



Workers Compensation  
**independent** review office

# ANNUAL REPORT

## 2018 – 2019

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The Workers Compensation Independent Review Office 2018 –19 Annual Report has been prepared in accordance with the relevant legislation for the Hon. Victor Dominello MP.

Workers Compensation Independent Review Officer

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The Hon. Victor Dominello MP  
Minister for Customer Service  
Parliament House  
Macquarie Street  
Sydney NSW 2000

13 December 2019

Dear Minister

In accordance with section 27C of the *Workplace Injury Management and Workers Compensation Act 1998*, I have pleasure in submitting, for your information and presentation to Parliament, the Annual Report of the Workers Compensation Independent Review Officer for the period from 1 July 2018 to 30 June 2019.

Yours sincerely,



Kim Garling

**Workers Compensation Independent Review Officer**

## MESSAGE FROM THE INDEPENDENT REVIEW OFFICER

The Workers Compensation Independent Review Officer (WIRO) is an independent officer appointed by the Governor and has the following functions:

- [1] Oversight of the operation of the workers compensation scheme;
- [2] Dealing with complaints from workers about Insurers;
- [3] Funding legal representation for injured workers to pursue their entitlements;
- [4] Providing current information about decisions and practice changes for its approved lawyers by way of seminars and publications;
- [5] Information collection and analysis.

The office is a highly skilled group with substantial workers compensation expertise which does not exist anywhere else in the scheme. The independence of the Officer is critical and has been threatened often over the seven years since it was established. As recently as May 2018 the Government issued a discussion paper which contained as one option the effective abolition of this office.

That proposal was rejected and the complaints function expanded from 1 January 2019 to ensure that all complaints by all injured workers were to be handled by this office.

The former Treasurer Mr Baird MP set out the rationale for the establishment of the office:

“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.”

### Oversight

The NSW workers compensation scheme is one of the ten largest in the world. WIRO has a very important function to review the operations of the scheme and report to the Minister if necessary. In performing this very significant oversight role the following issues arose during the reporting period:

#### 2012 Reforms

In 2012 the Government introduced significant reforms to the workers compensation system. These were dramatic and designed to ensure that injured workers were eligible for benefits when they had no capacity or limited capacity to work as a result of a workplace injury.

A new medical certificate was introduced which provided the opportunity for the worker's treating doctor to set out any limitations on the ability of the worker to work. This was not just within the existing occupation of the worker before the injury.

In order to monitor the recovery from the injury the Insurer was required to make a decision regularly about the income support required to ensure that the worker returned to work as soon as reasonable after the injury.

This decision was known as a Work Capacity Decision. A new process was established for a review of those decisions to ensure that a worker could challenge the insurer's decision.

The initial results were very positive with many workers who had previously been provided with limited income support returned to useful work.

#### 2015 Reforms

From 1 September 2015, the Government established a new entity, Insurance and Care NSW (known as icare) to be the claims manager for the Nominal Insurer and to have the responsibility for collection of premiums from employers.

It is controlled by a Board. All decisions related to its functions are to be made by or under the authority of that Board.

The State Insurance Regulatory Authority (SIRA) was created as the Regulator for the scheme. It has a Board which may determine the general policies and strategic direction of SIRA and oversees the performance of the activities of SIRA, however the responsibility for the control of and the management of SIRA is vested in its Chief Executive.

I have met with senior executives from icare regularly during the year and have raised issues of importance which I have observed from our contact with injured workers. Icare have been particularly receptive to reviewing these issues and, where relevant, improving their system.

I have also met regularly with senior executives from SIRA and have had valuable discussions with them about matters of concern with the operation of the Scheme.

#### Disappearance of the Guidelines for Work Capacity Decisions

There were requirements for Insurers around the making and issue of Work Capacity Decisions to injured workers supporting this major initiative of the Government. This included the contents of the Work Capacity Decision and the review arrangements.

In 2018 the Standing Committee on Law & Justice of the Legislative Council recommended that there be a change to the form of notice to accompany decisions of insurers where benefits were to be denied, terminated or reduced.

The reform legislation operated from 1 January 2019. The Regulator issued various rules for a proposed "Dispute Notice" which removed the previous provisions as to the content of a Work Capacity Decision. This was an interesting change which demonstrated a lack of understanding of the importance of the reasons for clarity in a Work Capacity Decision.

This has caused considerable confusion for injured workers in trying to understand their rights and entitlements.

#### Review of Work Capacity Decisions

One of the challenges was the new model for the administrative review of these work capacity decisions. The Standing Committee on Law & Justice of the Legislative Council (with the Hon Natalie Ward MLC as chair) recommended that the administrative review process be changed. The Government supported that change and the review of these decisions was given to the Workers Compensation Commission for decisions made on or after 1 January 2019.

How this reform manages the disagreements between employer, insurer and worker in a quick, efficient and cheap manner will be a challenge for next year.

#### Early Resolution of Disputes

One of the strengths of the WIRO model is the collection in one place of information from both injured workers and insurers about the same dispute and in the one place.

While the workers compensation system is complex and there is very limited success in predicting the outcome of a particular dispute the WIRO principal lawyers manage to evaluate the merits of the case with some accuracy.

WIRO has an understanding with insurers that they will give serious consideration to the review of a decision to deny a claim or a request for surgery where one of the principal lawyers suggests that it would be valuable to do so.

The results are remarkable and over half of the disputes where workers are funded through ILARS are resolved without proceeding to formal dispute litigation.

One of the outcomes is that the legal and associated costs are significantly less than the formal process. In addition, the delay in reaching a formal outcome is avoided with the benefit for the vulnerable injured worker of a prompt result and less emotional impact.

### **The Solutions Group**

I report on the work of the Solutions Group later in this Report and I thank the staff of this group for their managing often very emotional callers.

The work of this team in managing matters of concern for injured workers in their dealings with insurers has resulted in the vast majority of those concerns being solved with the assistance of the insurers.

The two day turnaround which was adopted in 2012 was the first complaints group to institute such a prompt response and I am very proud to see how successful that has been.

### **The Funding Group**

The Independent Legal Assistance and Referral Scheme (ILARS) has demonstrated the power of the collection of information about the claims and dispute resolution process. The analysis of this data and the publication of the statistics each quarter has enabled lawyers and insurers to analyse and recognise when their individual performance could be improved.

The funding model has enabled professional fees to be set at a level where lawyers are able to devote their time to looking for a proper outcome for the injured worker. The level of fees paid to lawyers for this work has remained fairly constant over the seven years.

The funding model and the important information collected provides an insight into the areas where customer service could be improved for all relevant entities. This model is unique in its reporting on the management of disputes in such detail.

### **The Education Role**

The provision of real time reporting and notification to insurers and practitioners of important cases has been the subject of many messages of support.

There is no other entity which disseminates the variety of decisions as quickly as WIRO. The WIRO Bulletin is an important resource for those engaged in daily argument about the rights and entitlements of injured workers.

### **Information Collection and Analysis**

WIRO publishes data on its website every quarter, and, from to time, analysis of relevant information, which means that the data is current and provides very detailed statistics about lawyer performance and importantly about insurer performance.

This information is widely considered by stakeholders and service providers to the scheme.

### **Relationships**

I wish to stress the importance of the relationships that have been successfully maintained with insurers, lawyers, medical practitioners, report providers and other professional groups as well as the Unions through Unions NSW but also with individual unions.

## Conclusion

I thank the Honourable Victor Dominello MP for his support of this office and the assistance of his Chief of Staff, Matt Dawson and their colleagues

The office would not have the high reputation that it does without the dedication and passion of all members of the staff consistently throughout the year.

Kim Garling

## ABOUT THIS REPORT

Welcome to our Annual Report for the period from 1 July 2018 to 30 June 2019.

This Report provides a comprehensive account of how this office has carried out its statutory functions set out in section 27 of *the Workplace Injury Management and Workers Compensation Act 1998* (“WIMA”) and detailed below.

Section 27C WIMA obliges the Independent Review Officer to provide an Annual Report which is to include the following information:

- (a) the number and type of complaints made and dealt with under this Division during the year,
- (b) the sources of those complaints,
- (c) the number and type of complaints that were made during the year but not dealt with,
- (d) (repealed)
- (e) such other information as the Independent Review Officer considers appropriate to be included or as the Minister directs to be included.

As well as reporting on the activities of this office’s Solutions Group, which deals with the complaints mentioned above and the WIRO procedural review of work capacity decisions, the Report also provides information on the work of ILARS and the Operations Group.

The Report includes an update on various WIRO initiatives including its very popular educational seminars and advancements with respect to its data collection and analysis.

## ABOUT WIRO

### Our functions

The NSW Government established the WorkCover Independent Review Office (“WIRO”) in 2012 as part of its reform of the state’s workers compensation scheme. As the result of legislative changes effective on 1 September 2015, our name changed to the Workers Compensation Independent Review Office. However, we are still known as WIRO.

The statutory functions of the office, set out in s 27 WIMA are:

- (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,
- (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 addition, WIRO manages the Independent Legal Assistance and Review Service (“ILARS”) which funds the legal and associated costs for workers to be advised about their entitlements to compensation and where necessary to challenge decisions of insurers.

WIRO also runs an extensive education program for the benefit of the scheme’s stakeholders.



## Our structure

WIRO is a small office with 57 staff headed by the Independent Review Officer (“IRO”). WIRO’s functions are performed in the following way:

- The Director of the Solutions Group manages a team which includes a Manager and consisting of a team of 12 dispute resolution officers who operate the WIRO Call Centre and respond to the Enquiries and Complaints from injured workers.
- An Office of the General Counsel which includes the Director of Education to whom the Manager of Legal Education reports.
- The Independent Legal Assistance and Review Service (“ILARS”) consists of specialised workers compensation lawyers who consider applications from ILARS approved lawyers for legal assistance for injured workers.
- The Policy and Strategy team which is responsible for the development of all policy recommendations, engagement, education and communication with WIRO stakeholders.
- The Operations Group which is responsible for the management of the data collection, storage and analysis of the data together with ensuring that all the accounts are paid promptly and efficiently.

## Our leadership – Executive Management



### **Kim Garling – Independent Review Officer**

Kim Garling is a long serving member of the legal profession who has throughout his distinguished career made significant contribution to law reform in New South Wales. Kim is a past president of the Law Society of NSW.



### **Phil Jedlin – Director Operations**

Phil Jedlin is responsible for looking after employer/insurer complaints, WIRO’s IT and finance functions, data analysis and reporting and process improvement projects. Prior to starting at WIRO in November 2012, Phil spent 22 years at the CBA in a wide range of roles covering money market and equity dealing, product development, process improvement, project and change management. He was fortunate to have senior roles in both CommSec in its early days and in the implementation of CBA’s CRM system – CommSec. After he left CBA Phil completed the requirements to be admitted as a practising lawyer.



### **Roshana May – Director ILARS**

Roshana has over 30 years of experience as a lawyer and spokesperson in personal injury law, particularly in relation to statutory compensation schemes. She is a subject matter expert in workers compensation law and practice and has been involved in workers compensation policy formulation and representation for the legal profession for many years. Before she took up her current role she was involved in the NSW CTP reform process and was a member of the Ministerial Implementation Committee formed for the ‘new CTP scheme’. In her current role, Roshana oversees funding of private lawyers for injured workers in the workers compensation scheme.



### **Jeffrey Gabriel – Director Solutions**

Jeffrey Gabriel is an accredited specialist in personal injury law. He has been employed by WIRO since January 2013. Prior to that, Jeffrey was a solicitor in private practice where he acted for both claimants and insurers in a range of personal injury jurisdictions in New South Wales.



### **Wayne Cooper – General Counsel and Director Education**

Wayne Cooper commenced in the Workers Compensation field at the former Government Insurance Office in May 1987. In the intervening period, he worked mainly in private practice as both a barrister and a solicitor, before going to the former WorkCover Authority in 2002. In 2013 he joined WIRO and conducted more than 700 procedural reviews of work capacity decisions by 30 June 2019.



### **Maria MacNamara – Acting Director Policy & Strategy**

Maria is responsible for the Policy and Strategy functions at WIRO which incorporates education, communication and engagement with WIRO's stakeholder groups. Prior to joining WIRO, Maria was the Head of Strategy and Engagement for the Australian Government's Digital Transformation Agency. She has spent over 25 years advising legal and accounting firms in the transformation of underperforming practices. She is a non-executive director of The Spark Festival and the Australia-Israel Chamber of Commerce.

## **Our values and goals**

WIRO is able to carry out its statutory functions, which include advising on ways to ensure the best system for a fair and just compensation scheme for injured workers, with a strategy which includes:

- continuous review of the compensation processes
- driving the adoption of advanced technology
- recommending reforms
- managing disputes cost effectively
- funding claims for legal assistance for injured workers

At the heart of our values are the values of the NSW public sector. These values are integrity, trust, service and accountability. In addition to adopting these public-sector values WIRO has developed its own values which represent our staff and what the WIRO office stands for. WIRO's values are:

- independence – we are impartial, fair and just
- innovation - we find new and better ways of solving problems
- respect – we are generous, polite and honest
- collaboration – we work together harmoniously and focus on building unity
- accessibility – we encourage direct contact by stakeholders

We are successful when:

- we have an innovative, fair and efficient compensation scheme
- we have a well - respected process for the early resolution of disputes
- we have achieved a reduction in the funding of future legal claims
- there is a high awareness and satisfaction among the WIRO stakeholders

# THE SOLUTIONS GROUP

## Overview

Section 27 (a) WIMA provides that the Independent Review Officer has the function, “to deal with complaints made to the Independent Review Officer under this Division”.

Section 27A WIMA provides:

### **27A Complaints about insurers**

- (1) *A worker may complain to the Independent Review Officer about any act or omission (including any decision or failure to decide) of an insurer that affects the entitlements, rights or obligations of the worker under the Workers Compensation Acts.*
- (2) *The Independent Review Officer deals with a complaint by investigating the complaint and reporting to the worker and the insurer on the findings of the investigation, including the reasons for those findings. The Independent Review Officer’s findings can include non-binding recommendations for specified action to be taken by the insurer or the worker.*
- (3) *The Independent Review Officer is to deal with a complaint within a period of 30 days after the complaint is made unless the Independent Review Officer notifies the worker and the insurer within that period that a specified longer period will be required to deal with the complaint.*
- (4) *The Independent Review Officer may decline to deal with a complaint on the basis that it is frivolous or vexatious or should not be dealt with for such other reason as the Independent Review Officer considers relevant.*

## Expanded Jurisdiction

The provisions above were enacted as part of the 2012 workers compensation reforms. These reforms did not apply to exempt workers or coal miners. Therefore, the Solutions Group did not deal with complaints from parties to whom the 2012 changes creating WIRO did not apply.

In May 2018, the Minister for Finance, Services and Property, announced changes to the dispute resolution process for workers compensation. As part of the reforms, all enquiries and complaints from injured workers would be directed WIRO for assistance. Further, SIRA would cease to deal with complaints and enquiries made by any injured worker about workers compensation insurers. These reforms commenced on 1 January 2019. The effect on the Solutions Group was twofold. First, WIRO started to deal with complaints from exempt workers and coal miners for the first time. Secondly, workers who previously had the option to enquire with SIRA were directed to WIRO.

As the statistics show, WIRO experienced a large increase in the volume of complaints and enquiries across the reporting year. Most of the increase in volume occurred in the second half of the reporting year as a result of the dispute resolution reforms. By way of example, for the month of January 2019, WIRO opened 180% more complaints than January 2018 and 269% more enquiries. The Solutions Group was able to achieve this while maintaining our aim of no abandoned calls.

## The Enquiry and Complaint Handling Protocol

Shortly after WIRO’s establishment in 2012, a protocol was established with insurers in which they agreed to respond to a “preliminary enquiry” about a complaint within two business days of WIRO making contact. A preliminary inquiry would be generated within one day of a worker or their representative making a complaint to WIRO.

In WIRO's experience, the two-day response time set out in the protocol is met in almost all cases due to the cooperation received from the insurers, whose staff try to find a solution to the issue rather than strenuously defending their decision.

WIRO also assists with enquiries from workers that involve a request for information or guidance with respect to a claim. Since 1 January 2019, WIRO has experienced a significant increase in enquiries from injured workers asking how to make a claim and when to expect contact from the insurer or the employer. This is consistent with the types of enquiries that SIRA received prior to the reforms.

### **Outreach**

The WIRO Solutions Group and the IRO meet regularly with insurers to ensure ongoing cooperation and open communication between WIRO and insurers.

During the reporting period, the Solutions Group met Craig's Table, the Public Service Association, the Australian Meat Industries Employees Union (Newcastle and Northern), the Transport Workers Union (NSW), the State Insurance Regulatory Authority, QBE IfNSW, Coles Group, StateCover Mutual, the Accident Compensation and Conciliation Service (Victoria), Woolworths, Employers Mutual Limited, The Customer Experience Company and Wesfarmers.

Since 2016, WIRO has also published the monthly on-line Solutions Brief, which delivers relevant statistics, updates, information and case studies to subscribers. All editions of the Solutions Brief are published on WIRO's website.

### **Number and type of complaints**

Between 1 July 2018 and 30 June 2019 WIRO received 4,728 complaints and 7,099 enquiries. Considerably more than half of these matters were received in the second half of the reporting year, as a result of the dispute resolution reforms. Figure 1 also indicates the specific issues raised.

### **How complainants come into contact with WIRO**

WIRO's database records how a customer first contacted WIRO. This is shown in Appendix 1. Most complainants first attract the attention of WIRO via solicitors. There are two main reasons. A solicitor may apply for an ILARS grant to provide advice before a complaint arises or a solicitor may refer a complaint to WIRO.

The dispute resolution reforms that commenced on 1 January 2019 mandated that there be a reference to WIRO in all decision notices. WIRO has noticed a direct increase in contact from injured workers as a result of these mandatory references to WIRO.

### **Point of contact – How complaints are received**

In most cases, complaints are raised with WIRO directly by the injured worker or their representative by telephone. However, WIRO also receives complaints and enquiries via our website, by email and other means. The Solutions Group also works directly with the ILARS Group to ensure that, where appropriate, disputes are resolved expeditiously without the need for the workers compensation scheme to incur unnecessary legal costs.

### **Complaints finalised**

The Solutions Group resolved 4664 complaints during the current reporting year. More information including the types of issues dealt with is found in Appendix 1.

WIRO aims to resolve complaints within two clear business days and the majority are resolved within seven days. However, WIRO received 33 complaints that took more than 30 days to resolve. The table in Appendix 1 sets out the length of time a complaint is opened.

Figure 6 in the Appendix sets out the number of complaints finalised by WIRO this reporting year.

### **The Data Advantage**

The data that WIRO collects in relation to each complaint and enquiry is entered into a central database, which enables WIRO to analyse complaints and enquiries. WIRO can then analyse the types of complaints or enquiries made with respect to each insurer and the frequency that specific issues are raised regarding each insurer. This enables WIRO to identify the issues that require attention by the insurers.

As the first point of contact, WIRO is well placed to identify emerging issues before they are litigated. This means that WIRO can notify SIRA, insurers and other stakeholders about matters that require attention.

### **Systemic issues**

The Table in Appendix 3 identifies the number and types of complaints that WIRO received from injured workers about insurers. Based upon this data, WIRO identified systemic issues within the scheme, including regarding insurer behaviour and inconsistencies/conflict in legislation.

WIRO has successfully resolved many of the issues that have been identified, as evidenced by the case studies. The case studies also provide a basis for potential legislative reform.

### **Transition of claims from Allianz to GIO**

In last year's Annual Report, WIRO reported on a significant number of complaints regarding deterioration in service from QBE and CGU before their claims were transitioned to GIO. A large volume of complaints also related to a lack of response from GIO following the transition.

Towards the end of 2018, Allianz ceased to act as a scheme agent for iCare and many open claims were transferred to GIO. WIRO is pleased to report that the volume and intensity of complaints which occurred when QBE and CGU exited the scheme did not occur this time. We commend the relevant parties for their improved management of the claims transition process.

### **Responses to initial notification of injury**

WIRO receives a significant number of complaints from injured workers where insurers have failed to commence weekly payments of compensation within seven days of the receipt of the initial notification of an injury.

Section 267 *WIMA* requires an insurer to commence weekly payments under provisional liability within seven days of receiving initial notification of an injury.

Notwithstanding this obligation, an insurer is not required to commence weekly payments where it has a reasonable excuse as defined by the Guidelines. These include an assertion that insufficient medical information has been submitted or a dispute that the claimant is not a 'worker' for the purposes of the Acts.

Section 268 *WIMA* requires an insurer to notify the claimant in writing the details of the reasonable excuse that it relies upon for not commencing weekly payments within the initial seven day timeframe.

The justification for ss 267 and 268 is self-evident. It is important that an injured worker receives a prompt response to their claim at a time when they are injured, suffering a loss of income and are therefore vulnerable. A timely response allows the worker to better manage their affairs if the insurer's response to the claim is adverse, by (for example) obtaining early legal advice.

The written responses by insurers are extremely important as they set the tone for all subsequent exchanges between the worker and the insurer. Where a claim is likely to remain

open for a lengthy period it is important to cultivate a relationship of trust between the worker and their insurer. In our experience, a misstep by the insurer at an early stage in the life of a claim can be difficult to overcome.

WIRO has reported concern in our past two Annual Reports about the high volume of complaints in relation to breaches of ss 267 and 268 WIMA. In our view, this is an issue that requires ongoing attention by insurers. It is disappointing to report that the same defects we have reported continue to arise, to the detriment of injured workers.

This year, WIRO has expressed concern that the template letters as mandated by SIRA to be used by insurers to respond to initial notifications of injury are often not compliant with the requirement in Section 268(a) WIMA to provide the details of the reasonable excuse. These letters contain so much technical information that very few workers could possibly understand their rights. I have brought this to the attention of SIRA on many occasions.

### **Case Study**

The worker sustained a psychological injury. At the time, she told the employer via email that she was “having a hard time” with work. She obtained a Certificate of Capacity that diagnosed “stress” and submitted it to the insurer.

The worker complained to WIRO because she did not understand why weekly payments had not commenced.

The insurer advised WIRO that it relied upon the reasonable excuse “the injury was not reported within two months” because the email to the employer did not report an injury. It only reported a symptom. Further, it relied upon the reasonable excuse “insufficient medical information” because it did not accept the certificate provided which noted a diagnosis of stress.

WIRO suggested that the insurer may have breached s 268(a) because it did not clearly detail why the worker was not receiving weekly payments. There was no explanation about why it could not accept what the worker provided. The insurer maintained that it was faithful to s 268(a) because it outlined what information was required.

The provision in s 268(a) is a positive obligation, mandating that the insurer provides details of the reasonable excuse. Though insurers are not required to quote the language of the Guidelines, telling a worker what documentation or information it seeks is not the same thing as providing the details of the reasonable excuse. It is not enough to imply a reasonable excuse by suggesting that something is missing.

### **Case study**

An injured worker received a notice from the insurer within seven days of the insurer being notified of an injury. The notice contained the following passage:

*“Let us know if weekly payments are required.*

*We have been told that at this time help with weekly payments is not required. Should your circumstances change at any stage, please let us know.”*

The above passage suggested only one reasonable excuse existed. That is, weekly payments are not required. However, in the next passage, the notice stated:

*“We need more information before we can help with weekly payments.*

*We may be able to help you if you lose wages because of your injury too, but will need more information first:*

- *We need medical information about your injury.*

- *We need information that confirms you were employed when you were injured. For example, your employment contact, a payslip or a bank statement showing wages deposits.*
- *Please contact us as soon as you can.*
- *We need your authority to access personal or medical information about your injury.*
- *We need information that links your injury to work.*
- *We need information that shows you told your employer about your injury within two months of it happening.”*

The second passage suggested that many more reasonable excuses were in play than what was suggested by the first. For example, it asked for proof the worker notified the employer within two months even though the injury had occurred less than two months from the date of the letter. The letter also requested proof the worker was employed by the employer even though this was not in issue. The insurer is telling the worker what information it requires, rather than the details of the reasonable excuse.

These case studies are not isolated incidents. The number of complaints the Solutions Group deals with in relation to these notices would suggest that the format and content of the notices is deficient. This has been the subject of regular discussion with SIRA to no avail.

### **Insurers not responding when workers address reasonable excuses**

Many reasonable excuse notices tell workers that if they take certain action, the insurer will revisit its decision not to make weekly payments. Unfortunately, WIRO deals with many complaints where insurers are not true to their word.

#### **Case study**

An insurer reasonably excused weekly payments. The notice cited insufficient medical information because the worker did not obtain a Certificate of Capacity. It asked the worker to obtain a Certificate of Capacity to address the excuse. The worker obliged and sent a copy of the Certificate of Capacity to the insurer. The insurer did nothing for two months until the worker complained to WIRO. Following our enquiry, the insurer accepted liability. At no point did it explain why it had failed to act on receipt of the certificate for two months.

#### **Case study**

The worker’s union representative was advised the worker’s claim was reasonably excused. The reasonable excuse notice relied upon was insufficient medical information. The worker did not understand why this excuse was used because her GP had fully completed a questionnaire and the Certificate of Capacity provided was very detailed. Nevertheless, a claim form was completed and forwarded to the insurer. The Insurer confirmed to WIRO that it had received a claim form but more than 21 days had elapsed and it had not determined the claim. WIRO pointed out its statutory obligations. The Insurer agreed and formally accepted the worker’s claim.

### **Other Issues**

WIRO has also observed a cohort of smaller self-insurers issue defective dispute notices, even after having received legal advice.

#### **Case study**

The worker was injured in 2009. A prior lump sum claim was resolved in 2010 for 4% WPI. A further lump sum claim was made for 7% WPI (a further 3%). The self-insurer (a local Council) disputed the claim. WIRO identified the following deficiencies in the dispute

notice, which was drafted on by the insurer's lawyer and sent out on the lawyer's letterhead:

1. The street address of the Workers Compensation Commission was not supplied
2. The email address of the Registry of the Workers Compensation Commission was not supplied.
3. The part advising the procedure for requesting a review did not further advise that the review would be dealt with within 14 days pursuant to s 287A *WIMA*.
4. There was a sentence advising "The submission of a request for review will be taken as indicating your agreement to attend on any such" medical examination. This sentence is not consistent with s 287A *WIMA*. There is no requirement to attend a medical examination if a review is requested.
5. The dispute notice relied on "*the Section 66 threshold*" even though s 66 (1) does not apply to claims for further lump sum compensation.
6. The dispute notice disputed injury citing ss 4 and 9A *WCA*, even though the report attached from their expert opined that, "*The onset of symptoms appears to be related to the incident*" and that "*his activities...were an aggravating factor, and would be considered a contributing factor to the injury.*"

### Overpayment of weekly compensation

WIRO reported on this issue last year. Overpayment of weekly compensation and subsequent attempts to recover overpayments continue to be a problem in workers compensation in New South Wales. There are limited prescribed circumstances in which an insurer is entitled to recover overpayments of weekly compensation from an injured worker.

Section 235 *WIMA* holds that weekly payments cannot be assigned, nor can any claim be set off against that compensation. Section 235D *WIMA* allows SIRA to order a refund of any amounts that are overpaid if it is satisfied that the person has received the overpayment either as a result of, or partly as a result of, a contravention of s 235A *WIMA* (fraud on the workers compensation scheme) or s 235C *WIMA* (false claims).

WIRO has encountered other circumstances in which workers receive overpayments of weekly compensation. For example, where the insurer omits to deduct shift penalties and overtime allowances from its calculation of pre-injury average weekly earnings (PIAWE) after the first 52 weeks of weekly payments. As a result, the worker continues to receive weekly payments calculated at a higher rate.

This type of overpayment is not occasioned by any action by the worker and it is far more difficult for an insurer to recover it from the worker.

WIRO frequently receives complaints from workers that insurers were attempting to recover overpayments that were made because of the insurer's error.

### Case Study

The worker complained that his insurer was trying to recover an overpayment of weekly payments. He had been unaware that he was overpaid because his wife handled all the finances in their household. WIRO made an inquiry with the insurer. It explained that around \$3,000 had been overpaid between the employer and the insurer and that the worker had agreed to repay \$20 per week.

WIRO noted the case law whereby it was stated that courts are unlikely to order a worker to repay overpaid weekly payments that they received innocently or without blame. The



insurer subsequently advised that it would no longer pursue the worker for the overpayment.

Standard 23 of SIRA's Standards of Practice addresses overpayments. It recommends that insurers describe the error and negotiate a repayment plan. It also requires insurers to obtain informed consent before the commencement of any repayment plan.

However, Standard 23 is not consistent with current case law.

It is also important to note that Standard 23 only refers to the conduct of insurers and it does not refer to the conduct of an employer who is making payments to the worker.

### **Employer not paying weekly compensation at the correct rate**

WIRO deals with many complaints where employers are underpaying weekly payments or making variable payments week to week. These underpayments usually happen without the insurer's knowledge.

In some of these cases, employers retain all monies forwarded to them by the insurer but only pass on a smaller amount.

#### **Case Study**

The worker's lawyer complained that their client was being underpaid around \$450 per week. They sent a letter of demand giving the insurer and employer 7 days to correct the payments, but had not received a response. WIRO followed up with the insurer. It told WIRO that prior to our inquiry, they had become aware that the employer was not making the correct weekly payments.

It transpired that the employer disagreed with the insurer's calculation of PIawe and was making payments based on its own opinion. It was only recently that the insurer received payslips that confirmed the past underpayments.

The insurer subsequently advised WIRO that the worker had been underpaid around \$5,000 gross and that his ongoing weekly payments had been increased to the rate that it had calculated.

This is a major issue with Government Departments. It is not a decision for an employer to make. They are bound by the decision of the insurer.

### **Conclusions and Recommendations**

WIRO's rapport with insurers continues to facilitate the achievement of excellent outcomes for injured workers. Based upon information that WIRO has gathered during the consideration of the matters of concern to injured workers, we have identified the following issues within the scheme where improvement is required.

1. SIRA should revisit the templates that its claims managers use to communicate decisions regarding provisional weekly payments and reasonable excuses. These should use clearer and more direct language and ensure that any requests for further information are directly relevant to the reasonable excuses cited in the notice.
2. SIRA should provide self-insurers with more education regarding the operation of the Guidelines, particularly regarding the issue of reasonable excuse notices to workers and disputing liability. The case studies above clearly indicate the insurers' lack of understanding of the Guidelines, which causes unnecessary hardship for workers and undermines the relationship of trust that is essential to achieving optimal outcomes.
3. In every case in which an insurer seeks to recover an overpayment of weekly compensation from the worker, the insurer must be required to advise the worker of the

relevant provisions in ss 235 to 235D *WIMA* and that they are entitled to obtain independent legal advice or contact WIRO.

4. Standard 23 in the SIRA Standards of Practice, which concerns the overpayment of weekly payments, should be corrected.

## INDEPENDENT LEGAL ASSISTANCE AND REVIEW SERVICE (ILARS)

The NSW Government announced the establishment of ILARS in September 2012 and delegated its management operation to the WIRO. ILARS' primary function is to provide grants of funding to enable injured workers to access independent legal advice about their rights and entitlements at no cost to them. WIRO's procedures for administering grants made to lawyers are set out in the ILARS Policy.

Over the course of the financial year WIRO was able to recruit three additional Principal Lawyers to manage the increasing case load. Each Principal Lawyer has had in excess of 1,000 open grants to manage at any one time.

ILARS Principal Lawyers were able to meet their target of assessing applications and advise lawyers of the outcome within five (5) working days except in 2% of all applications where further information was required to enable approval to be considered. Urgent or expedited applications for funding were determined within 24 hours of receipt.

WIRO is focussed on facilitating quick and cheap resolution of disagreements or disputes and avoiding delay in achieving an outcome of a dispute. ILARS encourages Approved Legal Service Providers (ALSPs) to adopt the same practical approach and to harness the services and resources of WIRO in this regard.

As the repository of significant amounts of information and data about claims and disputes, WIRO is able to identify issues, trends and patterns in claimant outcomes and dispute resolution as they emerge.

ILARS acts on the data collected and responds to emerging trends, patterns and issues by adjusting its processes and providing educational material to lawyers to assist them in adapting to changes and providing up to date and cogent advice to injured workers.

ILARS funding is available to enable injured workers to challenge decisions of the Workers Compensation Commission and also courts on various terms as provided in the ILARS Policy. Funding to support a worker's right of appeal is obviously very important to the individual concerned but is often vital to clarify contentious legal issues that arise due to the complexity of the legislation.

An example this year has been the far-reaching issue raised in the matters of *RSM Building Services Pty Ltd v Hochbaum* [2019] NSWCCPD 15 and *Technical and Further Education Commission T/as TAFE NSW v Whitton* [2019] NSWCCPD 27.

The appeals concerned the application and interpretation of section 39 of the 1987 Act which provides that a worker's entitlement to payments of weekly compensation is only available for an aggregate period of 260 weeks, unless the worker's degree of permanent impairment resulting from injury is more than 20%.

The issue for determination on appeal is whether a worker is entitled to weekly payments of compensation, after the expiry of an aggregate period of 260 weeks and before the worker has

been assessed by an Approved Medical Specialist with a degree of permanent impairment that results from injury that is greater than 20%.

The issue will be particularly important where there has been a lengthy period between these events, for example in circumstances where the worker may have delayed surgery (and delayed assessment of the degree of permanent impairment).

ILARS has funded the injured worker's lawyer in appeals from the arbitral decisions in both these cases and the appeals from the decisions of the President of the Workers Compensation Commission to the Court of Appeal which will be heard in the new financial year.

In October 2018 the Government passed amendments to the workers compensation legislation effectively removing the barriers to lawyer's involvement as advisors and advocates in relation to disputes and disagreements about Work Capacity Decisions (see section 43, 1987 Act). ILARS revised and developed a funding policy to meet the anticipated demand for legal advice, created a new (fast tracked) application form (to accommodate new 'stay' provisions), and a Guide about the legislative changes particularly in relation to work capacity decisions in order that lawyers who were not acquainted with them could quickly gain an understanding of the changes which took effect on and from 1 January 2019.

ILARS also began a comprehensive review and update of its Funding Policy and various other documents and forms which included consultation with ALSPs. The new Policy and revised documents will be available in the new financial year.

The ILARS Director and staff participated in all Sydney based and regional seminars arranged to inform and disseminate information about reforms to the system and current trends and decisions.

## Key Metrics for year ended 20 June 2019

### ALSPs

For the year ending 30 June 2019, there were 865 lawyers who were WIRO-approved actively involved in workers compensation matters. In addition, 158 barristers approved by WIRO to undertake advocacy for injured workers were actively involved in workers compensation matters.

### Grants of funding

As at 30 June 2019, ILARS received 11,595 applications for grants of funding for legal assistance. Of those 11,011 applications (95%) were approved or were pending approval.

Consistent with WIRO's commitment to providing workers access to early legal advice about their rights and entitlements, and given the complexity of the legislation and benefits arrangements, WIRO broadened funding to cover provision of legal advice about a Work Capacity Decision, a 'threshold' issue (for example continuation of medical treatment beyond 2 or 5 years, section 39 cessation of weekly payments, qualification for lifetime medical treatment, worker with high needs or highest needs excluding qualification for work injury damages alone), and preliminary legal advice. WIRO amended its policy concerning the funding of appeals to the Presidential Unit of the Commission, Supreme Court and Court of Appeal resulting in all appeals being 'conditionally funded subject to outcome' and a number of appeals being fully funded, and in at least one matter the worker was indemnified by WIRO against a potential costs order.

Less than 1% of all applications were declined.

### Payments

ILARS paid out approximately \$38.5M in professional fees and approximately \$23.4M in

disbursements. A full breakdown of the types of payments made and other statistical information with respect to grants appears in Appendix 2.

### Data collection

The information obtained from ILARS has enabled WIRO to develop a unique and comprehensive program available for the benefit of lawyers and their clients. The data collected is utilised to assist lawyers to better understand their practice and their efficiency compared with other lawyers in their area or across the whole scheme. Approved lawyers can identify opportunities to improve their performance and practice which results in the more efficient resolution of disputes.

### Observations from ILARS Funding

Through analysis of information collected through ILARS, WIRO was able to identify that the early section 78 notices were 'non-compliant' with the amended legislation. WIRO engaged in discussions with icare and some self-insurers about the form and content of their 'new' notices, referring instances of incomplete or incoherent notices to the attention of the insurer for their consideration and re-drafting.

WIRO availed itself of opportunities to obtain an early resolution of a dispute without the need for more formal dispute resolution in a number of claims brought, particularly against icare or its agents. In co-operation with icare, a significant number of section 39 cessations have been avoided, section 78 notices have been withdrawn and benefits continued and liability for claims for death benefits have been accepted.

The operation of WIRO funding means that ILARS is in direct contact with all lawyers representing all injured workers in NSW seeking legal advice and/or pursuing a claim for workers compensation (with the exception of workers exempt from the amendments made in the *Workers Compensation Legislation Amendment Act 2012*).

In addition to ILARS data collection this relationship and communication means that ILARS is in a unique and advantageous position to gather information with respect to important trends and patterns and emerging problems with respect to dispute resolution and workers' claims experience.

Of those claims for permanent impairment compensation (pursuant to section 66 of the 1987 Act) approximately 26% of resolutions resulted in a whole person impairment of between 20 and 30%, and 8% resulted in a whole person impairment of more than 30%. The implications of these numbers will be felt in lifetime medical expenses and continuation of weekly payments of compensation beyond 260 weeks.

## PROCEDURAL REVIEWS OF WORK CAPACITY DECISIONS

One of the original functions of the WIRO conferred by s 27 *WIMA* was:

- (b) to review work capacity decisions of insurers under Division 2 (Weekly compensation by way of income support) of Part 3 WCA.

The legislation was amended in 2018 to delete section 27(b). This was part of a set of reforms expanding the jurisdiction of the Workers Compensation Commission, which now has the power to determine disputes arising out of work capacity decisions. The amendments took effect on 1 January 2019, with transitional arrangements in place to allow for the resolution of existing disputes under the former system until 30 June 2019. As a result, a small number of procedural reviews were conducted by WIRO in the 2019 calendar year.

Section 27C(d) *WIMA* provided that the WIRO Annual Report must include "information on the

operation of the process for review of work capacity decisions of insurers during the year and any recommendations for legislative or other improvements to that process.” These recommendations appear below.

**The Year in Numbers**

In the current reporting year, WIRO conducted 22 procedural reviews of work capacity decisions. As at 30 June 2019, no applications were outstanding or in-progress.

**Trends**

The overall trend continued to show that insurers complied with the legislation, the Regulation and the Guidelines, making it less likely for workers to succeed with overturning work capacity decisions on procedural grounds. On this basis alone, it might be thought that procedural review had served its purpose and had little further to offer.

Total Recommendations	Worker Successful	Worker Unsuccessful
19 (100%)	4 (21%)	15 (79%)

In the previous year 2017-2018, workers had an identical success rate of 21%. The number of applications to WIRO in 2018-2019 was precisely 50% of the number received in the previous year.

Between July 2013 and June 2019, WIRO conducted 747 procedural reviews. The statistics are as follows (rounded to the nearest percentage):

Total Recommendations	Worker Successful	Worker Unsuccessful
747 (100%)	394 (53%)	353 (47%)

**Judicial Review by the Supreme Court of New South Wales**

The Supreme Court has inherent jurisdiction to oversee the administration of justice, including the scrutiny of decisions made by insurers and public servants that impact on the rights of injured workers. In the current year there were no applications for judicial review.

**OTHER INITIATIVES**

**Education**

A major and increasingly important function of WIRO is as an educator to various scheme stakeholders and service providers.

There has continued to be huge support for the Sydney seminar, with the last event in February 2019 attracting over 500 delegates attending in person at the International Convention Centre. 200 delegates accessed the conference on line via live stream which was a first for WIRO. The seminar concentrated on recent reforms to the workers compensation dispute resolution system which came into effect on 1 January 2019.

The conference also provided a useful venue for various WIRO representatives to present analyses of interesting trends and statistics revealed by WIRO’s data collection and an update of WIRO policy and procedure.

In addition to the Sydney seminars, WIRO also conducted regional seminars for ILARS lawyers in Ballina (40 delegate registrations), Wollongong (97 delegate registrations), Newcastle (180 delegate registrations) and Orange (25 delegate registrations) in April and May 2019.

WIRO’s educational program is aimed at improving the standard of knowledge, competency and efficiency amongst the stakeholders in the workers compensation scheme, with obvious benefits

for injured workers. It also aims to provide forums in which emerging issues and difficulties within the scheme and the dispute resolution model can be identified, discussed and hopefully resolved.

Legal practitioners who attend WIRO's seminars are entitled to claim CPD points and insurer delegates can also earn CPD points from the National Insurance Brokers Association.

WIRO's ongoing commitment to education is evidenced by the creation of a specialist position of Manager of Legal Education within the Office of the General Counsel.

The Manager of Legal Education is responsible for the WIRO Bulletin, which is published monthly and provides an analysis of recent decisions from all relevant Courts and Tribunals and information regarding amendments to legislation, regulations, Fees Orders and emerging trends. All issues of the Bulletin are available for viewing and download from WIRO's website.

In addition, WIRO also delivers immediate updates to subscribers about emerging issues and developments via its email WIRE publication – the WIRO Wire. This is a valuable educational resource for all stakeholders within the scheme. All WIRO Wires are available for viewing and download from WIRO's Website.

WIRO also publishes a Solutions Brief, which is directed at lawyers and insurers, which includes snapshots of the types of problems that are raised with and resolved by the Solutions Team. It also contains statistical information regarding complaints and enquiries that have been received and resolved and an analysis of trends that have been identified from those statistics, which is particularly relevant for insurers. All Solutions Briefs are available for viewing and download from WIRO's website.

Based upon an analysis of data collected under the ILARS scheme WIRO can provide a report to stakeholders regarding their performance within the workers compensation scheme. This service is available upon request and it has been utilised by stakeholders including Law Firms, Insurers and Self and Specialised insurers and it has proven to be an effective tool for identifying, addressing and overcoming particular issues that inhibit performance and assist in achieving better outcomes.

In addition, WIRO also publishes all work capacity procedural reviews and annual reports, which are available for viewing and download from the WIRO website.

## **Employer / Insurer Relations**

Section 27(d) *WIMA* provides:

### **27 Functions of Independent Review Officer**

*The Independent Review Officer has the following functions:...*

- (d) *to encourage the establishment by insurers and employers of complaint resolution processes for complaints arising under the Workers Compensation Acts.*

One of the outcomes of the Dispute Resolution Project was the transfer of these functions to SIRA from 1 January 2019.

Between 1 July 2018 and 31 December 2018 64 complaints were received from employers. These complaints had 90 issues. The table below shows the outcomes for each case against the relevant primary issue.

Outcome	Insurer management of claim	Issues Relating to Liability	Other	Premium Determination	Grand Total
Case Withdrawn	2				2
Completed - Employer not Satisfied	17			1	18
Enquiry - Information Provided	4	9	2	1	16
No further action	3	1			4
Resolved Employer Satisfied	17	1		6	24
<b>Grand Total</b>	<b>43</b>	<b>11</b>	<b>2</b>	<b>8</b>	<b>64</b>

Of the 26 matters with a secondary issue, 25 have a secondary issue of 'Issues Relating to Liability'. 16 of these matters have an outcome of 'Completed - Employer not Satisfied'. Many of these matters were claims where injured workers had a psychological injury.

The following issues of concern have been raised by NSW Employers.

- Employers regularly complain that the cost of the experienced rated premium charge has been made considerable larger due to the non-urgent management of the claim by icare's agent. Each week an injured worker is off work will have impact on the employer's premium for the next 3 years.
- Employers have complained that during the early life of a claim it is essential that they have prompt and reliable access to the Claims Managers, particularly when they request that a claim be placed under reasonable excuse within 7 days of notification of an injury under s 261 *WIMA*.
- Many Employers have reported that psychological claims have been accepted without due diligence being undertaken, which may be due to its overwhelming workload. Small and medium employers would benefit from further education on understanding and managing psychological claims. This would help reduce the number of future complaints and reduce a lot of anger within the compensation system.
- WIRO notes that in response to several recent inquiries, insurers have responded to the effect that it feels "hamstrung" by this process. As a result, insurers often lack the medical evidence required to enable a proper determination of liability.

WIRO continues to enjoy a productive and professional working relationship with representatives of iCare, SIRA, EML, the TMF Agents and the numerous Self and Specialised Insurers. Their response times to many complex enquiries raised by WIRO during the current reporting year has been exceptional and the Enquiry and Claims Handling Protocol that has been in place since WIRO's inception remains unmatched within the NSW Scheme.

While WIRO is not always able to facilitate a positive outcome for Employers, the information obtained by the insurers under the Protocol is invaluable and enables WIRO to assist Employers with the management of complex claims.

WIRO remains committed to assisting all stakeholders as the current Model evolves and matures.

In WIRO's view, further education is required to ensure that all small business owners in NSW are made aware of their obligation to hold a current workers compensation insurance policy

where they employ any workers within NSW as the financial repercussions of operating uninsured can be devastating.

An uninsured employer may be liable to reimburse the Nominal Insurer for an amount not exceeding the compensation paid to an injured worker under s 145 WCA and they may also be liable to a fine by SIRA for their failure to hold a current insurance policy at the date of the injury.

## OPERATIONS TEAM

The Operations team is responsible for

- Managing Resolve administration, changes and upgrades
- ILARS Application and Invoice processing
- Processing and approving invoices from Medical Report Providers
- Providing first level support for WIRO IT needs and liaison with BRD
- Managing WIRO Accounts Payable, Budget and Financing
- Managing human resources functions for all WIRO staff including recruitment, onboarding and offboarding
- Managing general office administration functions
- Purchasing and maintenance of office and IT equipment
- Providing data analysis and regular reports for the WIRO, ILARS, Solutions, Policy and Strategy, General Counsel and for publication.
- Providing general support for WIRO's other business units.
- Technology and Process Improvement

During the year WIRO was involved in a number of technology projects.

Firstly, WIRO was part of Wave 5 of the DFSI SAP implementation and worked closely with the SAP Connect team to ensure WIRO's requirements were incorporated in the project.

The implementation of SAP supported by GovConnect would have a major impact on WIRO's operations particularly in relation to the payments of grants to ALSPs. Under the previous system WIRO managed the approval of a grant and subsequent invoices in our Resolve case management system.

Approved invoices including a pdf copy were forwarded to BRD Accounts Payable in Gosford for manual input into Oracle financials. Law firm financial information including bank account details was managed by the Accounts Payable team. This team input over 10,500 non-PO invoices into Oracle during the year.

DFSI's implementation of SAP was focused on Purchase Orders (POs) as the prime method for paying invoices. Non-PO payments took more time and the GovConnect charging model penalised business units for using this payment process.

As ILARS grants did not fit into the PO process, WIRO worked closely with the SAPConnect project team to find a more efficient and cost-effective method to process ILARS invoices. The SAP Connect team designed a simple batch file approach where approved payments from Resolve would be passed directly to SAP at the end of each day.



This would work as WIRO's case management system Resolve managed the grant (purchase order), goods receipting (the ILARS lawyer checking the invoice was in terms of the grant) and the invoice and vendor validation.

The above process was introduced on 2 October and WIRO has processed over 8800 payments to law firms up to 30 June 2019.

In addition to the passing of a payments file to SAP, WIRO needed to make changes to Resolve to manage Law Firm financial information. WIRO took this opportunity to make other process improvement changes to Resolve to improve ILARS' productivity in managing over 16,000 open grants.

Secondly, Since May 2017 WIRO has entered in arrangements with over 10 providers of Medico-Legal Reports. Under this arrangement WIRO will on a monthly basis reimburse the medical report provider directly rather than reimbursing the individual law firm.

WIRO also entered into an agreement with a company where lawyers could electronically request medical reports and clinical notes.

The invoice for the requested service or documents for each ILARS case is then included in a monthly bulk invoice to WIRO for payment. WIRO then matches the fees and charges to each ILARS case which has become a major administrative task.

The Operations Team worked with Resolve to create a process to import the monthly spreadsheet and create individual invoices for each relevant case. This change was introduced in December and has successfully created over 5000 invoices. The new process has reduced the data entry and verification tasks from 12 steps to 4. The time taken to process and verify these monthly invoices has been reduced around 75%.

Thirdly, the Operations team has worked with both the Solution and ILARS teams to make a range of minor changes to Resolve to improve the quality of the data collected.

Fourthly, the Operations team managed the upgrade of all PC's and laptops from Windows 7 to Windows 10 and the move to Office 365.

Fifthly, the Operations team worked with Resolve to upgrade overnight all WIRO PC's and laptops and servers to Resolve version 11.1.

## Data

WIRO collects extensive data on all Complaints, Enquiries, ILARS grants, Employer Complaints and Work Capacity Procedural reviews it receives. The data captured includes complainant details, type and body location of injury, the lawyer (for ILARS matters) representing the injured worker, the name of the insurer, the issues of the dispute, the outcome of the matter and for ILARS the amounts paid to the lawyers.

WIRO believes that by making the dispute process more transparent all stakeholders can better understand blockages, roadblocks and issues in the dispute process.

WIRO uses the data for 3 main purposes.

1. Firstly, WIRO publishes quarterly reports on its website and presents data analysis (which is also published) at our seminars. Most of the data published by WIRO is not available from any other participants. The published data helps improve transparency within the workers compensation dispute process.
2. Secondly, WIRO uses the data to look at trends and patterns in behaviour for similar cases. This helps WIRO identify issues in the workers compensation scheme that may need to be improved. WIRO continued work with an Artificial Intelligence company using

IBM Watson technology to analyse ILARS data with a view to identifying sub-optimal practice behaviour in managing ILARS matters. This analysis is being conducted from the various perspectives of (a) an applicant law firm, (b) a respondent law firm and (c) an insurer.

3. Thirdly, WIRO produces data analysis for law firms to help them understand how their application quality, issues, outcomes and invoices compare to the industry average. This helps law firms better understand their practice and improve their productivity. Similar reports are produced for insurers.

WIRO commenced a pilot with a Sydney based AI firm. The aim of the pilot is to provide easier access to and analysis of WIRO's data for staff.

## APPENDIX 1

### SOLUTIONS GROUP STATISTICS

#### Complaint and Enquiry Issues

Figure 1

Issue	Complaint Number	%	Enquiry Number	%
Communication (secondary issue only)	27	0%	1,873	26%
Delay in determining liability	1,431	24%	1,137	16%
Delay in payment	558	11%	152	2%
Denial of liability	341	7%	719	10%
Further Inquiry (secondary issue)	78	2%	3	0%
Hearing loss WPI	1	0%	14	0%
ILARS lawyer complaint	12	0%	252	4%
IME/IMC	157	3%	259	4%
PIAWE	239	5%	200	3%
Rehabilitation	279	5%	604	8%
RTW	148	3%	547	8%
S126	295	6%	129	2%
S39	42	1%	155	2%
Weekly benefits	1346	26%	930	13%
Work Capacity Decision	43	1%	196	3%
<b>Total</b>	<b>5,084</b>	<b>100%</b>	<b>7,196</b>	<b>100%</b>

Note: A case may have more than 1 issue

#### How complainants come into contact with WIRO

Figure 2

Source	%	Number
Lawyer	59%	6,938
Web search	12%	1,391
iCare/SIRA	9%	1,121
Word of Mouth	6%	735
Government Department	4%	423
Insurer	2%	290
Union	2%	259
Other source	2%	250
Doctor	2%	210
Rehabilitation Provider	1%	97
Workers Compensation Commission	0%	34
Employer	0%	31
WIRO Campaign	0%	32
Referral source not provided - Enquiries	0%	15
<b>Total</b>	<b>100%</b>	<b>11,826</b>

## How complaints are received

Figure 3

How Received	Number of Cases
<b>Complaint</b>	<b>4,728</b>
Email	1,167
In Person	12
Letter	4
Telephone	3,074
Website	327
ILARS	144
<b>Enquiry</b>	<b>7,098</b>
Email	582
In Person	22
Letter	11
Telephone	6,282
Website	176
ILARS	25
<b>Grand Total</b>	<b>11,826</b>

## Complaint timeliness

Figure 4

Issue	A - Same day	B - Next day	C - 2 to 7 days	D - 8 to 15 days	E - 16 to 30 days	F - more than 30 days	Grand Total
Delay in determining liability	64	128	902	273	58	5	1,430
Weekly Benefits	56	80	713	317	112	13	1,291
Delay in payment	17	43	316	113	38	3	530
Denial of liability	36	27	181	66	13		323
S126	13	35	188	42	10	1	289
Rehabilitation	23	15	139	60	16	1	254
PIAWE	16	9	96	61	33	9	224
IME/IMC	19	13	78	26	7	1	144
RTW	21	3	71	28	12		135
S39	4	5	20	6			35
Work Capacity Decision	4	4	14	8	4		34
Communication (secondary issue only)	12	2	10	2	1		27
ILARS Lawyer Complaint	8	1					9
Further Inquiry (secondary issue only)				1	1		2
Hearing Loss WPI			1				1
<b>Grand Total</b>	<b>293</b>	<b>365</b>	<b>2,729</b>	<b>1,003</b>	<b>305</b>	<b>33</b>	<b>4,728</b>

## Complaints outcomes

Figure 5

Outcome	Other Insurer incl. Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
<b>Communication (secondary issue only)</b>	<b>3</b>	<b>11</b>	<b>3</b>		<b>8</b>	<b>25</b>
<b>Complaint Declined – Out of Jurisdiction</b>		<b>2</b>				<b>2</b>
<b>Complaint Declined -- Premature, Refer to Insurer</b>		<b>5</b>	<b>1</b>		<b>1</b>	<b>7</b>
<b>Delay in determining liability</b>	<b>23</b>	<b>885</b>	<b>203</b>	<b>94</b>	<b>236</b>	<b>1,441</b>
<b>Medical treatment</b>	<b>2</b>	<b>436</b>	<b>99</b>	<b>49</b>	<b>125</b>	<b>711</b>
Insurer inside timeframes ND	2	80	15	11	14	122
Insurer outside timeframes ND		72	10	4	12	98
IW referred to an IME		6	1	2	4	13
Liability determined inside timeframes		100	26	7	34	167
Liability determined outside timeframes		178	47	25	61	311
<b>Recurrence / Whole claim</b>	<b>15</b>	<b>284</b>	<b>77</b>	<b>33</b>	<b>80</b>	<b>489</b>
Insurer inside timeframes ND	4	82	23	11	31	151
Insurer outside timeframes ND	4	51	8	3	9	75
Liability determined inside timeframes	4	60	14	11	23	112
Liability determined outside timeframes	3	91	32	8	17	151
<b>Weekly Benefits / Medical Treatment</b>	<b>3</b>	<b>87</b>	<b>22</b>	<b>9</b>	<b>20</b>	<b>141</b>
Insurer inside timeframes ND	2	16	7	2	6	33
Insurer outside timeframes ND		8			1	9
Liability determined inside timeframes	1	24	7	4	7	43
Liability determined outside timeframes		39	8	3	6	56
<b>Section 66</b>	<b>3</b>	<b>78</b>	<b>5</b>	<b>3</b>	<b>11</b>	<b>100</b>
Counter offer made		5		2	1	8
Insurer inside timeframes ND	3	13		1	2	19
Insurer outside timeframes ND		18	2			20
IW referred to an IME		3				3
Liability determined inside timeframes		4	1			5
Liability determined outside timeframes		35	2		8	45
<b>Delay in payment</b>	<b>7</b>	<b>280</b>	<b>85</b>	<b>27</b>	<b>101</b>	<b>500</b>
<b>Medical/Travel</b>	<b>2</b>	<b>154</b>	<b>43</b>	<b>14</b>	<b>52</b>	<b>265</b>
Claim disputed		10	4		5	19
Claim not received		23	7	2	6	38
Correct amount paid after PI	2	72	26	10	27	137
Providers invoices not paid		7	2	2	2	13
Claim already paid		42	4		12	58
<b>COD / Settlement</b>	<b>5</b>	<b>126</b>	<b>42</b>	<b>13</b>	<b>49</b>	<b>235</b>
Insurer admin error	4	55	19	5	14	97
Interest Obtained		1	1	1	4	7
Lawyer hasn't provided all documents required	1	7	4	1	7	20
Interpretation of terms dispute		17	5	1	8	31
Centrelink and/or Medicare delay		46	13	5	16	80

Outcome	Other Insurer incl. Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
<b>Denial of liability</b>	<b>2</b>	<b>181</b>	<b>49</b>	<b>17</b>	<b>55</b>	<b>304</b>
Incorrect notice given		13	5	1	6	25
Insurer maintain denial on review	2	124	37	10	40	213
IW required to attend an IME		13	4	3	4	24
Insurer overturns decision after PI		31	3	3	5	42
<b>ILARS Lawyer Complaint</b>		<b>9</b>		<b>1</b>		<b>10</b>
Refer worker to the OLSC		7				7
Updated the WIRO Principal Lawyer		2		1		3
<b>IME/IMC</b>	<b>4</b>	<b>69</b>	<b>19</b>	<b>9</b>	<b>41</b>	<b>142</b>
Choice of 3 IMEs not provided		5	1		5	11
Complaint about the IME doctor		11	3	1	10	25
Inconvenient location	1	25	8	2	8	44
Insufficient notice provided	2	13	4	4	10	33
No contact made with treating doctors prior to referral	1	15	3	2	8	29
<b>Investigation discontinued</b>		<b>5</b>				<b>5</b>
<b>NRTC</b>	<b>1</b>	<b>5</b>	<b>1</b>			<b>7</b>
<b>S60/ Weekly Benefits</b>	<b>1</b>	<b>5</b>	<b>1</b>			<b>7</b>
Claim accepted before enquiry		1	1			2
Claim denied after enquiry	1					1
Insurer not on risk		1				1
Insurer outside timeframes		3				3
<b>PIAWE</b>	<b>4</b>	<b>171</b>	<b>10</b>	<b>8</b>	<b>29</b>	<b>222</b>
Insurer changes PIAWE		60	3	3	9	75
Insurer maintains decision	1	39	4	3	8	55
Review process explained	3	72	3	2	12	92
<b>Rehabilitation</b>	<b>1</b>	<b>92</b>	<b>10</b>	<b>4</b>	<b>23</b>	<b>130</b>
ADL assessment approved		67	7	2	13	89
ADL not approved		11	3	1	3	18
IMP	1	9		1	5	16
Insurer not complied with obligations		4		1		5
IW not complied with obligations		2			1	3
No current IMP	1	3			4	8
<b>Work Trial not suitable</b>		<b>5</b>			<b>2</b>	<b>7</b>
<b>RTW</b>		<b>17</b>	<b>2</b>	<b>2</b>	<b>12</b>	<b>33</b>
<b>Job Seeking Diaries</b>		<b>2</b>		<b>1</b>	<b>2</b>	<b>5</b>
Not provided to insurer		1		1	1	3
Suspension s48A					1	1
Too many jobs required		1				1
<b>Suitable Employment</b>		<b>15</b>	<b>2</b>	<b>1</b>	<b>10</b>	<b>28</b>
S/duties provided		15	2	1	10	28
<b>S126</b>	<b>3</b>	<b>174</b>	<b>43</b>	<b>19</b>	<b>38</b>	<b>277</b>
Documents not provided	1	34	4	3	4	46
Documents provided	2	140	39	16	34	231

Outcome	Other Insurer incl. Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
<b>S39</b>	<b>1</b>	<b>23</b>	<b>2</b>	<b>2</b>	<b>6</b>	<b>34</b>
IME - Incorrect notice period				1		1
Insurer accepts worker is over 20%		4		1	3	8
Worker referred to an ALSP	1	19	2		3	25
<b>Weekly Benefits</b>	<b>10</b>	<b>915</b>	<b>114</b>	<b>76</b>	<b>148</b>	<b>1,263</b>
Correct amount paid after PI	3	442	59	45	86	635
Delayed payment	3	210	21	11	23	268
Overpayment deducted without agreement	1	14	1	2	9	27
Suspension maintained		11	4	2	3	20
Suspension overturned		5		1		6
Weekly payments suspended		13	4		4	21
Payments stopped	3	220	25	15	23	286
<b>Work Capacity Decision</b>		<b>17</b>	<b>3</b>	<b>4</b>	<b>13</b>	<b>37</b>
Application not received by insurer/MRS		7		1	4	12
WCD not received/delayed		4	1		4	9
Work Capacity Decisions (non-PIAWE)		6	2	3	5	16
<b>Outcome not yet recorded</b>		<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>6</b>
<b>Chapter 3</b>	<b>3</b>	<b>137</b>	<b>27</b>	<b>5</b>	<b>47</b>	<b>219</b>
<b>Rehabilitation</b>		<b>82</b>	<b>15</b>	<b>2</b>	<b>29</b>	<b>128</b>
Case conference cancelled		10	3		3	16
Rehab provider changed		30	8	1	15	54
Rehab not required		30	1	1	7	39
Rehab provided s41A		12	3		4	19
<b>Return to Work</b>	<b>3</b>	<b>55</b>	<b>12</b>	<b>3</b>	<b>18</b>	<b>91</b>
Duties not suitable	1	15	3	1	5	25
Workplace assessment required	1	5	1		5	12
RTW plan amended		18	6	1	2	27
Duties not provided by employer	1	17	2	1	6	27
<b>Grand Total</b>	<b>62</b>	<b>3,000</b>	<b>573</b>	<b>270</b>	<b>759</b>	<b>4,664</b>

## Number and type of 2017-18 complaints finalised this reporting year

**Figure 6**

Issue	Number of cases
Communication (secondary issue only)	1
Delay in determining liability	9
Delay in payment	7
Denial of liability	3
PIAWE	3
RTW	2
S126	2
Weekly Benefits	20
<b>Grand Total</b>	<b>8</b>

## APPENDIX 2

### ILARS STATISTICS

#### Amounts paid

Payment Type	Total amount	Number of payments	% of disbursements	Average amount
Professional fees	\$38,509,853	12,218		\$3,152
Medico-legal Reports	\$16,472,247	13,868	71%	\$1,188
Barrister Fees	\$2,717,430	1,844	12%	\$1,474
Clinical Notes	\$1,720,221	15,270	7%	\$113
Treating Specialist Report	\$572,361	1,244	2%	\$460
NTD Report	\$302,240	885	1%	\$342
UHG Service Fee	\$615,610	8,215	3%	\$75
Travel	\$392,805	2,046	2%	\$192
Barrister Country Loading	\$221,737	346	1%	\$641
Interpreter	\$128,689	752	1%	\$171
Non-attendance fee	\$83,428	313	0%	\$267
Solicitor Loading	\$55,930	84	0%	\$666
Other	\$65,882	345	0%	\$191
Meal Allowance	\$7,484	114	0%	\$66
<b>Total</b>	<b>\$61,865,918</b>	<b>57,568</b>		
<b>Total Professional Fees</b>	<b>\$38,509,853</b>		<b>62%</b>	
<b>Total Disbursements</b>	<b>\$23,356,064</b>		<b>38%</b>	

#### Types of Injury for ILARS Grants

Injury location	Percentage
Ear	22%
Back	16%
Psychological system	15%
Multiple -Trunk and limbs	7%
Shoulder	6%
Knee	6%
Multiple -Neck and shoulder	5%
Hand, fingers and thumb	3%
Other leg	2%
Other head	2%
Upper limb – multiple locations	2%
Other body location	2%
Wrist	1%
Neck	1%
Death	1%
Ankle	1%
Foot and toes	1%
Internal Body System	1%
Other arm	1%
Hip	1%
Trunk – multiple locations	1%
Abdomen and pelvic region	1%
Elbow	1%
<b>Total</b>	<b>100%</b>



## Nature of Injury

Nature of Injury	Percentage
A. Intracranial injuries	1%
B. Fractures	4%
C. Wounds, lacerations, amputations and internal organ damage	2%
D. Burn	0%
E. Injury to nerves and spinal cord	15%
F1. Trauma to joints and ligaments	13%
F2. Trauma to muscles and tendons	19%
G. Other injuries, Poisoning, Electrocutation, heat stress etc	0%
H1. Joint diseases (arthropathies) and other articular cartilage diseases	0%
H2. Spinal vertebrae and intervertebral disc diseases	4%
H4. Diseases of muscle, tendon and related tissue	0%
H5. Other soft tissue diseases	0%
I. Mental disorders	15%
J. Digestive system diseases	0%
K. Skin and subcutaneous tissue diseases	1%
L. Nervous system and sense organ diseases	22%
M. Respiratory system diseases	1%
N. Circulatory system diseases	0%
O. Infectious and parasitic diseases	0%
P. Neoplasms (cancer)	1%
Q. Other diseases	0%
R. Other claims	0%
S. Death	2%
Not Recorded	1%
<b>Grand Total</b>	<b>100%</b>

## ILARS Outcomes

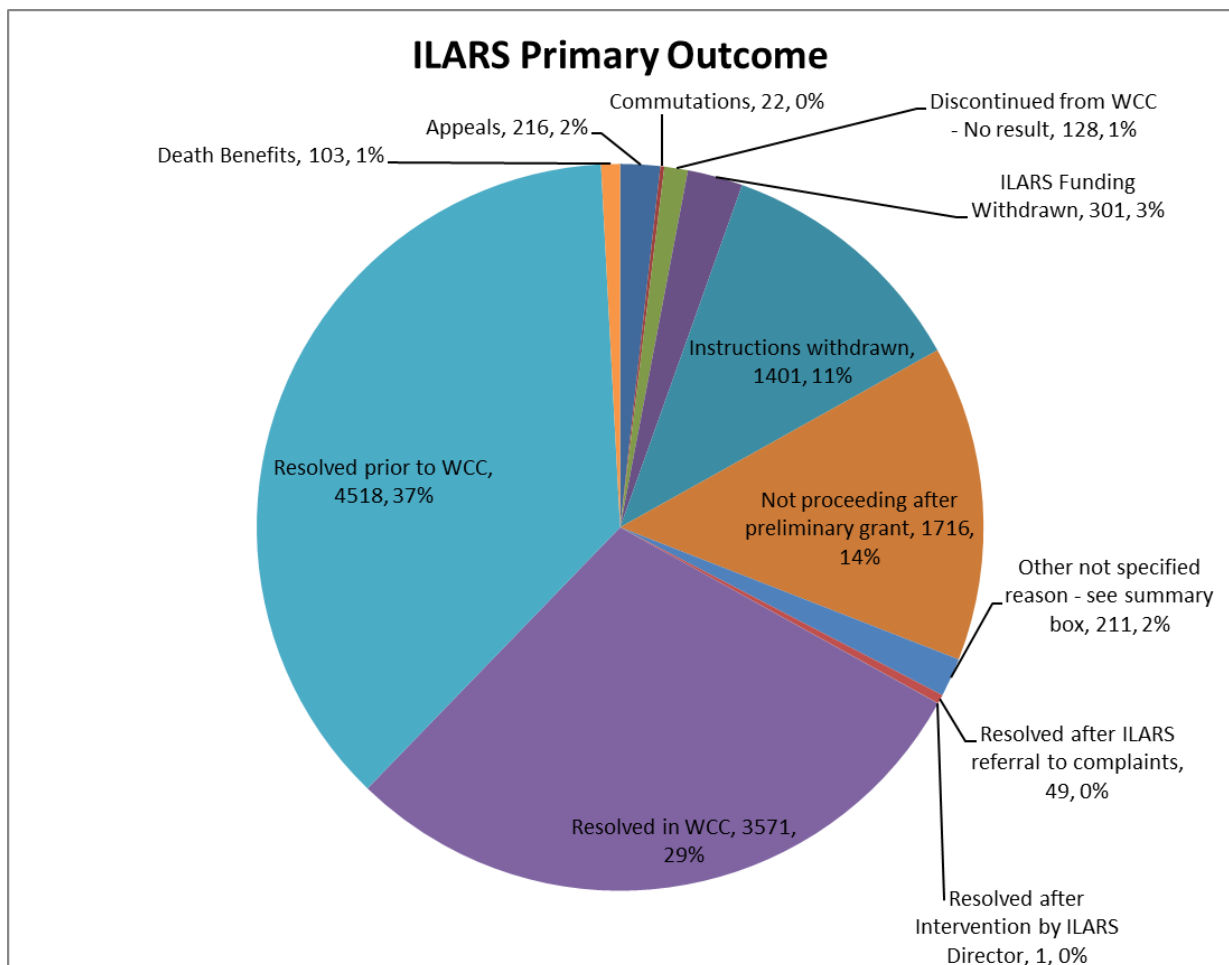
Outcome	Outcome not achieved	Grant achieved outcome
<b>Grant application declined</b>	<b>23</b>	
<b>ILARS Funding Withdrawn</b>	<b>301</b>	
Cram Fluid Applies	1	
Not Recorded	4	
Not eligible for funding - (e.g. worker determined to be exempt worker)	37	
No Response to ILARS Follow Up	257	
Old Costs provisions apply	1	
Not eligible for funding	1	
<b>Instructions withdrawn</b>	<b>1,401</b>	
Instructions withdrawn	1,029	
File transferred to new ALSP	372	
<b>Not proceeding after preliminary grant</b>	<b>1,608</b>	<b>108</b>
Medical evidence not supportive	346	
Worker does not reach WPI threshold	835	
S39 - Below Threshold	255	
S39 - Not MMI		8

Outcome	Outcome not achieved	Grant achieved outcome
Worker instructions	112	
Lawyer Advice		100
Below Threshold (Threshold issue)	3	
s66 Below WPI threshold	6	
Not viable	51	
<b>Other not specified reason</b>	<b>177</b>	<b>34</b>
<b>Resolved after ILARS referral to complaints</b>		<b>49</b>
<b>Commutations</b>		<b>22</b>
<b>Resolved prior to WCC</b>		<b>4,518</b>
Resolved - Insurer Accepts Claim		1,664
Resolved after application for review/insurer accepts Claim		337
Resolved by complying agreement after claim made		2,397
S39 - Advice given		37
S39 - Over threshold by agreement		73
Insurer Accepts Claim		6
Resolved after WIRO enquiry or Internal Review.		4
<b>Discontinued from WCC - No result</b>	<b>128</b>	
<b>Resolved in WCC</b>	<b>485</b>	<b>3,086</b>
<b>Resolved at Arbitration by Arbitrator - Employer</b>	<b>53</b>	
<b>Resolved at Arbitration by Arbitrator - Worker</b>		<b>305</b>
Medicals		84
Not Recorded		1
Weeklies		13
Weeklies & Medicals		100
WPI		75
WPI & Medicals		15
WPI & Weeklies		2
WPI, Weeklies & Medicals		15
<b>Resolved at Conciliation - settled by consent</b>		<b>776</b>
Closed Period		67
Medicals		93
Not Recorded		3
Weeklies		45
Weeklies & Medicals		304
WPI		96
WPI & Medicals		37
WPI & Weeklies		6
WPI, Weeklies & Medicals		74
Wrap up		51
<b>Resolved at settlement during Arbitration</b>		<b>102</b>
Medicals		23
Not Recorded		2
Weeklies		10
Weeklies & Medicals		37

Outcome	Outcome not achieved	Grant achieved outcome
WPI		19
WPI & Medicals		4
WPI & Weeklies		1
WPI, Weeklies & Medicals		6
<b>Resolved following MAC</b>	<b>428</b>	<b>1,177</b>
COD for WPI		1,025
Not reached threshold	329	
Not Recorded		5
Surgery reasonably necessary		3
S39 - Above threshold		69
S39 - Not MMI		56
Discontinued post MAC no COD	17	
S39 - Not reached threshold	63	
S39 - Not MMI MAC refused	16	
Treatment reasonably necessary		19
Discontinued pre MAC no COD	1	
Treatment not reasonably necessary	2	
<b>Resolved following PD on question of Law</b>	<b>1</b>	
<b>Resolved TC - settled by consent</b>		<b>700</b>
Closed Period		42
Medicals		155
Not Recorded		1
Weeklies		35
Weeklies & Medicals		206
WPI		157
WPI & Medicals		35
WPI & Weeklies		9
WPI, Weeklies & Medicals		37
Wrap up		23
<b>Resolved WIM Dispute</b>	<b>3</b>	<b>19</b>
In favour of worker		19
In favour of employer	3	
<b>Expedited Assessment</b>		<b>1</b>
Consent Direction		1
<b>Medical Assessment</b>		<b>6</b>
COD s66 WPI		5
Not MMI MAC (threshold issue)		1
<b>Appeals</b>	<b>98</b>	<b>118</b>
<b>Resolved after appeal from decision of Arbitrator to President</b>	<b>15</b>	<b>8</b>
By the employer in favour of Employer	2	
By the employer in favour of Worker		7
By the worker in favour of Employer	13	
By the worker in favour of Worker		1
<b>Resolved after appeal to Supreme Court</b>		<b>5</b>

Outcome	Outcome not achieved	Grant achieved outcome
By the employer in favour of Worker		3
By the worker in favour of Worker		2
<b>Resolved after Medical Appeal Panel</b>	<b>81</b>	<b>104</b>
By the employer in favour of Employer	18	
By the employer in favour of Worker		47
By the worker in favour of Employer	63	
By the worker in favour of Worker		57
<b>Resolved after appeal to Court of Appeal</b>	<b>2</b>	<b>1</b>
By the employer in favour of Worker		1
By the worker in favour of Employer	2	
<b>Resolved after Intervention by ILARS Director</b>		<b>1</b>
<b>Death Benefits</b>		<b>103</b>
<b>Resolved in common law claim</b>		<b>36</b>
<b>Grand Total</b>	<b>4,323</b>	<b>7,973</b>

### Primary outcomes



## APPENDIX 3

### MATTERS RECEIVED BY INSURER

Insurer	Complaint	Employer Complaint	Enquiry	ILARS	No Response to Claim	Grand Total
<b>Scheme agent</b>	<b>3,056</b>	<b>64</b>	<b>3,855</b>	<b>7,879</b>	<b>921</b>	<b>15,775</b>
Allianz Australia Workers Compensation (NSW) Ltd	278	1	338	948	74	1,639
CGU Workers Compensation	1		6	104		111
Employers Mutual NSW Limited	1,630	42	2,057	3,309	539	7,577
Gallagher Bassett Services Pty Ltd	1			9		10
GIO General Limited	1,129	12	1,424	2,848	305	5,718
iCare-Workers Care	6		6	132		144
Insurance and Care NSW (iCare)	10	9	20	291	3	333
QBE Workers Compensation	1		4	230		235
Xchanging				8		8
<b>Self-insured</b>	<b>560</b>		<b>518</b>	<b>1,013</b>	<b>119</b>	<b>2,210</b>
3M Australia Pty Ltd	1		2	4		7
ANZ Banking Group Limited	4		6	11		21
Ausgrid Management Pty Ltd	9		14	19	3	45
Blacktown City Council	1		5	18		24
Bluescope Steel Ltd	8		8	51	17	84
BOC Limited			2		1	3
Boral Limited	3		6	19		28
Brambles Industries Limited	1		1			2
Brickworks Ltd	3		1	2		6
Broadspectrum (Australia) Pty Ltd	21		16	31	3	71
Campbelltown City Council	5		9	8		22
Canterbury Bankstown Council	1		4	4		9
Central Coast Council	4		6	13		23
City of Sydney Council	1		2	12	1	16
Coles Group Ltd	90		73	113	12	288
Colin Joss & Co Pty Limited	1			4		5
CSR Limited	2		3	8		13
Endeavour Energy	7		6	14		27
Fairfield City Council	1			4		5
Fletcher International Exports				1		1
Hawkesbury City Council				1		1
Healius Limited	8		10	6	1	25
Holcim (Aust) Holdings Pty Limited	12		3	6	2	23
Inghams Enterprises Pty Ltd	5		3	10		18
ISS Facility Services	4		3	6		13
ISS Property Services Pty Ltd	6		7	12		25
JELD-WEN Australia Pty Ltd	3		3	6		12
Lake Macquarie City Council	2		3	8		13
Liverpool City Council	3		1	7	2	13
MARS Australia Pty Ltd	2		2	3		7

Insurer	Complaint	Employer Complaint	Enquiry	ILARS	No Response to Claim	Grand Total
McDonald's Australia Holdings Limited	6		3	10	2	21
Myer Holdings Ltd	1		4	8		13
Newcastle City Council	2			17	3	22
Northern Beaches Council	1		2	6	1	10
Northern Co-Operative Meat Company Limited	22		15	5	1	43
NSW Trains	8		2	3	1	14
OneSteel Trading Pty Ltd (Moly-Cop)	5		3	9	2	19
Pacific National (NSW) Pty Ltd			5	5	1	11
Persol Australia Pty Ltd	12		17	20	2	51
Qantas Airways Limited	21		19	81	11	132
Rail Corporation NSW	3		2	9		14
Shoalhaven City Council	1		4	5		10
Southern Meats Pty Ltd.			1	2		3
Sutherland Shire Council	1			4	1	6
Sydney Trains	7		12	10	2	31
The Star Entertainment Group Ltd	5		3	5		13
Toll Holdings Ltd	65		49	45	10	169
Transport for NSW Workers Compensation Services	27		24	109	11	171
Transport Service of NSW (State Transit Group)	9		10	24	2	45
Unilever Australia (Holdings)	3		2	5		10
University of New South Wales			1	4		5
University of Wollongong	1		1	1		3
Veolia Environmental Services (Australia) Pty Ltd	8		1	5	3	17
Wesfarmers Retail Holdings	24		17	53	1	95
Westpac Banking Corporation Ltd	13		24	31	2	70
Wollongong City Council			2	8		10
Woolworths Group Ltd	107		96	128	21	352
<b>Specialised insurer</b>	<b>268</b>		<b>270</b>	<b>469</b>	<b>50</b>	<b>1,057</b>
Catholic Church Insurance Limited	120		96	116	21	353
Coal Mines Insurance Pty Limited	9		14	2		25
Guild Insurance Ltd	18		14	21	3	56
Hospitality Employers Mutual	55		71	110	14	250
Racing NSW Insurance Fund	23		17	39	6	85
StateCover Mutual Ltd	43		58	181	6	288
<b>TMF</b>	<b>766</b>		<b>834</b>	<b>1,095</b>	<b>113</b>	<b>2,808</b>
Allianz TMF	248		309	334	36	927
Employers Mutual NSW Ltd - TMF	206		202	272	20	700
QBE TMF	312		323	489	57	1,181
<b>Other Insurer including Not Provided</b>	<b>33</b>		<b>1,618</b>	<b>1,058</b>	<b>3</b>	<b>2,712</b>
<b>Total</b>	<b>4,683</b>	<b>64</b>	<b>7,095</b>	<b>11,514</b>	<b>1,206</b>	<b>24,562</b>

## APPENDIX 4

### WORK CAPACITY PROCEDURAL REVIEWS

Outcome	Aug-18	Sep-18	Oct-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	Jun-19	Jul-19	Grand Total
Could not proceed		1									1
Dismissed	3		4	2	1			1	1	3	15
Referred to insurer			1			1					2
Upheld				1		2	1				4
<b>Grand Total</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>22</b>

## APPENDIX 5

### SCHEDULE OF WIRO MEETINGS AND PRESENTATIONS 2018 – 2019

Date	Details
6/07/18	SIRA Work Capacity Workshop
9/07/18	Meeting With Parliamentary Secretary - Treasurer
13/07/18	SIRA Dispute Resolution Steering Committee
14/07/18	Teleconference - IAIABC Dispute Resolution Committee
19/07/18	Meeting with iCare - operational issues
24/07/18	Attend SCLJ Hearing
25/07/18	Attend SCLJ Hearing
27/07/18	SIRA Dispute Resolution Steering Committee
30/07/18	Meeting with CEO EML
2/08/18	Meeting with Unions NSW
10/08/18	SIRA Dispute Resolution Steering Committee
14/08/18	Teleconference - IAIABC International Committee
22/08/18	Meeting of workers at the Northern Cooperative Meat Company in Casino
24/08/18	SIRA Dispute Resolution Steering Committee
5/09/18	Meeting with UHG in Melbourne
12/09/18	SIRA Dispute Resolution Steering Committee
27/09/18	Attend IAIABC Annual Meeting in Williamsburg, Virginia
9/10/18	Meeting with Chief Judge, Virginia Workers Compensation Commission
10/10/18	Meeting with Maryland Workers Compensation Commission
16/10/18	Meeting with iCare - Operational issues
18/10/18	Meeting with CEO, EML
18/10/18	Attend Self and Specialised Insurers AGM
19/10/18	SIRA Dispute Resolution Steering Committee
24/10/18	Meeting with Helen Smirniotis - DFSI
24/10/18	SIRA PIAWE Working Group Meeting
29/10/18	Future of Work Summit - Speakers Dinner
30/10/18	Spark Festival - Future of Work Summit
1/11/18	Attend SIRA Dispute Reform Workshop
2/11/18	SIRA Dispute Resolution Steering Committee
8/11/18	Work Capacity Dispute Workshop
9/11/18	Address TWU Annual Conference
12/11/18	Attend SIRA Workers Compensation Guidelines Consultation
12/11/18	Attend ARPA Awards Dinner
15/11/18	Speaker - Legalwise Seminar
16/11/18	SIRA Dispute Resolution Steering Committee
19/11/18	Attend AICC Lunch with Christopher Pyne - Guest Speaker
20/11/18	SIRA Work Capacity Workshop



22/11/18	Attend Diversity & Innovation Lunch
30/11/18	SIRA Dispute Resolution Steering Committee
1/12/18	IAIABC Dispute Resolution Committee Teleconference
13/12/18	NSW Self & Specialised Association Meeting
17/12/18	Meeting with Newcastle City Managers
8/01/19	WIRO & iCare Operational meeting
9/01/19	Meeting with Wesfarmers & Coles Managers
22/01/19	Meeting with Victorian ACCS Group
25/01/19	SIRA Dispute Resolution Steering Committee
25/01/19	Meeting with CEO, Law Society
5/02/19	WIRO & iCare Operational meeting
20/02/19	WIRO Sydney Seminar
21/02/19	IAIABC International Committee Meeting - Teleconference
21/02/19	DFSI PIAWE Reference Group Meeting
22/02/19	SIRA Dispute Resolution Steering Committee
1/03/19	Presentation to EML - Dispute Notice Requirements
1/03/19	Speaker - Ecosystems Leaders Lunch
5/03/19	WIRO & iCare Operational meeting
5/03/19	Attend Prime Minister's Veterans Employment Awards Function
6/03/19	Meeting with ARPA
7/03/19	Meeting with CEO NSW Property
13/03/19	Meeting with SIRA - transfer of Complaints function
19/03/19	Speaker - Bonville Workers Compensation Conference
22/03/19	Speaker - Legalwise Seminar
22/03/19	SIRA Dispute Resolution Steering Committee
31/03/19	Attend IAIABC Forum - San Diego
16/04/19	WIRO & iCare Operational meeting
17/04/19	WIRO Ballina Seminar
7/05/19	WIRO & iCare Operational meeting
8/05/19	Meeting with CEO, Law Society
10/05/19	WIRO Newcastle Seminar
15/05/19	Meeting with Secretary Department Customer Service
17/05/19	SIRA Dispute Resolution Steering Committee
20/05/19	Attend SIRA Large Employer Forum
24/05/19	WIRO Wollongong Seminar
30/05/19	WIRO Orange Seminar
17/06/19	WIRO & iCare Operational meeting
20/06/19	Speaker Unions NSW Workers Compensation delegates
20/06/19	Speaker - Legalwise Seminar
21/06/19	SIRA Dispute Resolution Steering Committee