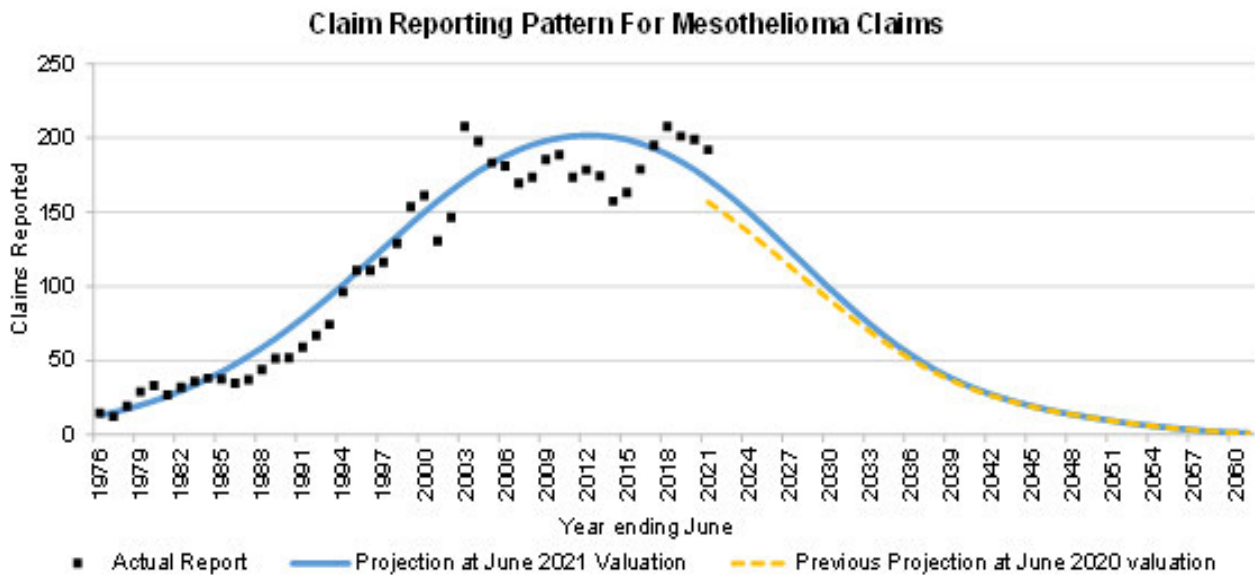
Net Result	Funding Ratio (excluding future levies provision)	Insurance Ratio (excluding future levies provision)	Investment Funds under management	Investment Return	Investment Benchmark
\$0.0	59%	75%	\$1.2 billion	12.2%	12.4%

The Scheme's liabilities have been adversely impacted by a higher than expected number of claims and an increase in the expected claims handling expenses, as well as allowances for remediating past under-payments to some workers and revising future payment practices. Further information on our remediation program is provided later in this report.

It is anticipated that the sustained trend of higher than expected claims will influence future numbers of claims. These increases may be partly attributable to a new online customer portal, along with additional assistance provided by DDC Client Liaison Officers that has facilitated a more accessible claims lodgement process.

The graphs below show the actual number of reported claims for mesothelioma and asbestosis, and the increase in the projected number of reports from the latest June 2021 valuation compared with the previous valuation in June 2020.





Investment funds under management increased by four per cent, or \$51 million, during the financial year, while investment returns were 0.2 per cent below benchmark.

Dust Diseases Care Operational Frontline Restructure

During 2020, Dust Diseases Care undertook a full review and redevelopment of the operations of the Scheme. This included simplifying the structure of the scheme for workers and their dependents, and for our staff. We clarified the roles and functions of the business, while maintaining a commitment to providing a single point of contact for all applicants, and a dedicated case manager for all workers who are eligible for payments or services from the Scheme.

The restructure has resulted in three clear business streams within Dust Diseases Care;

- **Medical Screening** – this business stream operates the lung screening service for all scheme clients and workers with prior exposure to hazardous dust and the Employer Health Monitoring Service for employers across NSW. Both services are provided across the icare Clinic and Mobile Unit (Lung Bus).
- **Applications and Onboarding** – this business stream supports workers and their dependents through the application process. We have reduced the number of staff the worker had to interact with and simplified the process of applying for the Scheme. We provide each applicant with an officer who is their main point of contact, and who prepares their cases to present to the Medical Assessment Panel. This business stream also supports the operations of the Medical Assessment Panel.
- **Case Management and Compensation** – this business stream provides case management services to all workers eligible for payments and services and supports their dependents through the end of life processes. Dedicated compensation staff arrange financial matters including compensation payments on behalf of this cohort.

This transformation has allowed Dust Diseases Care to provide equitable service to all workers, regardless of when they entered the Scheme. We have contacted and begun to proactively manage all workers in the Scheme. Prior to this change, workers who had entered the Scheme before 2018 would not receive proactive case management. It has increased accountability for the support provided to the worker from screening and applications through to case management and allows for continuity in the service provision.

Access to Medical Screening Examinations for Dust Diseases

Medical screening examinations are provided free of charge for any NSW worker who believes they are at risk from past exposures to hazardous dusts, such as asbestos and silica, in previous employment in NSW. Medical screening facilitates the diagnosis of an occupational dust disease as well as identifying any deterioration in the medical condition and disability of a worker who has a dust disease.

Since March 2016, icare has offered workers a choice of service provider for their medical screening examinations. Workers can choose to attend a medical examination at the icare clinic located in the Sydney CBD, via the icare Lung Screen mobile respiratory unit staffed by qualified medical professionals visiting workplaces and communities across regional NSW, through their regular treating respiratory physician, or through a recommended locally based provider. icare can also provide a home lung function testing service for workers who are unable to leave their home and travel to medical screening appointments due to ill health, age or immobility.

The Dust Diseases Care clinic has provided a “one stop shop” lung screening service for its customers for over 30 years. In 2018 the clinic was relocated, which provided an opportunity to enhance and increase service offerings directly to customers through a more accessible, ground floor shop front location. The clinic is capable of funning multiple screenings in parallel based on demand. The clinic’s screening service involves an end-to-end experience comprising:

- an x-ray;
- full lung function test;
- a 20-metre walk test; and
- a medical examination with a medical specialist.

Workers screened at the icare clinic can have an appointment made within two weeks and icare can facilitate diagnosis and medical certification, typically allowing for the determination of their claim within 10 to 30 days. This compares to between 30 to 180 days when completed by external providers. Currently, approximately half of icare’s customers choose to receive screening services through the CBD clinic.

The clinic’s facilities include a number of meeting rooms. These are used to:

- obtain a worker’s occupational history in support of their workers compensation application.
- Provide space for dust disease support groups to meet with their members.

In addition to the mobile Lung Bus screening unit, the clinic creates additional capacity for icare to help employers located in the Sydney metropolitan area to meet their work, health and safety obligations in respect of health screening of their workers who are exposed to hazardous dusts such as asbestos and respirable crystalline silica.

On average, icare covers between 1,250 and 1,400 individual worker medical examinations each year. icare's clinic and mobile screening unit have been the dominant choice for our compensation applicants and workers with approximately 60 per cent electing to access their medical examinations through these facilities. Feedback confirms our customers place significant trust and confidence in the level of service and quality of medical facilities provided.

Health Monitoring Service for Employers

icare's Lung Bus health monitoring mobile screening service (which prior to icare was historically only available to large employers in NSW) is now available to small and medium employers in NSW with workers at risk of occupational dust exposures in the workplace. icare proactively contacts these employers in regional locations when the Lung Bus is visiting their specific area to offer the respiratory screening service. This service supports NSW employers to comply with their responsibilities under the *Work, Health and Safety Act 2011* to provide health monitoring for workers exposed to hazardous dust, such as silica and asbestos, in the workplace.

The service is provided at a subsidised rate to encourage proactive screening by employers and has been designed to minimise lost time and enhance productivity for both employers and workers by taking the end to end screening service to the workplace. Employers can also elect to have their workers screened at the icare clinic or through local service providers.

In 2020/21 the Lung Bus provided respiratory health monitoring examinations to 3,190 workers. The Lung Bus visited locations across NSW including Newcastle, Muswellbrook, Coffs Harbour, Mudgee, Inverell, Wallsend, Taree, Tweed Heads, Nowra, Bega, Ulladulla, Unanderra, Greenacre, Prospect, Prestons, Chatswood, Maroota and Punchbowl.

A further 1,377 workers accessed health monitoring examinations at the icare clinic in the 2020/21 financial year. icare also facilitated 73 health monitoring examinations for workers through local service providers.

COVID-19 and NSW Government Public Health Orders

The operations of icare's medical screening and health monitoring service were adversely impacted by COVID-19. These services were suspended from March 2020 to June 2020 and again, from July 2021 to 15 November 2021 in compliance with NSW Government public health orders and to ensure the safety of our customers and staff.

Response to the incidence of occupational silicosis

In its *First review of the Dust Diseases Care Scheme*, the Law and Justice Committee, commented that an increasing incidence of silicosis disease associated with occupational exposure to crystalline silica in NSW is evidence of a significant failure in the work health safety regime. The first recommendation in the Committee's report was that the relevant Minister urgently convene a taskforce of industry, regulatory and workforce representatives to review safety standards in the manufactured stone industry and consider regulatory changes necessary to protect workers in the industry.

A taskforce was established by the lead agency, SafeWork NSW, and icare participated in this review. The taskforce released its final report in July 2019.

icare has partnered with SafeWork NSW to assist with its *Roadmap 2022* program which includes visits to about 9,000 businesses in NSW over the next five years to reduce worker risks and eliminate injuries and silicosis disease associated with exposure to respirable crystalline silica. icare's role is to provide occupational health screening services to those businesses identified by SafeWork NSW whose workers are most at risk.

As part of this partnership, icare provides occupational health screening free of charge to small businesses with less than 30 employees who are issued improvement notices from SafeWork NSW following their workplace visits, for their first round of screening as a kick-start to routine screening of their workers. A further 50 per cent subsidy is being applied for those businesses with over 30 employees who are issued notices from SafeWork NSW, reducing the subsidised cost of screening from \$100 to \$50 per worker plus GST for their first round of screening. Since commencement in May 2018, 822 free health monitoring assessments have been provided for 145 employers (data current as at 29 October 2021).

In addition to the above, icare provided \$50,000 funding for the phase 2 of the SafeWork NSW silica safety awareness campaign. icare has also provided presentations about its silica health monitoring program for employers.

icare has a dedicated page on its website to promote its collaboration with SafeWork NSW and direct visitors to the SafeWork NSW website to learn more about crystalline silica. icare has also used its social media channels to promote SafeWork NSW roadshows and safety messages.

icare was also a member of the National Silica Associated Lung Disease: Monthly Communication Platform. The purpose of this platform is to promote communication across jurisdictions across Australia to inform best practice for the management of silica related issues into the future. Topics for discussion include health monitoring programs, return to work, workplace initiatives and claims management. This forum does not report to a Minister or government agency but was established as an interim measure pending the implementation of the National Dust Diseases Taskforce.

icare sits on the National Dust Diseases Taskforce and actively contributes to its working groups, including in the development of National Guidelines for GP's on the diagnosis of silicosis which are currently out for consultation with key medical groups.

icare has also collaborated with the Australian Tunnelling Society to improve education around working safely with crystalline silica and has also provided health monitoring services to employers in the industry. Since 2018, icare has provided 907 health monitoring assessments to 11 employers in both the tunnelling and construction industry in NSW that are working with silica.

New Cases of silicosis identified by icare

NSW, along with other jurisdictions across Australia, has seen an increase in the number of new cases of silicosis. Silicosis is a preventable dust disease and recent numbers have been attributed to the use of manufactured stone products, commonly used for kitchen benchtops.

A breakdown of new cases of silicosis and silica related dust diseases for the financial years 2015-16 to 2021-22 appears in the table below

Financial Year	Silicosis cases	Silica related cases	Financial year total
2015-16	7	2	9
2016-17	3	3	6
2017-18	5	4	9
2018-19	34	6	40
2019-20	104	3	107
2020-21	33	4	37
2021-22 (as at 30 September 2021)	5	4	9

In 2020-21, 37 workers with silicosis became eligible to receive workers' compensation.

29 of these workers remain in full time employment and six obtained suitable duties and are receiving make-up pay compensation entitlements.

In 2020-21, one worker was diagnosed with accelerated silicosis, a form of the disease which develops over a short period of time (one to 10 years) from inhalation of very high concentrations of crystalline silica dust. Nine were diagnosed with chronic complicated (PMF) silicosis and 27 with chronic simple silicosis.

Workers diagnosed with silicosis come from a range of occupations and industries. The most common include working with manufactured and natural stone, tunnelling, construction, brick manufacturing and concrete cutting.

Return to Work for workers with silicosis

icare has established processes to provide vocational support to all workers diagnosed with silicosis and eligible for the Dust Disease Care Scheme and we work with a number of vocational rehabilitation providers across the State. The entitlements and options for vocational rehabilitation supports are discussed with a worker when their claim is awarded, and they are assigned an icare case manager as a single point of contact to support their vocational rehabilitation, medical treatment and other aspects of their compensation claim.

Those workers who choose to leave the industry they were in when exposed to hazardous dust or who are contemplating leaving the industry, are referred to the vocational rehabilitation provider to undertake a vocational assessment.

The vocational assessment assists the worker to identify suitable alternative work options and a plan to support them to achieve the identified work goal with guidance from their treating doctors. The worker is then provided with ongoing support such as: assistance with development of resume, cover letters, interview skills, how to job search, setting up work trials etc, throughout the vocational rehabilitation program to ensure their goal of suitable and viable employment is achieved.

icare provides financial compensation and support in accordance with the *Workers Compensation (Dust Diseases) Act 1942* to those clients who wish to leave the industry and are undertaking vocational rehabilitation.

Mandatory Reporting of Dust Diseases

The NSW Government has made silicosis and asbestosis scheduled medical conditions under Part 4 of the *NSW Public Health Act 2010*. All medical practitioners must notify NSW Health when they diagnose a case of silicosis or asbestosis in NSW.

icare reports all cases of silicosis and asbestosis detected by its medical screening and health monitoring services.

Fast-Track Services

Dust Diseases Care has recently implemented a Decision Making Framework which allows for the rapid approval of low risk services which are commonly required by our workers such as lawnmowing and domestic supports, and a more robust decision making process for higher risk services such as home modifications. All workers are able to be comprehensively assessed by an occupational therapist or registered nurse in support of these services and to inform decision making. Dust Diseases Care has recently initiated improved guidance and support for these professionals working with dust disease customers in the community.

icare also fast-tracks the processing of funeral benefits. A \$10,000 payment is provided for funeral costs for families of a deceased worker within 24 hours upon notification of the worker's death. Families and estates can make a claim for additional funeral costs, up to \$15,000 where the cost of the funeral exceeds \$10,000.

Community Support

The new Dust Diseases Care case management model has allowed for improved engagement with other programs for the benefit of our workers and their dependents. These include:

- Wecare – a mentoring program offered through Carers NSW.
- Engaging both public and private providers of palliative care and end of life care, allowing more of our workers to be supported at home for longer at the end of their life, as per their wishes.
- Providing access to the CancerAid app and Coach Program.
- Return to work providers and vocational supports.

- Community transport, meal delivery services and a range of other community organisations.
- Peer support organisations specialising in dust disease or lung health.

Enhanced service delivery model for lifetime schemes

icare has developed a new service delivery model for the most severely injured and ill participants of the Dust Diseases Care and Lifetime Care schemes and the Workers Care program.

The new service delivery model recognises individual experiences and will validate which attributes, overlays and triggers (e.g. life events) have the greatest impact on our workers and dependents, and draw out best practices from our knowledge, experience and evidence-based research.

The model will:

- identify the most effective service pathways for our workers and dependents underpinned by best practices;
- increase service experience consistency across frequent situations, while readily enabling tailored services for individual needs and specific situations;
- capture and disseminate best practices to enhance decision making and service experience; and
- identify high-risk client situations early and define a recommended approach to manage these. icare is also improving technological platforms to support the delivery of the new service delivery model.

Grief Support

icare has published an information pack for family members, carers and friends who have experienced the loss of a loved one from a dust disease. The pack explains who needs to be contacted after a death and provides information about the experience of grief and who to ask for help.

The pack is mailed out to family members, carers and friends after icare receives a notification that a Dust Diseases Care customer has died. The pack is available on the icare website to be viewed online or downloaded.

Safeguarding Framework

icare has developed a Safeguarding Framework to effectively manage risk and ensure the safety of severely injured and ill participants under its schemes. This work recognises that some participants may be vulnerable to abuse, harm or neglect, and due to their injuries and illnesses, may be unable to protect or empower themselves.

The aim of the Safeguarding Framework is to keep participants and workers safe in their home environment, to strengthen existing safeguards and supports, and maximise independence through a range of initiatives that aim to promote choice and control. The Safeguarding Framework reviews icare's internal structures and systems and external supports that focus on quality, safety and prevention.

The Service Provider Quality Assurance Framework, implemented in April 2018, outlines a risk-based approach for the relationships with different service provider groups, including approved providers. The framework provides guidance on managing performance and issues; and outlines the governance activities implemented by staff. icare is currently engaged in further developing our audit and governance program of service providers to ensure robust measures and systems are in place and to provide greater assurance over the quality of service provision.

Dust Diseases Care Remediation Program

The Dust Diseases Care Scheme is administered under the *Workers' Compensation (Dust Diseases) Act 1942* which is to be read together with the pre-2012 *Workers Compensation Act 1987*. Amendments over the years have resulted in ambiguity and complexity in the interpretation of the benefit entitlements.

The three identified issues are as follows:

- (1) **Pre-1987 Workers:** Workers with an injury before 30 June 1987 are receiving the same rate of compensation as workers with an injury after 30 June 1987. Under current legislation they should be receiving a rate which is 20 per cent lower. icare currently pays all workers the higher rate.
- (2) **Dependent allowance:** Workers who have been certified as partially disabled and with an injury after 30 June 1987 should not be receiving payments for dependants. Only partially disabled workers with an injury before 30 June 1987 should be receiving dependent payments. This has implications for the younger cohort of silicosis sufferers. icare currently pays dependent payments for pre and post 1987 injuries where the worker is partially disabled.
- (3) **Retired or unemployed totally disabled workers:** Under section 36 of the historical, pre-2012 provisions of the 1987 Workers Compensation Act totally disabled workers who are retired or unemployed are entitled to weekly benefits according to their current weekly wage rate (CWWR) during their first 26 weeks of incapacity. Historically, icare (and its predecessor organisations) have applied a statutory rate due to the difficulty of calculating CWWR for people who may not have worked in these occupations for 40 or more years.

PricewaterhouseCoopers has been engaged to undertake a remediation program to address underpayments made to workers as a result of not paying totally disabled workers their current weekly wage rate in first 26 weeks of entitlements. All planning has been completed and a pilot was conducted to test the methodology. The results of the pilot will be peer reviewed by Deloitte as part of the assurance program.

The program has identified 1,510 impacted workers, dependants and estates that will require remediation. This program is projected to be completed before 2022.

icare has recommended changes to the legislation to ensure that it aligns with the legislative intent, so that all workers received the same benefit rates regardless of the workers date of injury.

Supporting Dust Diseases Research and Not for Profit Organisations

The Dust Diseases Board has implemented a 2020-2024 strategy to guide its vision is to make a positive difference to those impacted by hazardous dust exposure and dust diseases. Innovation, impact, collaboration and building capacity are the key strategic priorities that underpin their strategy and the total grant funding is \$2.5 million per annum.

The strategy is delivered by four funding streams:

1. **Ideas to Action** (funding guide \$1.25 million per annum) – investigator driven research grants promoting research across all aspects of the disease and research translational lifecycles; provides funding for novel and innovative benchtop research, new treatments and pilot programs to improve health outcomes and quality of life.
2. **Focus** (funding guide \$250,000 per annum) – identifies and promotes research and activities into emerging risks and priorities with successful grants addressing specific problem statements.
3. **Fellowships and Scholarships** (funding guide \$400,000 per annum) – grants to promote the development of researcher knowledge and expertise across any aspect of the disease lifecycle and research and translation methodologies.
4. **Support Organisation** (funding guide \$600,000 per annum) – grants awarded to support organisations to provide information, education, assistance and guidance regarding risk prevention, disease progression, the scheme and connecting communities and networks through shared experience.

Each funding stream is offered annually via a contestable funding call and merit-based grant assessment process.

Dust Diseases Research - Current DDB Grant Portfolio

- Overall funding committed for the current portfolio is \$5,645,649.21
- The current DDB grant portfolio consists of:
 - 15 *Ideas to Action* grants studying asbestos related diseases with most investigating mesothelioma using basic research methods,
 - four *Focus* grants research silica exposure and related diseases,
 - two *Fellowships* and two *Scholarships*, and
 - funding for two *support organisations*.

icare has allocated funding for the 2022/23 financial year for focus grants into research to investigate the unique needs of younger people with silicosis, with particular focus on psychological health, health literacy and long-term chronic care to optimise quality of life.

Artificial Intelligence Project

icare has developed an artificial intelligence tool to assist in detecting signs of silicosis from chest X-rays. The experimental protocol for the study was reviewed and approved by the Concord Hospital Human Research and Ethics Committee in April 2021.

icare is developing a bespoke online analysis platform, which will allow respiratory and/or occupational physicians to participate by analysing the accuracy and utility of the developed tool. Collection of an appropriate cohort of X-rays from icare's screening clinic is ongoing, and it is expected that recruitment of participating physicians will commence in early 2022.

National Dust Diseases Taskforce

The Australian Government established a National Dust Disease Taskforce to develop a national approach for the prevention, early identification, control and management of occupational dust diseases in Australia in response to an emerging trend of new cases of accelerated silicosis associated with the use of engineered stone products.

The Australian Government committed \$5 million to the support the Taskforce and related measures, including establishing a National Dust Diseases Register and new research to support understanding, prevention and treatment of preventable occupational lung diseases.

The Taskforce completed its independent review of the systems in place for the prevention, early identification, control and management of accelerated silicosis from engineered stone, and broader occupational dust diseases. The Final Report was developed following extensive consultation with stakeholders, and consideration of specifically commissioned research. It contained seven recommendations that support a range of regulatory and non-regulatory actions designed to have an impact in the short to medium-term on improving worker health and safety. The Taskforce focused its review on accelerated silicosis and engineered stone but recognised the need for broader actions on dust diseases.

The report has been presented to Government for its consideration and response. icare supported the work of the Taskforce and engaged in the consultation processes. This included written submissions addressing criteria set by the Taskforce and icare reorientation at stakeholder workshops.

Collaboration with Asbestos Coordination Authorities

icare is also actively collaborating with key stakeholders as a member of the Heads of Asbestos Coordination Authorities (HACA), working to improve the management, monitoring and response to asbestos issues in NSW by developing coordinated asbestos related prevention and management programs in NSW under the State-Wide Asbestos Plan.

Dust Diseases Tribunal Funding

Dust Diseases Care provides financial support to the Dust Disease Tribunal (DDT). Under a recent agreement, additional funding is being provided to support the development of a new platform for the DDT. This will benefit Dust Diseases Care and injured workers through reduced administration and faster processing of matters.

Feedback and Complaints

Dust Diseases Care customers who wish to make a complaint can contact their case or applications co-ordinator who may be able to resolve their concerns immediately. Providing feedback or complaints will not affect a customer's relationship with icare or the payments and services received.

Customers who are not satisfied with the resolution of their complaint can request a review of the outcome by contacting a senior dust diseases care representative or the Lifetime Schemes Integration and Resolution Team.

Customers can also discuss their complaint with the NSW Ombudsman and the Independent Review Office.