



ANNUAL REPORT 2021/2022



Independent
Review Office

Office of the Independent Review Officer

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About this Report

The 2022 Annual Report of the Office of the Independent Review Officer (IRO) is prepared pursuant to Schedule 5 to the *Personal Injury Commission Act 2020*, the *Annual Reports (Statutory Bodies) Act 1984*, the *Public Finance and Audit Act 1983* and the regulations made under those Acts.

The report includes Financial Statements of the Independent Review Office of 1 July 2021 until 30 June 2022.

The total cost of producing this report was \$5835.50.

Acknowledgement of Country

The Independent Review Office acknowledges, respects and values Aboriginal peoples as the Traditional Custodians of the lands on which we live, walk and work. We pay our respects to Elders past, present and future. We recognise and remain committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships, and continuing connection to their lands, waters and seas. We acknowledge their history here on these lands and their rich contribution to our society.

We also acknowledge Aboriginal employees in the Customer Service Cluster who are an integral part of the Public Service's diverse workforce, and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and cultures.

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

29 November 2022

Dear Minister,

In accordance with Schedule 5 to the *Personal Injury Commission Act 2020*, the *Annual Reports (Statutory Bodies) Act 1984*, the *Public Finance and Audit Act 1983* and the regulations made under those Acts, I have prepared and now forward to you the Annual Report of the Office of the Independent Review Officer for the period from 1 July 2021 to 30 June 2022.

I note that the Report is required to be tabled in Parliament as soon as is practicable.

Yours sincerely,



Simon Cohen

Independent Review Officer

IRO 2021/22 SNAPSHOT

Key data to highlight IRO impact over 2021/22

EARLY SOLUTIONS

7,859

workers compensation (WC) and compulsory third party (CTP) complaints



6,936

complaints from injured workers, a **reduction** of 14% from FY2020/21



923

complaints from persons injured in motor accidents

TOP WC ISSUES:

- 1 Delay in determining liability
- 2 Delay in payment
- 3 Weekly benefits

TOP CTP ISSUES:

- 1 Treatment and care
- 2 Income support
- 3 Weekly payments

> 95%
of all complaints
finalised within
15 calendar days



79% of workers compensation complaints resolved, including 40% (2,991 complaints) resolved with an action or benefit in favour of the worker

GRANTS OF LEGAL FUNDING

20,153**

new applications for ILARS grant funding



6% decrease
since 2020/21

Initial funding approved in **96%** of grant applications

ILARS grants approved by top three injury types:

- 1 Physical Injury (60%)
- 2 Psychological Injury (20%)
- 3 Industrial deafness (15%)

16,472**

ILARS grants finalised



5% increase
since 2020/21

> 80% of new applications assessed within 5 business days

54% ILARS grants matters (8,875 grants) finalised with a binding agreement or decision. In 94% of these matters (8,311 grants) the injured worker improved their position.

IRO EDUCATION

20 IRO Bulletins, **35** Alerts and **2** editions of *IRO News* published to over 2,500 subscribers

6 IRO Regional Seminars, held in Ballina, Newcastle, Penrith, Orange, Wollongong and Wagga Wagga



IRO Sydney seminar, *A Focus on Psychological Injuries and COVID-19*, attended by **197** people in person, and nearly **575** people online.

**Minor variances in reported numbers of applications received and finalised may occur for reasons including the date the report is extracted.

MESSAGE FROM THE INDEPENDENT REVIEW OFFICER

This is the tenth annual report of the Independent Review Officer.

Commencing our work in October 2012, the Independent Review Office, in its various iterations, has during our first ten years:

- provided an independent complaints service to more than 30,000 people injured at work or in motor accidents, handling over 50,000 complaints
- assisted more than 110,000 workers access independent legal assistance at no cost from expert workers compensation lawyers across more than 140,000 separate Independent Legal Assistance and Review Service (ILARS) grants.

This year, our Solutions Group have responded to more than 15,000 complaints and enquiries from injured people or their representatives. We achieved more than 6,000 solutions – whether it be additional benefits, tangible actions to respond to complaints or clear information to better explain insurer decisions.

The case studies demonstrate the real impact of this work – whether it's through securing speedy agreement of insurers to critical treatment and care for injured persons, or ensuring correct compensation payments are made.

Our ILARS Group has responded to more than 20,000 applications for funding from Approved Lawyers to provide advice and assistance to injured workers in FY2021/22. Most of these applications were decided in five (5) days or less, and most were approved.

Of the more than 16,000 grants finalised, workers benefited from receiving expert advice (over 2,500 grants), a favourable agreement or insurer decision (almost 5,000 matters) or a binding decision made by the Personal Injury Commission – with over 3,300 matters (or 86 per cent of Commission decisions) where the worker improved their position.

Our ILARS case studies evidence the impact of this funding – with results such as a food delivery worker's family being compensated after the worker's tragic death, a retail worker being compensated following a COVID-19 infection and a Presidential decision of the Commission clarifying when an insurer may be liable to compensate a worker for items they require to recover from surgery.

Our report also demonstrates the IRO's commitment to improving the personal injury systems – whether through submissions to new laws and regulations, or reviews or inquiring into the most common causes of complaints. We have also continued our commitment to keeping personal injury professionals up to date – with 20 *Bulletins* published summarising the latest Commission and Supreme Court personal injury decisions, and our annual Seminar reaching almost 1700 participants.

These substantial and high-impact services have been provided by the expert and committed team at the IRO. Team members come from a diverse background. Many are experienced personal injury lawyers or compensation claims management specialists. Others have joined us from a range of public sector agencies. All share a strong commitment to improving the experiences of those in the NSW community who may have suffered a workplace or motor accident injury.

It has been a year of substantial challenge – in particular because of the disruptive and far reaching effects of the COVID-19 pandemic. Despite these challenges, the IRO team have demonstrated dedication and diligence in helping people each day. This report recognises their contribution in FY2021/22.

Simon Cohen
Independent Review Officer



About the Independent Review Office

The Independent Review Officer was established as an independent statutory office under Schedule 5 to the *Personal Injury Commission Act 2020* (NSW) (PIC Act) on 1 March 2021. The new office replaced the Workers Compensation Independent Review Officer (WIRO), originally established in 2012 under the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) (WIMA).

The functions of the Independent Review Officer, set out in clause 6 of Schedule 5 to the PIC Act, include:

- dealing with complaints by persons injured at work or in motor vehicle accidents, about the acts or omissions of insurers;
- managing and administering the Independent Legal Assistance and Review Service (ILARS), which funds Approved Lawyers to provide legal advice and assistance to injured workers about their workers compensation entitlements;
- undertaking inquiries into and reporting to the Minister for Customer Service and Digital Government, Small Business and Fair Trading on any matters arising in connection with the operation of the PIC Act, workers compensation and motor vehicle accident legislation.

The Independent Review Officer is supported by an expert team employed under the *Government Sector Employment Act 2013* (NSW) (GSE Act). Collectively, the Independent Review Officer and the team are known as the Independent Review Office or the IRO.

In addition to delivering the statutory functions, the IRO also provides information to lawyers, insurer case managers and others through a series of seminars in Sydney and regional centres, and regular publications summarising the latest cases and reforms in workers compensation.

Our organisational structure

The IRO is led by the Independent Review Officer, Simon Cohen. The work of the IRO is conducted by the Independent Review Officer's own office, which provides personnel, procurement and governance support, and three distinct Groups, each of which is led by a Director.

- The Solutions Group (Solutions) solves complaints by injured persons about the acts and omissions of workers compensation and motor accident insurers, and matters referred from the ILARS Group for early solutions. Solutions also responds to enquiries from injured workers and persons injured in motor accidents.
- The ILARS Group (ILARS) approves private lawyers and oversees grants of funding to assist injured workers to understand and pursue their workers compensation entitlements. ILARS also identifies matters appropriate for early solutions.
- The Strategy, Policy and Support Group (SPS) provides financial, information technology and records management support for the IRO. SPS also provides policy advice to the IRO, and a whole-of-system perspective for statutory personal injury schemes, including through leading IRO inquiries, analysing and publishing data and supporting community and stakeholder education and engagement.

Executive Committee

Independent Review Officer

Simon Cohen was appointed as the Workers Compensation Independent Review Officer in February 2020, and as the Independent Review Officer from 1 March 2021. Simon was previously the Deputy Secretary, Regulation and Director, Consumer Affairs from 2015 at the Victorian Department of Justice and Community Safety. Simon was the national Telecommunications Industry Ombudsman from 2010 to 2015. His previous roles include Victorian Public Transport Ombudsman and Assistant Ombudsman at the NSW Ombudsman.

Simon is a graduate in law from the University of Queensland.

Director Solutions

Jeffrey Gabriel was appointed Director Solutions in March 2017. Jeffrey was previously employed as a Principal Lawyer at the WIRO in the ILARS team, a role he commenced in January 2013. Prior to joining the WIRO, Jeffrey was a solicitor in private practice where he acted for both injured persons and insurers in a range of personal injury jurisdictions in NSW. Jeffrey is an accredited specialist in personal injury law and graduated with a Bachelor of Arts and Bachelor of Laws from Macquarie University.

Director ILARS

Phil Jedlin was appointed Director ILARS in May 2021 after serving as the Director Operations. In his current role, Phil oversees the funding of Approved Lawyers to assist injured workers in the workers compensation scheme. Prior to starting at the WIRO in November 2012, Phil spent 22 years at the Commonwealth Bank of Australia in a wide range of roles. Phil holds a Bachelor of Economics and a Bachelor of Laws from Macquarie University.

Director SPS

We experienced some movement in the SPS Director role in FY2021/22, offering several staff members the opportunity to experience and shape the role.

Roshana May served as Director SPS from May 2021 to November 2021. Roshana has an extensive career in personal injury law, particularly in relation to statutory compensation schemes.

Melissa Hirst filled the role of Director SPS from November 2021 to April 2022, and is the ongoing appointee to the role. Melissa joined the IRO as Principal Policy Officer in May 2020, having previously worked as a Principal Policy Officer within the Office of the Secretary at the Department of Customer Service (DCS). She holds a Masters of Policy, together with a Bachelor of Laws and a Bachelor of Science.

Lesley Terry acted in the role of Director SPS in April 2022. Lesley has a human resources background from the banking sector and joined the WIRO in 2017 as the Executive Officer to the Workers Compensation Independent Review Officer. Lesley has extensive experience in human resources, procurement, corporate services and finance.

Ellie Fogarty acted in the role of Director SPS from May 2022 until September 2022, on secondment from the Department of Communities and Justice. Ellie has over 15 years' experience in public service at the state, federal and international levels, where she has principally worked on matters related to the rights of vulnerable and marginalised people. She holds a Bachelor of Laws, Bachelor of Arts and Masters of International Law.

SOLUTIONS

Solutions

The IRO provides an informal, accessible and effective complaints handling and enquiries service for people injured at work or in motor accidents. This involves:

- informal access by injured persons or their representatives (by telephone, email, mail or in-person) to expert IRO dispute resolution officers (DROs);
- fast and fair solutions for complaints;
- comprehensive information provided for general enquiries about how the workers compensation and motor accidents schemes operate;
- early intervention in some ILARS-funded matters to seek quick solutions for injured workers ('early solutions');
- collection of information to identify systemic issues that may warrant review (for example, complaints about delays in determining liability, and about errors in weekly payments).

Key Data

Complaints and enquiries

In FY2021/22, the IRO received 7,859 workers compensation and CTP complaints, comprised of 6,936 from or on behalf of injured workers and 923 from or on behalf of persons injured in motor accidents.

While the total number of complaints the IRO received from persons injured in motor accidents in FY2021/22 is almost triple the total received in FY2020/21, this reflects that we only took on this function from the State Insurance Regulatory Authority (SIRA) from 1 March 2021 – see Table 2. The average number of CTP related complaints per month has remained steady in FY2020/21 and FY2021/22, at around 80 per month.

The number of enquiries received from persons injured in motor accidents also increased, from 135 to 472.

This financial year, 6,936 complaints were received from injured workers, which marked a reduction of approximately 14 per cent compared to FY2020/21 – see Table 1. Reduced complaints coincided with the period of significant COVID-19 public health-related movement restrictions, in particular between June and October 2021.

The number of enquiries from injured workers (7,502) also decreased slightly, by approximately 5.7 per cent compared to last year.

Most injured workers who contacted the IRO were referred to us or became aware of our services after speaking to their lawyers (63 per cent of complaints). Web searches were the next largest source of complaints for workers compensation complaints (16 per cent), followed by icare and SIRA (5 per cent).

Table 1: Workers compensation (WC) enquiries and complaints received FY2019/20 – FY2021/22

Financial year	Enquiries received	Complaints received
2021/22	7,502	6,936
2020/21*	7,954	8,065
2019/20*	10,291	7,795

Note: The WC complaints data does not include early intervention matters. See data dictionary.

* The 2019/20 and 2020/21 data printed in the 2020/21 Annual Report has been updated following remediation.

Table 2: CTP enquiries and complaints received by IRO 1 March – 30 June 2021, and FY2021/22

Financial year	CTP Enquiries received	CTP Complaints received
2021/22	472	923
1 Mar – 30 June 2021*	135	317

*Note: IRO commenced dealing with CTP complaints and enquiries from March 2021.

Workers compensation (WC) common complaints

Delay in determining liability complaints continued to be the most common type of WC complaint received by the IRO, accounting for over 1,800 (26 per cent) of all complaints received by the IRO – see Table 3. However, the number of these complaints reduced (by almost 20 per cent) from FY2020/21.

This category of complaint was the subject of the IRO's Inquiry report *Delay in determining liability – June 2021*. It is therefore pleasing to see a decrease in these matters since the release of our report.

The numbers of complaints from injured workers about delay in payment remained steady (1,452 in FY2021/22 compared to 1,470 in FY2020/21).

There was a 33 per cent reduction in complaints about weekly benefits, building on the 25 per cent reduction in this complaint type in FY2020/21 compared to FY2019/20.

The IRO received 772 WC complaints (10 per cent of the total) about requests for documents, up 6 per cent from FY2020/21 (726 complaints). These complaints were often resolved with the insurer providing the documents after IRO inquiry. There were also 940 general case management complaints (12 per cent of the total). The IRO's ability to resolve these types of complaints efficiently prevents the need for miscellaneous applications to the PIC, reducing unnecessary impacts on the injured worker and overall costs of the scheme.

Enquiries are more likely to be of a general nature. In FY2021/22, the most common type of WC enquiry was how to make a claim (26 per cent, 2,072 enquiries), followed by WC benefits (17 per cent, 1,325 enquiries) and general case management (15 per cent, 1,170 enquiries).

Table 3: Top 3 number and type of WC complaints received FY2019/20 – FY2021/22

Complaint type	FY2021/22		FY2020/21		FY2019/20*	
	No.	%	No.	%	No.	%
Delay in determining liability	1,834	26%	2,272	28%	2,179	28%
Delay in payment	1,452	21%	1,470	18%	1,665	21%
Weekly benefits	591	9%	879	11%	1,164	15%

Table 3 records the primary complaint issue - each complaint has only one primary issue.

The Annual Report Appendix, at Table 1(a), reports on all issues raised in WC complaints.

*The 2019/20 data printed in the 2020/21 Annual Report has been updated following remediation.

CTP

The most common CTP complaint issue handled by the IRO (157 complaints, 17 per cent) concerned the injured person's treatment and care, and in particular complaints about delays in the insurer's decision-making.

The other common CTP complaint issue (147 complaints, 16 per cent) concerned income support and weekly payments, including issues about delays in calculating pre-injury average weekly earnings (PIAWE) and delays in making weekly payments.

Property damage was the most common complaint received, with 21 per cent of complaints related to this issue. This complaint type includes complaints regarding comprehensive claims for vehicle damage and issues related to CTP policies and greenslips where policy holders had not been involved in a motor accident. These complaints fall outside the jurisdiction of the IRO. However, we are able to assist complainants by providing comprehensive referral information to the relevant complaint-handling bodies (Australian Financial Complaints Authority and SIRA CTP Assist, respectively). From 2022-23, these matters will be recorded as enquiries rather than complaints.

Table 4: Top 3 number and type of CTP complaints received from 1 March 2021 – 30 June 2021 and FY2021/22

Complaint type	FY2021/22		FY2020/21	
	No.	%	No.	%
Property damage	196	21%	17	5%
Treatment and care	157	17%	80	25%
Income support/ weekly payments	147	16%	31	10%

*Table 4 records the primary complaint issue - each complaint has only one primary issue. The Annual Report Appendix, at Table 1(b), reports on all issues raised in CTP complaints.

Early interventions

In addition to finding fast and fair solutions to complaints, the IRO identifies ILARS-funded matters that may be appropriate for intervention to prompt early solutions. Early interventions support just, quick and inexpensive solutions to workers compensation disputes.

In this financial year, the IRO identified around 30 per cent fewer matters suitable for early intervention and resolution than in FY2020/21 (see Table 5).

Table 5: IRO early intervention matters received from FY2019/20 – FY2021/22

Financial year	No. IRO early intervention matters
FY2021/22	728
FY2020/21	1,020
FY2019/20*	976

*The 2019/20 data printed in the 2020/21 Annual Report has been updated following remediation.

The most common type of early solution matter for FY2021/22 related to cases where an ILARS funding grant had been approved and the insurer had allegedly not responded to a claim or request (no response to claim (NRTC) matters) – such as a claim for permanent impairment compensation or a request for treatment. In these cases, Solutions will raise the matter with the insurer to prompt a decision.

57 per cent of matters were resolved by the insurer providing information – such as their formal response already issued to dispute or accept the claim, 31 per cent of matters were resolved with the insurer taking action after IRO's enquiry – such as making a counteroffer to the worker's claim or denying the claim. In about 12 per cent of matters (86 ILARS grants) the matter was resolved with the worker receiving the benefit claimed – without the time and cost of formal proceedings.

The reduction in early intervention matters has occurred at a time when the IRO is providing more information and education to Approved Lawyers, to reduce premature applications for extensions of ILARS grants to commence PIC proceedings where an insurer has not responded to a claim or dispute. This reduces unnecessary double-handling of matters by both insurers and the IRO.

The following case studies relate to early solutions matters, where the injured workers have legal representation and where the IRO was able to intervene to prompt early solutions:

Case study: No Response to Claim early solution

An Approved Lawyer contacted IRO after an insurer had not reimbursed an injured worker for expenses associated with a lumbar spine injury.

The insurer had originally issued a notice of decision to dispute liability for the injury in May 2019. The worker disputed this decision, and the parties reached an agreement in the Workers Compensation Commission in January 2020 – recorded in a Certificate of Determination – that the insurer would pay reasonably necessary expenses associated with treatment of the injury.

The Approved Lawyer advised that the insurer was seeking to rely on the May 2019 decision to refuse to reimburse the injured person.

The matter was identified by IRO for an early solution referral and a response was sought. The insurer responded within two days, advising that, until receipt of the referral from the IRO, it had not held a copy of the Certificate of Determination. The insurer agreed that the claim would be reopened, and the outstanding treatment expenses would be reviewed.

Case study: No Response to Claim early solution

In March 2021, a claim for reimbursement of costs for an Independent Medical Examination (IME) pursuant to section 73 of the *Workers Compensation Act 1987* (the 1987 Act) was communicated by an injured worker's lawyer to the insurer. Section 73 allows for the cost of assessments of permanent impairment obtained by or on behalf of workers to be claimed as medical expenses from the insurer after the claim is determined.

The substantive claim for hearing loss and hearing aids had been determined in 2021. The IME expense was not one that could be reimbursed through ILARS.

The Approved Lawyer advised that there had been no response to the reimbursement claim and requested for IRO intervention or Stage 3 funding.

A No Response to Claim was raised in March 2022. The insurer responded by advising that it considered that it was not liable for the IME cost. The IRO referred the insurer to the requirements of section 73 and relevant case law. Shortly afterward the insurer confirmed that it had reimbursed the costs of the IME.

Timely solutions

A key element of the IRO's service is to find early and quick solutions to complaints and disputes.

In FY2021/22, 96.4 per cent of workers compensation complaints and 97 per cent of CTP complaints were finalised within 15 days of receipt, well within the 30-day period required by the PIC Act.

Of the 735 early intervention matters closed in FY2021/22, 90 per cent were finalised within seven days and 97 per cent of cases were closed within 15 days.

Fair solutions

The IRO works to ensure fair solutions for injured workers and insurers and assists injured people who make enquiries by providing expert information about the operation of the WC and CTP schemes. This can include providing information about making a claim and referring injured persons elsewhere when we are not the appropriate agency to assist.

For those injured workers who made complaints (including where the IRO intervened following a grant application), 79 per cent of matters finalised were resolved in FY2021/22 – see Table 6. There were 1,872 cases (or 24 per cent) where the worker received a benefit (for example, approval of treatment or payments of compensation) and 1,219 cases (or 16 per cent) resulting in additional action by the insurer (for example, arranging or moving a medical appointment).

Table 6: Complaints WC and early intervention matters outcomes FY2021/22

Outcomes achieved	No. of matters (complaints and early intervention matters)	Per cent of all outcomes
Resolved – action	1,219	16%
Resolved – benefit	1,872	24%
Resolved – information	2,976	39%
Referred	660	9%
Not resolved	283	4%
No action/ other	677	9%
Total	7,687	100%*

* Percentages may not add up to 100% as they are rounded to the nearest per cent.

The IRO finalised 923 CTP complaints in FY2021/22. Some complaints could not be progressed as the injured person had not attempted to solve the complaint with the insurer first. Of the 715 matters (77.6 per cent) we solved, 22.2 per cent (159 matters) resulted in a benefit to the injured person, and another 30.1 per cent in additional action by the insurer.

Complaints made but not dealt with in FY2021/22

The PIC Act requires that we report annually on the number and type of complaints made but not dealt with in each financial year. There were 104 WC and 15 CTP complaints made during FY2021/22 that remained open as at 1 July 2022 (see Appendix). This compares to 120 WC and 14 CTP complaints lodged in FY2020/21 and still open at 1 July 2021.

Solutions observations for FY2021/22

The IRO has adopted a single Complaints Handling Protocol for WC and CTP complaints. This provides for consistent solution and investigation processes, and a consistent benchmark ('fair and reasonable') to assess insurer responses. A uniform approach promotes achievement of shared goals including early solutions to claims and fast and fair solutions to complaints. The IRO's case management system, Resolve, adopts a consistent approach across the WC and CTP jurisdictions to record actions. However, SIRA's terminology has been adopted for the CTP glossary of issues to assist with the transition of the complaints function to IRO since 1 March 2021.

Workers compensation observations

Delay in determining liability

Delays by insurers in determining liability for workers' claims for compensation are consistently the most common issues of complaints to the IRO. In June 2021, the IRO released a report into its inquiry into delays in determining liability, which involved analysis of 100 complaints, and consultation with insurers and SIRA. The inquiry found that common causes of these complaints include poor case management and communication by insurers, and made three recommendations focused on sharing good case management practice, improving data about the timeliness of decisions and improving regulatory standards and guidance notes.

The IRO has continued to monitor this issue, given delay in determining whether to accept or dispute liability can result in poorer outcomes for workers and the workers compensation scheme generally. As noted above, we received almost 20 per cent (or 438) fewer complaints about this issue in the 12 months immediately following our report.

Case study: Delay in determining liability and the insurer's failure to respond to the injured worker

The injured worker contacted the IRO in March 2022 to complain that the nominated treating specialist had lodged a request for a knee replacement with the insurer in January 2022 (nine weeks before the complaint to the IRO), but the insurer had not yet indicated its position regarding liability. The injured worker had attempted to contact the insurer, but was unsuccessful.

The IRO sent the insurer a Notice of Complaint. The insurer acknowledged the request for a left total knee replacement was received, and that an administrative oversight had resulted in a delay for a request for review with the Injury Management Specialist. The insurer approved the surgery immediately. The injured worker was grateful for IRO's intervention.

Shortly afterward, the injured worker contacted the IRO again to complain that the insurer had not yet determined liability with respect to crutches and orthopaedic icepacks required following the surgery. When the IRO followed up with the insurer, the insurer took steps to contact the hospital to obtain a formal request for the crutches and orthopaedic icepacks. The insurer advised the IRO that, once received, it would approve these as a matter of priority.

Case study: Delay in determining liability, psychological injury and a significant matter

The injured worker contacted the IRO in January 2022, concerning a Notice of Claim that had been made in June 2021 for a psychological injury (anxiety and depression arising from workplace bullying). The injured worker advised that they had completed all steps requested by the insurer, however, the insurer had yet to make a decision on the claim.

The IRO raised a complaint with the insurer. The insurer acknowledged its decision was delayed and that a decision would be made in late January 2022 once additional information was received from a supplementary IME report. The injured worker agreed to contact the IRO if a decision was not received.

The injured worker contacted the IRO in March 2022 to complain that the insurer had failed to adhere to its commitment to make a decision by late January 2022.

The IRO contacted the insurer again, which acknowledged that it had received the supplementary IME report, but had deferred making a decision until it received legal advice. The insurer advised that it had requested a Centrelink Clearance and would make a decision in the following week "pending clearance of information received."

The IRO was concerned that the ongoing delay by the insurer to make a decision was not fair, and raised an Escalation of Complaint, referring the insurer to its responsibility to make a decision within 21 days under section 274 (1) of the WIM Act.

When the insurer did not respond, the IRO again followed up, and the insurer identified the Escalation had not been acted on. After the IRO inquiry, the insurer responded that the claim had been accepted on the same day. The IRO then confirmed with the injured worker that their claim was accepted.

The IRO noted that the delay in making a decision was a "significant matter". With the permission of the injured worker, the IRO shared details of the case with SIRA to enable SIRA to consider whether any regulatory response was required.

Weekly benefits complaints

The IRO received 591 complaints about weekly benefits (9 per cent of all complaints) in FY2021/22, compared to 879 in the last financial year (11 per cent). There were 237 complaints about weekly benefits where the payment had changed and 185 complaints where payment had stopped.

The reduced complaints may be partly attributable to improvements in initial notification (reasonable excuse) letters and provisional liability templates by insurers. Based on WIRO feedback during FY2019/20, the nominal insurer developed and implemented new templates, improving the clarity of decisions for injured workers.

Errors by employers in weekly payments

'Error in weekly payment' complaints include complaints where a worker is entitled to receive weekly compensation payments and the employer delays making the payment or does not pass on the correct payment. There were 105 complaints in FY2021/22 about errors in weekly payments due to action or inaction of the employer.

Employers are required to pass on compensation monies owed to workers as soon as practicable and keep and maintain records of all wages paid to workers.¹

Errors in weekly payments create system inefficiencies, and delays in their resolution can erode trust between injured workers and their employers and insurers. This can adversely affect the ongoing relationship between the parties, as well as the speed and success of workers' return to work.

1. Sections 264(3) and 69(1)(c), WIMA; section 174, WCA; clause 166, Workers Compensation Regulation 2016.

Case study: Failure to pass on workers compensation payments

The injured worker contacted IRO about failure by their employer to pass on compensation payments.

The injured worker advised that, following an injury in September 2021, their pre-injury average weekly earnings had been paid at an interim rate (excluding overtime) because the employer had wanted to ensure immediate payment.

A PIAWE review was subsequently completed in February 2022, and the true PIAWE was calculated to be over \$500 per week more. An adjustment payment was processed by the insurer to the employer, but the employer withheld the payment.

The injured worker resigned from the employment in March 2022. The employer promised to release the monies owed in the final pay cycle, however, this did not occur.

After the IRO's intervention, the insurer stated they were unaware that the employer had not passed on the adjustment to the weekly payments, and they would instruct the employer to process the payment. The insurer also agreed to commence recovery action if required. The employer agreed to pass on the weekly payments and the injured worker received over \$3,500 in back payments.

Case study – Back payment

The injured worker contacted the IRO in September 2021 and alleged that back payment owed following a review of PIAWE in June 2021 was yet to be paid. The injured worker alleged that they had tried to resolve this complaint with the insurer directly on numerous occasions, but had been unsuccessful.

In response to the IRO's intervention, the insurer acknowledged the outstanding back payment owing to the injured worker, and noted that this was being included in negotiations between the insurer and the injured worker's legal representative as part of a claim for work injury damages. The insurer further advised that the injured worker had been contacted by the case manager to discuss the back payment and that the injured worker had agreed for the back payment to be included in the work injury damages settlement.

The injured worker's legal representative advised the IRO that the back payment issue had not been part of the negotiations for the work injury damages settlement, but rather was a separate entitlement. The IRO then contacted the injured worker, who expressed a preference to be paid the back pay monies owed since June 2021, immediately, and not to have that considered as part of the work injury damages claim.

The IRO noted that the insurer's failure to pay the back payment since June 2021 appeared to be inconsistent with clause 8N of the Workers Compensation Regulation 2016. Clause 8N provides that an insurer must pay a worker the amount of any increase in weekly payments within 14 days of a payment increase decision.

After the IRO's involvement, the insurer made the back payment of almost \$75,000 to the worker, and the worker's weekly payments continued. The IRO noted that the delay in making a decision was a "significant matter". With the permission of the injured worker, the IRO shared details of the case with SIRA to enable SIRA to consider whether any regulatory response was required.

CTP observations

The IRO's key observation over its first 16 months of dealing with CTP complaints is that the types of complaints raised by persons injured in motor accidents are similar to those raised by injured workers. Common topics are insurer delay in deciding claims and requests, errors in weekly payments, and case management concerns, each of which have potential to significantly affect injured people's wellbeing, financial position and recovery.

The following case study demonstrates common concerns raised by persons injured in motor accidents or by their representatives, and the IRO's interventions to achieve fair and speedy solutions.

Case study: CTP - delay in commencing weekly payments

The injured person contacted the IRO in late April 2022, stating that they had been injured in a motor vehicle accident in November 2021 for which they had lodged a claim in January 2022. The injured person stated that they had provided all evidence of earnings to the insurer for calculation of pre-accident weekly earnings (PAWE), and, although the claim had been accepted in April 2022, the injured person had not yet received any weekly benefits.

The injured person expressed to the IRO that they were suffering financial stress and were having to contemplate returning to work earlier than medically recommended. The injured person also informed the IRO that they had not been able to claim any travel reimbursements, as they had not received the forms in the post from the insurer.

The IRO sent a Notice of Complaint to the insurer, asking whether the insurer had processed any weekly benefits or considered processing minimum or interim weekly benefits. The insurer responded,

confirming that the claim was received in January 2022, and the injured person was initially certified as being fit for suitable employment. However, they were downgraded to no capacity from late January 2022. The insurer informed the IRO that, as the injured person was self-employed and paid in cash only, a referral was made for a PAWE assessment to be conducted. The insurer stated that interim weekly payments should have commenced upon receipt, however they were not commenced due to an oversight by the case manager.

The insurer confirmed that the assessment report had been received, PAWE had been determined, and payment had been made for the period of late January 2022 to late April 2022. The insurer also confirmed that payments would continue to be made on a fortnightly basis. A PAWE determination letter had also been sent to the injured person at the end of April 2022.

Further, forms to allow the injured person to make a claim for expenses were sent in March 2022 via post as requested, with further copies sent in April 2022.



GRANTS OF LEGAL FUNDING

Grants Of Legal Funding

The IRO administers the Independent Legal Assistance Review Service (ILARS) to ensure injured workers have access to Approved Lawyers with expertise in WC law and practice, who can advise, assist and represent them in accessing entitlements. From 1 March 2021, ILARS became a legislated IRO function under Schedule 5 to the PIC Act.

The core elements of ILARS include:

- simple, clear and accessible processes for lawyers to be approved to make applications for grants of funding to assist injured workers;
- fast, consistent and fair decision-making on applications for grants and extensions of funding by expert IRO team members, so that external Approved Lawyers can provide high level services to injured workers;
- early intervention in some ILARS-funded matters to seek quick solutions for injured workers (see above);
- collection of information to identify systems issues that may warrant review.

Key Data

Approved Lawyers

Approved Lawyers may apply to the IRO for ILARS funding to assist injured workers. In accordance with the IRO's *Guidelines for approval as an Approved Lawyer*, to become an approved lawyer, a person must: be an Australian legal practitioner who is and has been certified to practice as a solicitor for a period of at least 12 months; demonstrate competence, diligence, knowledge, skill and familiarity with NSW WC law and practice; and satisfy several criteria that demonstrate experience in assisting injured workers accessing statutory compensation entitlements.

As at 30 June 2022, there were 896 lawyers approved to apply for grants of funding under the ILARS. In addition, there were 185 barristers approved by the IRO to undertake advocacy for injured workers. The IRO maintains a geo-mapped list of Approved Lawyers on its website so that injured workers can identify a lawyer to approach for assistance in a location convenient for them.

Applications for grants of funding

The IRO received 20,153** grant applications from Approved Lawyers in FY2021/22. This represents a 5.6 per cent decrease in demand, with 1,199 fewer grant applications received by the IRO than in 2020/21 (see Table 7).

Table 7: Number of new ILARS grant applications FY2019/20 – FY2021/22

Financial Year	No. ILARS grant applications
2021/22	20,153**
2020/21*	21,352**
2019/20*	17,478**

*The 2019/20 and 2020/21 data printed in the 2020/21 Annual Report has been updated following remediation.

The majority of approved grants are for a primary physical injury, making up 60% (or 11,571) of all applications approved (see Table 8). This includes traumatic injuries to workers' backs, shoulders and limbs.

In FY2021/22, 2,849 grants were approved for workers to pursue an industrial deafness claim, for permanent impairment lump sum compensation and/or for the initial provision of hearing aids. This is a decrease of approximately 25 per cent from the previous year.

**Minor variances in reported numbers of applications received and finalised may occur for reasons including the date the report is extracted.

The number of claims where the primary injury is psychological continues to rise, reaching 19.8 per cent of applications (or a total of 3,824) in FY2021/22. This was an increase of 67 claims on the previous financial year and continues an upward trend over several years. Grants concerning primary psychological injury have risen consistently in the past two years from 3,059 claims in 2019/20 – an increase of 25 per cent.

Due to the increase in psychological injury claims more generally and their impact, the Standing Committee on Law and Justice, in its 2022 Review of the Workers Compensation Scheme, has specifically focused on the cause and impact of increased psychological injury claims. The IRO has made a submission to this review.

Table 8: ILARS grants approved by year by primary injury (claim) type

Primary injury type	FY2021/22	FY2020/21*	FY2019/20*
Physical	11,571	11,557	10,249
Psychological	3,824	3,757	3,059
Industrial deafness (hearing loss)	2,849	3,824	2,272
Physical and Psychological	883	886	808
Death	197	230	210

*The 2019/20 and 2020/21 data printed in the 2020/21 Annual Report has been updated following remediation.

Timely decisions

Provided the application is made by an Approved Lawyer, and the injured worker is one whose rights and entitlements to benefits under NSW WC legislation are affected by the 2012 legislative reforms,² initial funding to obtain instructions, provide comprehensive advice and conduct early enquiries for the worker's claim (Stage 1 funding) will be generally approved. This reflects that it is in the interest of workers and the workers compensation system as a whole that people who are injured at work are able to seek professional and expert advice on the process for making a claim, as well as their rights and obligations.

In FY2021/22, 96 per cent of all grant applications for an initial grant of funding were approved. When funding was not approved, the most common reason was that the application concerned a matter where funding was already in place for the worker.

More than 80 per cent of initial applications for a grant of funding were decided within five (5) business days, with the average assessment being completed within 4.61 days of receipt.

Review of funding decisions

Where an Approved Lawyer is dissatisfied with the determination of a funding application, they may seek a review of the decision by the Director ILARS. Where the Approved Lawyer remains dissatisfied with the Director ILARS decision, the Approved Lawyer may seek a review of the Director's decision by the Independent Review Officer.

In FY2021/22, we received 74 applications for reviews by the Director ILARS of funding decisions, of which 59 per cent were upheld (no change in decision), and 41 per cent resulted in a new decision. In addition, we had six applications for reviews of decisions of the Director ILARS by the Independent Review Officer. Of those reviews, four (4) resulted in the Director's decision being upheld (67 per cent), and two (2) resulted in a new decision (33 per cent).

2. Since 2012, section 341 of the WIMA is to the effect that each party is to bear their own costs in relation to a claim for compensation and the Commission has no power to order the payment of costs.

Fair outcomes

The IRO works diligently to facilitate fast and fair solutions for disagreements or disputes, and to avoid delay in resolving disputes. ILARS encourages Approved Lawyers to adopt the same practical approach and to harness the services and resources of the IRO in this regard.

In FY2021/22, 16,472** ILARS grants were finalised, an increase of 6 per cent (or 916 matters) from the previous year. Most grants are finalised with a decision or agreement – in FY2021/22, 8,875 or 54 per cent of all ILARS grants were finalised in this way (see Table 9).

In 7,597 grants finalised in FY2021/22 (46 per cent) there was no final outcome. In these matters the worker may have received comprehensive legal advice about their workers compensation injury and entitlements, have been assisted to lodge a claim or internal review request with the insurer, or had their claim investigated and no further action could be taken.

One reason for the increase in grants finalised where there is no outcome, is a change to the ILARS Funding Policy in 2019 enabling Approved Lawyers to obtain grants at an earlier stage to assist workers with comprehensive advice, increasing access by injured workers to expert legal assistance.

Table 9: Outcome type for all finalised ILARS grants 2018/19 – 2020/21

Financial Year	2021/22		2020/21*		2019/20*	
	Final Outcome	No Final Outcome	Final Outcome	No Final Outcome	Final Outcome	No Final Outcome
	8,875	7,597	8,389	7,167	7,652	4,851
	54%	46%	54%	46%	61%	39%
Grants finalised	16,472**		15,556*		12,503*	

*The 2019/20 and 2020/21 data printed in the 2020/21 Annual Report has been updated following remediation.

**Minor variances in reported numbers of applications received and finalised may occur for reasons including the date the report is extracted.

Where grants resulted in a final outcome, the clear majority (94 per cent) resulted in the worker improving their position – see Table 10.

Most grants with a final outcome (4,967 grants or 56 per cent) were finalised without the need for the injured worker to refer a dispute to the PIC. This includes matters resolved by direct negotiation after investigation of a worker's claim, as well as those matters where the IRO successfully intervened at an early stage to prompt a solution or resolution of a dispute.

In total, 3,908 grants were finalised in 2021/22 after a decision of the PIC (or a Court where the matter is appealed); the injured worker improved their position in 3,344 of these matters (or 86 per cent).

The IRO records that the worker improved their position in workers compensation matters in circumstances where, following the assistance of an Approved Lawyer, the worker has achieved some additional benefit or entitlement, including where the worker:

- has liability for their injury accepted by an insurer;
- receives a monetary payment or reimbursement;
- has requested treatment approved;
- is awarded a lump sum compensation payment;
- exceeds a whole person impairment (WPI) threshold for a benefit.

Table 10: Finalised ILARS grants by result achieved FY2019/20 – FY2021/22

Year	Resolution achieved	2021/22			2020/21*			2019/20*		
		Position improved	Position not improved	Total	Position improved	Position not improved	Total	Position improved	Position not improved	Total
Pre- Proceedings	No.	4,967	-	4,967	4,525	-	4,525	3,759	-	3,759
	% of Total	100%	-	56%	100%	-	54%	100%	-	49%
Commission/ Court	No.	3,344	564	3,908	3,395	469	3,864	3,284	609	3,893
	% of Total	86%	14%	100%	88%	12%	100%	84%	16%	100%
	% of Total	-	-	44%	-	-	46%	-	-	51%
		-	-	8,875	-	-	8,389	-	-	7,652

Note: Table 10 shows the results where a grant has concluded with a final resolution and outcome.

*The 2019/20 and 2020/21 data printed in the 2020/21 Annual Report has been updated following remediation.

ILARS paid approximately \$48.5M in professional fees and \$29.8M in disbursements during 2021/22. This is an increase on amounts paid in previous years, reflecting an increase in applications over the past two (2) years in particular (see below). Grants generally are paid at finalisation; the increased ILARS expense reflects the substantial increase in ILARS grants finalised during FY2021/22.

Observations From Grant Applications

Increase in ILARS applications

Applications for ILARS grants exceeded 20,000 for the second year in a row in FY2021/22.

At an aggregate level, workers' need for legal assistance is substantially influenced by what is occurring in the broader WC system. Examples of this include:

- Broader social conditions, such as economic downturns or the COVID-19 pandemic. This can reduce work and return to work opportunities, which may see injured workers' WC payments reduced and cause financial hardship. This, in turn, may motivate injured workers to seek legal assistance to ensure they are receiving correct entitlements;
- Higher incidence of mental health issues in the community and in workplaces generally may result in increased psychological injury claims. Psychological claims tend to be more complex and more contested, which means that a proportionately higher number of workers with a psychological injury need legal assistance, and often need it earlier in the process than those with physical injury;
- The complexity of WC laws, which many injured workers may need assistance to navigate or interpret, to fully understand their rights and obligations;
- The expertise and timeliness of insurers' responses to WC claims, and the extent of their efforts and supports to promote recovery and return-to-work;
- The willingness of employers to work with injured workers to find suitable duties, to facilitate return to work.

Changes to the ILARS funding policy adopted from September 2019, which have resulted in earlier applications from Approved Lawyers and the withdrawal of the former ILARS Hearing Aids and Hearing Loss Claims Policy on 1 July 2020, continue to contribute to increased application numbers.

To assist us to forecast demand and expenditure on ILARS grants, we have developed a forecasting model with the assistance of KPMG. The model has identified increasing ILARS expenditure in future years.

Clarifying the law through funding appeals

The IRO provides grants of funding to enable injured workers to challenge or defend decisions of the PIC. Where the worker is defending a decision in their favour, grants are generally provided without condition.

Where the worker seeks to challenge a decision (which is unfavourable to them), payment of legal costs will generally only be made in the event of a successful outcome. Where the advice of an Approved Barrister is that the matter has a reasonable prospect of success and the matter raises an important question of law, full funding may be granted.

Funding to support appeals in appropriate circumstances is not only important to the individual worker concerned but can also be necessary to test the scope and application of new or amended provisions, or to clarify contentious legal issues that arise due to the complexity of the workers compensation legislation.

Case study: Appeals Reasonably necessary medical and related treatment – Section 60 of the 1987 Act

In *Honarvar v Professional Painting AU Pty Ltd* [2022] NSWPCPD (decision dated 31 March 2022), Deputy President Snell confirmed that a mattress and bed were “curative apparatuses” as defined by section 59(e) WCA and that they were “reasonably necessary” and therefore compensable under section 60 WCA.

The worker injured his right ankle and lumbar spine at work. He underwent several surgeries on his ankle, extensive conservative treatment for his lumbar spine and also had psychological treatment. He sought approval for lumbar fusion surgery and a mattress and bed. However, the insurer disputed the claim.

At first instance, Member Wynyard entered an award for the insurer.

With respect to the proposed surgery, the Member held that the worker based his case on the assumption that all he had to prove is that alternative treatment was not effective, but more proof is required than the worker’s own subjective view. He also found that the treating doctors’ reports did not assist as they supported the proposed treatment for the reason that nothing else had worked. He also held that the proposed surgery was unlikely to result in any significant improvement or associated functional gains.

With respect to the claim for the mattress and bed, the Member held that the treating specialist recommended these items to

assist in recovery from the proposed surgery and for pain management, but while a firm mattress may assist in minimising pain, this does not impose an obligation on the respondent to supply one. He found that there are no particular therapeutic or curative qualities in the purchase of a mattress of a type that is commonly used by members of the public.

On the application of the Approved Lawyer, the IRO conditionally funded the appeal by the worker – that is, that the IRO would meet the legal costs of the appeal where the worker achieved a successful outcome (i.e., a benefit) from the action.

Deputy President Snell upheld the worker’s appeal and ordered the insurer to pay the costs of the proposed surgery and the mattress and bed. He found that the Member did not provide sufficient reasons as to why he was not assisted by the worker’s self-assessment about the effectiveness of alternative treatments and had erred in making factual findings that were not open on the evidence. The Member’s conclusion that the proposed surgery would not result in any significant improvement or associated functional gains was infected by the error in fact-finding.

With respect to the mattress and bed, the Deputy President held that these are “curative apparatuses” as defined in section 59(e) WCA because: (1) they could be fairly described as a ‘mechanical contrivance’; (2) they have ‘therapeutic qualities’; and (3) they are used to achieve a particular medical purpose, as the treating surgeon made clear.

Commutation cases

Both the McDougall Review and the 2020 Review of the Workers Compensation Scheme by the Standing Committee on Law and Justice (SCLJ review) highlighted concerns about limited options for workers to reach agreement with insurers to settle their workers compensation claim and exit the scheme, despite general support for such arrangements.

The IRO supports workers who wish to explore the option of exiting the scheme through the existing commutation mechanism in WC legislation by funding Approved Lawyers to assist workers to negotiate such agreements.³ There were 26 grants sought to explore commutation of an injured worker's future rights finalised in FY2021/22. Twenty-four (24) workers successfully commuted their rights with an Agreement registered in the PIC. The following case study demonstrates a matter where agreement was reached.

Case study: Commutation

An Approved Lawyer contacted the IRO in January 2020, requesting an ILARS grant to assist an injured worker who had suffered injuries to her cervical spine, lumbar spine and both lower extremities in 2011 while working as a switchboard operator.

The injured worker had pursued compensation for permanent impairment and was assessed as having 28 per cent whole person impairment by a medical assessor appointed by the (then) Workers Compensation Commission in 2014.

In late 2019, the injured worker was invited by the insurer to consider commuting the insurer's liability.

After extensive negotiations, the worker agreed to a substantial lump sum in exchange for terminating any further rights to compensation. The Approved Lawyer provided independent advice about the effect of the commutation agreement, including the implications on any entitlement to social security benefits.

The insurer submitted the required application to commute the insurer's liability to SIRA, which certified that the preconditions for commutation as specified in section 87EA of the 1987 Act had been met.

Following SIRA's certification, the insurer's legal representative filed an application to the PIC for the registration of the commutation. Registration was affected in early 2022.

3. Part 3, Division 9, WCA.

ILARS governance framework

In 2021, the IRO published revised Practice Standards for IRO Approved Lawyers, updated agreements for Approved Lawyers and Approved Barristers (which set out practitioners' and the IRO's obligations, as well as consequences of breaches of the agreement), new Guidelines for approval as an IRO Approved Lawyer and new ILARS Funding Guidelines.

The Funding Guidelines, made under Schedule 5 to the PIC Act, were developed after consultation with the legal profession and other stakeholders and:

- set out transparent and accountable arrangements for review of IRO funding decisions;
- clarify requirements for approval of funding and payment for grants completed at Stage 1;
- clarify the merit test to be met to qualify for an extension of funding to Stage 2;
- limit Stage 4 non-conditional funding for worker initiated appeals to those matters where the appeal has reasonable prospects and there is an important question of law to be decided.

In late 2021, the Independent Review Officer commissioned a review of the Guidelines (see below).

Federal jurisdiction matters

There are a small number of workers compensation disputes which are impacted by federal jurisdiction issues. These are primarily matters where the dispute is between the State of New South Wales and a worker who resides in a State other than New South Wales at the time of filing the application in the PIC. These disputes may not be able to be determined by the PIC, as to do so may be an exercise of federal jurisdiction.

The PIC Act enables persons to commence proceedings in the District Court (with leave of the Court) for the determination of applications that the Commission cannot determine because that would require the exercise of federal jurisdiction.

The IRO received initial requests for funding for costs associated with the District Court proceedings in early 2022 and immediately provided funding for disbursements so as not to delay the commencement of proceedings.

To supplement the Funding Guidelines, the IRO also developed a new Federal Jurisdiction Funding Policy, which commenced on 1 July 2022.

The Policy includes a specific Professional Fees and Disbursements Schedule. Key principles relevant to the policy include:

- consistent with other ILARS-funded matters, legal advice and assistance to the worker should be at no cost to them;
- matters are funded on a 'best equivalence' basis – such that neither workers nor Approved Lawyers are disadvantaged by the requirement for the matter to be dealt with by the District Court;
- costs are payable for matters which are resolved on the basis of payment of statutory benefits only;
- the IRO may seek a refund of legal costs or any part of the costs paid under the grant where a worker recovers costs in the District Court;
- the IRO retains an overarching discretion as to the professional fees paid and reimbursement of disbursements, including in considering any decision or reasons of the Court in determining the matter.

To date, IRO has received 36 matters involving a federal jurisdiction issue. These include death claims where one or more of the dependants is a resident outside of NSW, a matter resolved by way of complying agreement following an issuance of a Medical Assessment Certificate and an application for expedited assessment where the worker resides interstate.

Case study: Federal jurisdiction matter where worker resides interstate

An ILARS application was lodged in March 2021 for approval of funding to investigate a psychological injury for which liability was in dispute. The worker's nominated treating doctor had lodged a Certificate of Capacity with the insurer in August 2020 stating that the worker had no capacity for work and suffered from anxiety and depression from work stress due to bullying.

Initially the insurer reasonably excused the claim, pending receipt of further medical evidence. They later relied on the defence provided for in section 11A of the 1987 Act to assert that any injury to the worker was caused by reasonable action taken by the worker's employer in relation to their performance, and therefore was not compensable.

The worker's Approved Lawyer sought a review of the insurer's decision and made a claim for weekly benefits and medical expenses. In December 2021, the insurer maintained the decision to dispute liability. In January 2022, the Approved Lawyer was granted an extension of funding by the IRO to proceed to the PIC to resolve the dispute.

At the time of lodging the Application to Resolve the Dispute (ARD) in the PIC in February 2022, the worker resided outside

of NSW, the employer was a resident of NSW, and the insurer was a government entity of the State of NSW. The matter was identified as a federal jurisdiction matter.

The worker therefore filed a Summons and Affidavit in the District Court seeking leave to commence proceedings to determine their claim for compensation or an order to the effect that the usual decision-maker (the PIC) has jurisdiction to determine their claim.

Consent Orders of the District Court in March 2022 noted the matter did involve the exercise of federal jurisdiction and remitted the matter to the PIC to attempt conciliation or, if necessary, make a decision on the claim, as permitted by the PIC Act 2020 (NSW).

The PIC listed the matter for conciliation/arbitration and in April 2022 a Certificate of Determination – Consent Orders (COD) was made requiring that the employer pay the worker weekly compensation for a closed period and reasonably necessary medical expenses incurred.

A copy of the COD was provided by the PIC to the District Court, which entered a Consent Judgement/Order in May 2022 to finalise the matter in accordance with the COD.

Gig economy workers in NSW

A person is only entitled to workers compensation if they are a worker who has sustained an injury. Schedule 1 of the WIMA defines a 'worker' as a person who has entered into or works under a contract of service or a training contract with an employer.

In 2020, five on-demand ('gig economy') food delivery riders were tragically killed on NSW roads. The entitlement of their dependants to workers compensation turns on whether these riders were workers as defined by WIMA. For each rider, this requires an assessment as to whether their individual circumstances and business arrangements meet the statutory definition.

The case study below is an example of a recent decision by the PIC which determined that lump sum compensation was payable to the dependants of one of these riders.

Case study: Entitlement to compensation for death benefits

A food delivery driver was killed in September 2020 when their bicycle was hit by a bus while they were making a delivery on a NSW road in the course of their employment. At the time of the driver's death, their spouse, two children and father were dependent upon them for support.

The insurer disputed that these dependants were entitled to compensation for death benefits following the driver's death on the basis that the driver was not a 'worker' under workers compensation law.

ILARS Grants were provided by IRO to two Approved Lawyers, to assist the driver's dependants with their claim for compensation.

The insurer ultimately agreed, in proceedings before the PIC, that the delivery driver was a worker. The PIC then determined that a lump sum of nearly \$830,000 compensation was to be apportioned between the dependants.

At the time of writing, family members of two other gig economy workers who were killed in accidents while working in NSW in 2020 have filed claims with the PIC, alleging that the NSW state insurer, icare, is liable to pay compensation to dependants of the workers. ILARS funding has been approved for Approved Lawyers to provide representation to the family members of both deceased workers.

Where appropriate, IRO will continue to make available to persons who may be workers (or their dependants), assistance through ILARS to dispute insurer decisions that deny liability for workers compensation.

ILARS Review

2022 marks the tenth year of operation of ILARS, which was established in 2012 in response to legislative reforms that required workers to bear their own costs in relation to a claim for compensation.

While ILARS has been in operation for a decade, it was only in March 2021 that the PIC Act established ILARS as a statutory function of the IRO. The PIC Act also provides for a clear statutory purpose, that is:

- to provide funding for legal and associated costs for workers seeking advice regarding the decisions of insurers under workers compensation laws;
- to provide assistance in finding early solutions for disputes between workers and insurers.

To assess how effectively ILARS is meeting its statutory purpose and contributing to broader workers compensation scheme objectives, the Independent Review Officer commissioned a review – with a focus on the Guidelines both for approving lawyers who are eligible to apply for funding, and for the allocation and amount of ILARS funding provided. An expert review committee was appointed to undertake the review:

- Shane Butcher, a Principal at Law Partners; an Accredited Specialist in Personal Injury Law; a member of the Rules Committee of the Personal Injury Commission, the Law Society of NSW's Injury Compensation Committee and the Australian Lawyers Alliance; and an Approved Lawyer under ILARS.
- Elizabeth Harris, an expert costs lawyer; Principal of Harris Costs Lawyers and Ovid Consulting; joint Editor of Quick on Costs; and a member of the Legal Services Council for the Legal Profession Uniform Law and of the Victorian Legal Services Board.

- Michael Talbot, a senior consultant and independent director on the Boards of the Australian Disputes Centre and Uniting; a former Deputy Secretary of Courts and Tribunal Services in the (then) NSW Department of Justice; and a former senior executive of Australia Post.

The Committee is supported by a dedicated Secretariat and is assisted by a reference group comprised of experts from various interested sectors.

An Issues Paper was released in June 2022, seeking feedback from stakeholders on matters including their experience with ILARS, the accessibility of ILARS and how effectively the Guidelines operate to deliver on the statutory purposes.

Seven submissions were received, and the Secretariat met with key stakeholders including law firms that are substantial users of ILARS. Key themes emerging from the submissions and consultations include:

- ILARS contributes positively to the objects of the worker's compensation system;
- there is scope to regularly review the operation of the ILARS Guidelines.

The Final Report of the review will be delivered to the Independent Review Officer before the end of 2022.

SYSTEM OVERVIEW

System Overview

Continuous improvement in the WC and CTP systems

The IRO has a role in contributing to improvements in the workers compensation and CTP schemes. The IRO draws on its complaints, enquiries and applications for ILARS grant funding data to identify trends, patterns and possible systemic issues, as well as opportunities to promote continuous improvement.

System impact

In FY2021/22, the IRO regularly participated in bilateral meetings with icare and SIRA. The Independent Review Officer regularly met with the heads of SIRA and the PIC to discuss system wide issues.

In FY2021/22, the IRO has been consulted on, or provided input into, various activities led by other stakeholders in the NSW workers compensation and CTP systems, with a view of system improvement. This has included:

- providing feedback on new SIRA Workers Compensation Guidelines;
- making a submission to the SIRA 2021 consultation paper on:
 - responses to recommendations of the McDougall Review;
 - responses to recommendations made by the NSW Legislative Council Standing Committee on Law and Justice as part of its 2020 review of the workers compensation scheme (SCLJ review);
 - targeted questions related to the effects of COVID-19;
- a submission to the statutory review of the *Motor Accident Injuries Act 2017*, undertaken by Clayton Utz and Deloitte.

We have also provided specific insurers with data about the nature of complaints the IRO has received about their service provision, continued our engagement with leading

personal injury plaintiff law firms, and closely considered the policy and practice implications of draft bills and regulations for amendment of the enabling legislation.

Contributing to the COVID-19 response

Since March 2020, the IRO (or previously WIRO) has recorded details of every complaint, enquiry and ILARS funding application with a COVID-19 related issue to track the impact of the virus on injured workers and inform policy and system responses to COVID-19.

The IRO received 123 complaints, 220 enquiries and 242 grant applications for matters with a COVID-19 issue between 1 July 2021 and 30 June 2022.

Unsurprisingly, an uptick in enquiries corresponded with the emergence of the Delta and Omicron strains and consequent Public Health Orders (including movement restrictions and vaccine mandates), and the impact of these on injured persons' rights and responsibilities.

COVID-19 impacted almost every element of the personal injury compensation system. Some workers contracted COVID-19 at work or had adverse reactions to mandated vaccinations, resulting in a claim for compensable disease injury. Some injured persons had treatment and surgery deferred, or received telehealth rather than in-person treatment.

Other common themes included the impact of JobKeeper and disaster payments on weekly payments, return to work challenges where suitable duties were unavailable, and concerns about attending medical examinations and assessments in-person or through videoconference, or delays in accessing these examinations.

IRO's first focus was to ensure responsive services to both injured persons and Approved Lawyers. To assist with answering common questions, the IRO prepared a detailed frequently asked questions (FAQs) page on its website, which was updated as the situation evolved.

During the peak of the Delta and Omicron waves, the IRO also released seven COVID-19 reports, providing concise and timely information about the trends and issues

from complaints, enquiries and ILARS grant applications. The last report, covering the period of 1 January 2022 to 31 March 2022, showed a gradual decline in complaint and enquiry numbers as movement restrictions reduced, and a gradual increase in ILARS grant applications as workers with COVID-19 related injuries sought advice, assistance and representation for their claims.

The following case studies provide some insight into the types of matters raised with the IRO.

Case study – Enquiry – Suitable duties for vulnerable worker

An injured worker contacted the IRO to enquire about how to seek a review of an employer's suitable duties decision.

The worker was employed in healthcare and was due to return to work after an injury. The worker was informed that they would be required to work with COVID-19 patients. The worker told the employer that they could not undertake this type of work because of health conditions which placed them at risk of severe complications if they were to become infected with COVID-19.

The employer withdrew suitable duties and criticised the worker for raising objections to the duties that had been proposed. The worker then developed a psychological injury, and their capacity for work was downgraded.

The insurer disputed the change to the worker's capacity to work on the basis that it did not have sufficient information.

In response to the worker's enquiry as to their rights, the IRO provided information to the worker about how to request a review of the insurer's work capacity decision, and recommended that the worker obtain additional information from their treating general practitioner to provide to the insurer. In addition, the worker was advised that funding was available for them to obtain legal assistance from an Approved Lawyer through ILARS.

Case study – Enquiry – Adverse reaction to vaccine

A worker contacted the IRO to seek advice on their rights and entitlements after they had a serious adverse reaction to a COVID-19 vaccine. They had received the vaccination in order to comply with a mandate implemented by their employer. As a result of the adverse reaction, the worker had no capacity for work and required ongoing medical investigation and treatment.

The IRO provided information about the compensation available where a worker suffers a work-related injury, and advice about how to lodge a claim for compensation, including what to do if the insurer did not accept the claim.

Case study – Complaint – Calculation of PIAWE when COVID-19 is second injury

An injured worker contacted the IRO with concerns about the calculation of PIAWE. They had an accepted claim for compensation following an injury that resulted in them returning to work on reduced hours. The worker was still receiving weekly payments for loss of income when they contracted COVID-19 at work.

The worker made a separate claim for compensation in relation to the COVID-19 disease injury. For the worker's second claim, their insurer calculated the worker's PIAWE on the basis of what they were earning after, rather than prior to, the first injury. This resulted in a much lower weekly payment for the worker.

The worker sought assistance from the IRO and following intervention, the insurer reviewed its decision and increased weekly payments to reflect the correct calculation of PIAWE.

Case study – Section 19B presumption

An Approved Lawyer sought funding on behalf of a retail worker who contracted COVID-19. The insurer denied liability for the claim on the basis that the worker had not provided evidence linking their COVID-19 disease injury with their employment.

The IRO granted funding for the Approved Lawyer to conduct enquiries and to challenge the denial of liability. The Approved Lawyer successfully sought a review of the insurer's decision on the basis that, as the worker was employed in the retail industry, they were entitled to a presumption that their COVID-19 infection was contracted in the course of employment in accordance with section 19B of the 1987 Act.

The dispute was resolved within three weeks of the application for funding being approved by the IRO, with the insurer agreeing to pay weekly compensation and the injured worker's medical expenses.

IRO inquiries

Clause 6 of Schedule 5 to the PIC Act provides for the Independent Review Officer to inquire into and report to the Minister on matters arising in connection with the operation of the workers compensation and CTP schemes. The IRO developed a program of inquiries as part of its 2022 Direction.

In FY2021/22, we continued to build our inquiry function, looking into systemic issues with a view to strengthening and improving the system for injured persons.

We continued our inquiry into the application of section 59A of the WCA. We also began our second in-depth systemic issue inquiry, concerning errors in weekly payments. In addition, we have commenced preliminary inquiries into several additional areas of concern, including high-cost medical disputes and access by injured persons to treatment by non-SIRA approved allied health professionals.

Section 59A

In FY2021/22, we continued work on the inquiry we commenced in early 2021, looking at practical issues arising from the operation of section 59A of the WCA. Section 59A imposes time limits on the payment of compensation for medical, hospital and rehabilitation expenses. Our inquiry focused on the impact and fairness of these limits.

We developed an Issues Paper, exploring the nature and breadth of the problem, and seeking views on possible solutions. Prior to the release of the Issues Paper, the NSW Government announced that SIRA would be conducting an extensive consultation in response to recommendations of the McDougall Review and the SCLJ Review. To avoid duplication, it was agreed that the Issues Paper would be modified to complement SIRA's consultation.

The Issues Paper was released in October 2021 and provided detailed context around the issue, evidence to demonstrate our concerns, and suggestions for possible solutions. Submissions made in response to the Issues Paper were made directly to SIRA as part of its consultation process.

In total, 40 submissions were made to SIRA's consultation, several of which directly referenced the IRO Issues Paper, or otherwise discussed challenges with section 59A.

Our Issues Paper and stakeholder responses are being considered in the context of future reforms to WC legislation.

Errors in weekly payments

Employers are required to pass on compensation monies owed to workers as soon as practicable and keep and maintain records of all wages paid to workers.⁴

Error in weekly payment complaints arise where a worker is entitled to receive weekly compensation payments and the employer (or its insurer) incorrectly delays making the payment, does not pass on the correct payment, or ceases the payment.

In FY2021/22, the IRO continued to receive a substantial number of complaints (578) related to errors in weekly payments.

The IRO commenced an inquiry into the issue, as these errors create inefficiencies in the workers compensation system, and delays in their resolution can reduce trust between the worker and their employer and insurer, potentially impacting the speed and success of the worker's return to work. They can also have significant financial, emotional and practical consequences for injured workers, affecting their ability to access treatments and pay rent or mortgages, and causing additional stress and anxiety, which can delay their recovery and exacerbate their injury.

In March 2022, the IRO finalised a review of 100 randomly selected complaint matters received in FY2020/21, including complaints representing all insurer types and complaints where the employer or the insurer makes the payment. This analysis informed a discussion paper that identified some of the causes and impacts of

errors in weekly payments. Responses were sought from stakeholders to a series of targeted questions on prevalence, possible causes, and actions that have already been taken to address this issue, and sought feedback and suggestions on further options to reduce incidence of these errors going forward.

We received eight responses from stakeholders, including insurers, professional associations, workplace rehabilitation service providers and unions.

The Final Report is currently being developed and will incorporate feedback from stakeholders. Some of the suggestions that are being evaluated include introducing or continuing internal audits, timely updates to payroll systems by insurers and employers, specialised communication training for payroll officers and case managers, and regulatory reforms. The Final Report will be provided to the Minister and published on the IRO website.

IRO education and publications

Education for workers compensation practitioners

The IRO held six regional seminars across NSW in May 2022. These seminars included a substantive law unit focused on medical treatment decisions in the PIC and the most effective ways to make and resolve complaints and to make and progress an ILARS grant of funding.

The IRO also held its annual Sydney Seminar on 15 June 2022. This was the tenth Sydney Seminar in IRO/WIRO history, titled this year, 'A Focus on Psychological Injuries and COVID-19':

- 197 delegates attended the event in person at the UTS Aerial Conference Centre;
- 575 delegates accessed the Seminar online via live stream, with 924 additional visits to the IRO website to view the recorded presentations since they were posted.

The Seminar involved a mix of presentations and panel discussions with experts and practitioners from a range of fields, including insurers, legal

⁴ Sections 264(3) and 69(1)(c), WIMA; section 174, WCA; clause 166, Workers Compensation Regulation 2016.

and medical professionals, union officers, and senior representatives from PIC and SIRA, each offering their expertise and professional perspectives on the central questions of:

- how increased mental health issues in the community have been reflected in increased psychological injuries in the personal injury system, and what this means in the short and long term?
- how the personal injury system has responded to COVID-19 to date, what are the emerging issues and what are the learnings?

Feedback from participants at both regional seminars and the Sydney seminar was overwhelmingly positive, with the level of satisfaction (very satisfied and satisfied) for those who completed the user survey for the Sydney Seminar sitting at over 97 per cent.

Publications with updates on cases and reforms

Twenty issues of the *IRO Bulletin* were published this year and sent directly to over 2,800 subscribers. The Bulletin provides an analysis of recent and relevant decisions from the PIC and Courts, and information about amendments to legislation, regulations and Fees Orders. The Bulletin is an important resource for professionals who are engaged in determining or advising upon injured workers rights and entitlements.

The IRO Alerts are newsletters with up-to-date information for practitioners in the personal injury system. Thirty-three IRO Alerts were published in FY2021/22.

In addition, in FY2021/22, the IRO published four periodic performance reports, and two of its new *IRO News* publications.

Corporate performance

Business Process Review

In July 2021, the IRO commenced an in-depth, end-to-end Business Process Review, which has examined all aspects of our work and identified opportunities to improve our efficiency and effectiveness. The Review has examined and devised recommendations to improve the quality and efficiency of our case and grant management processes, streamline

and automate certain work functions (e.g., automated email requests to Approved Lawyers for updates on grant matters where there has been no communication for six months), and adopt clear processes and templates where suitable to enhance efficiency and promote consistency.

Several updates have been made to the IRO's case management system, Resolve, to ensure that it operates as efficiently and quickly as possible, and allows our staff to easily navigate case files and data to facilitate swift processing of claims, and the generation of insights about our work.

The Review will also inform a continuous improvement framework, which will allow us to examine our systems and processes, and adjust our practices to ensure we can continue to deliver fast, efficient and costs effective services.

Fiftyfive5 user experience survey

The IRO commissioned independent marketing research consultants, Fiftyfive5, to conduct a survey of the user experience (UX) of those relying on IRO services. The survey responded to recommendations made by the Nous Group in their external assessment of IRO/WIRO services in 2020. It was undertaken to obtain a clear baseline measurement of key stakeholders' experiences and satisfaction with services provided by the IRO or Approved Lawyers funded under ILARS.

Three short, simple online UX surveys were developed for completion by:

- injured workers with respect to their experience with the IRO Solutions Group and Approved Lawyers;
- Approved Lawyers with respect to their experiences with the Solutions Group and the ILARS Group;
- insurers with respect to their experience with the IRO Solutions Group.

The following response rates from those who received the survey were achieved:

- 14.4 per cent of injured workers and injured persons (persons injured in motor accidents);
- 15.1 per cent of Approved Lawyers;
- 34.2 per cent of insurer case managers.

Table i: Satisfaction with IRO services

Respondent type	Level of satisfaction
Injured persons – satisfaction with Solutions	53%
Injured persons – ease of dealing with Solutions	59%
Insurer case managers – satisfaction with Solutions	83%
Insurer case managers – ease of dealing with Solutions	88%
Approved Lawyers – satisfaction with ILARS	82%
Approved Lawyers – ease of dealing with ILARS and level of service	89%
Injured workers – satisfaction with Approved Lawyers	69%

Feedback on IRO Solutions

Injured persons feedback on IRO Solutions

415 injured persons who used IRO Solutions services in the 12 months before the survey was conducted provided a response.

29 per cent of these respondents rated IRO services 10 out of 10, and were extremely satisfied with the timeliness and outcomes of their complaints. These and other satisfied respondents highlighted the professionalism, helpfulness and good communication of the IRO team.

Conversely, 20 per cent of respondents provided a zero rating. A review of these and other dissatisfied responses indicates the injured persons were more likely to have long standing and general issues with their insurer that the IRO was unable to solve, or solve quickly. Comments provided by some of these respondents indicated a general dissatisfaction with all organisations involved in the personal injury system.

Case manager feedback on IRO Solutions

The 40 surveys completed by insurer case managers recorded high satisfaction with IRO, with very high ratings for ease of dealing with the IRO (88 per cent satisfaction), and case managers perceiving team members as being professional and collaborative. Opportunities to provide greater clarity around complaint outcomes and closure were identified through the responses received.

Approved Lawyer feedback on IRO Solutions

Where Approved Lawyers have interacted with IRO Solutions, responses indicated that they have a positive perception, with 80 per cent of respondents agreeing that IRO assisted them to progress their client’s case and 70 per cent agreeing that IRO’s assistance helped them reach faster outcomes for their clients.

Feedback on IRO ILARS

Approved Lawyer feedback on ILARS

Of the 90 surveys completed by Approved Lawyers, the overall satisfaction with ILARS was high - 82 per cent of Approved Lawyers stated they were satisfied with their overall experience. The responses indicated that lawyers find it very easy to deal with ILARS (89 per cent) and are happy with the level of service provided.

Opportunities for improvement were identified with respect to invoicing and keeping Approved Lawyers informed of the progress on funding requests.

Injured workers feedback on Approved Lawyers

Responses from injured workers indicated overall high satisfaction with Approved Lawyers, with 69 per cent recording they were satisfied with the overall experience. Positive feedback was about aspects such as the knowledge of and communication by Approved Lawyers.

Key issues for workers who were dissatisfied with the services of their lawyers (18 per cent) related to dissatisfaction with the outcomes of their matters and the turnaround times involved.

Insights and opportunities

The survey results offered useful insights into what the IRO is doing well, and where there may be opportunities for improvement. The IRO is developing an action plan to map out steps to address identified areas for improvement or change, including streamlining invoicing processes, and developing standardised communications to parties where a complaint is resolved. These will be addressed and implemented in the coming year.

Updates on developments in response to these baseline findings will be included in next year’s Annual Report, along with a summary of findings from future iterations of the survey.

Implementation of reforms arising from Nous external assessment and Direction 2020/22

In early 2020, the Independent Review Officer commissioned the Nous Group to undertake an Assessment of the IRO's complaints handling and grants management functions to benchmark services and provide a roadmap for continuous improvement.

Nous' final report identified that the IRO provide a valued service with suitable expertise and accessibility. It highlighted four focus areas for improvement. These areas – early solutions, system impact, effectiveness and efficiency, and developing our people – are reflected in the IRO Direction 2020/22. The IRO has undertaken significant work to progress each of these areas over the past 12 months, a summary of which is set out below.

Early solutions investigations

In FY2020/21, the IRO reviewed its Complaint Handling Protocol (Protocol) in consultation with system participants.

The current Protocol, which sets out procedures used for dealing with complaints and enquiries, was implemented on 1 March 2021, adopting a new investigations procedure for hard-to-solve complaints. The approach is an exception, and undertaken where, after initial enquiries, the IRO is concerned that a fair and reasonable solution may not be reached using the standard Fast and Fair method of dealing with complaints. The investigation enables all relevant information to be requested and reviewed, and all options to solve the complaint explored.

In the 15 months since its adoption, the IRO has commenced six investigations under the Protocol. Four investigations were discontinued prior to the publication of an investigation report. Of the four investigations discontinued, two were discontinued because the insurer came to a solution that was considered fair and reasonable, one was discontinued because further information was provided to explain the insurer's conduct, and one was discontinued because proceedings commenced in the PIC.

Case study: Entitlement to compensation for death benefits

The worker complained to the IRO that they had been underpaid \$46,000 by the insurer. The IRO raised this with the insurer and after several weeks and a reconciliation, the insurer agreed there was an underpayment and made payment. The IRO then closed the complaint.

A few days later, the insurer wrote to the injured worker advising that, in making that payment, it had overpaid \$39,000. It demanded repayment of \$39,000 from the injured worker, and provided its bank details in the letter. The worker again complained to the IRO, a new complaint was opened and enquiries were resumed. The IRO had concerns about the method of calculation of overpayment, and also that recovery was not in line with SIRA Standard of Practice 23, which required, for example, that the insurer consider the individual facts and circumstances of the matter, including whether it was appropriate to seek recovery from the worker, and seek the worker's agreement to enter into a repayment arrangement.

After initial attempts to resolve the complaint were unsuccessful, the IRO commenced an investigation focusing on the accuracy of any overpayment calculation.

Over a number of weeks, repeated attempts by the insurer to recalculate overpayment were found to be flawed. Calculation errors included payment reconciliations not aligning with physical payslips and the inclusion of annual leave as earnings.

At the conclusion of the investigation, the IRO prepared a preliminary report, outlining concerns about multiple inaccurate calculations and that attempts to resolve the complaint had caused the worker considerable distress. The IRO recommended that the insurer consider waiving any claim for overpayment. The insurer agreed to the IRO's recommendation. The insurer also issued a letter of apology to the injured worker. In the IRO's view, this was a fair and reasonable response resulting in the finalisation of this matter.

Case study: Investigation - Error in PIAWE calculations

The injured worker contacted the IRO in July 2021 to advise that their employer had not been making accurate payments and back payments following a new work capacity decision (WCD) from the insurer. The WCD resulted in an increase in the worker's PIAWE from \$1,050.16 to \$2,394.56.

The IRO contacted the insurer and requested that they take over the outstanding back payments and future payments in line with the new PIAWE. The insurer advised that the employer had requested a review of PIAWE, and would continue to pay the lower rate until a decision was made.

The injured worker contacted the IRO again and reported that the insurer's review of PIAWE had resulted in a new WCD that reduced their PIAWE to \$1,150.01. This unfavourable WCD was issued to the worker with no prior notice.

Following the IRO's enquiries, it was revealed that the WCD that resulted in the \$2,394.56 PIAWE was incorrectly calculated. The figure was based on the worker's pre-

incapacity average weekly earnings (which were higher due to a promotion) instead of their PIAWE (which was lower because they were working part time) as required under section 43(1)(d) of the 1987 Act.

When an insurer disputes a claim or issues a WCD that has the effect of reducing weekly payment entitlements, they are required to provide a period of notice to the injured worker. The insurer asserted that because the higher rates were not an accurate reflection of PIAWE, the WCD was not adverse, such that it brought into line what payments ought to have been in the first instance, thus negating the need for notice.

The IRO raised concerns that this approach was not consistent with the notice period required by law. After a number of enquiries, the insurer agreed with the IRO's position and issued an updated WCD, provided the relevant notice period, and confirmed that it would make back payments totalling \$24,637.71.

There was some delay in attending to the back payments. The IRO followed up with the insurer to confirm that all payments had been made, and the insurer issued an apology to the injured worker.

Our people

FY2021/22 was another challenging year for the IRO team, as the COVID-19 pandemic continued to affect workplaces across NSW. Many team members were balancing work and substantial caring obligations. Some of the persons relying on our services were significantly impacted by movement restrictions and reduced access to health services, meaning they were often distressed when contacting us.

The IRO worked to maintain and build on our flexible working arrangements and to support the wellbeing of our team during this period. More flexible working hours were provided where possible and we commenced an enhanced program of proactive wellbeing calls delivered by our Employee Assistance Program provider, Benestar.

We delivered or made available new learning and development opportunities such as the five module Leadership Engagement and Action Program (LEAP) for our people leaders. We also commenced a program to make available high-value courses that would support team members to take the next step in their careers. This year three team members were funded to undertake courses in public sector leadership, data analytics and mediation.

We also sponsored attendance by team members at various stakeholder conferences, and online seminars on topics broaching managing psychological injury, promoting safe return to work, and the impact of COVID-19. General training on the Microsoft Office suite, including Word, Excel, SharePoint and OneNote, was made available to all team members.

In addition, over FY2021/22, the IRO Wellbeing Team ran numerous events to promote wellbeing and keep staff connected. The Team produced a newsletter to introduce new staff members and provide information on health and wellbeing events, scheduled around significant dates such as Easter, Halloween, Christmas and R U Ok Day. Other events included trivia competitions, 'walking your neighbourhood' photo competitions, exercise challenges, physical activities to try, and online social catch ups. We had enthusiastic take up, particularly during the 'hard lockdown' between July and October 2021, and staff enjoyed the opportunity to participate and have a social avenue to keep in touch with their colleagues.

Our effectiveness and efficiency

On 1 March 2021, the IRO commenced operation as a NSW public service agency. To continue to increase our effectiveness, and as part of work to consolidate the establishment of the IRO, we have been implementing improvements to the IRO's governance and performance management systems (see Corporate Governance).

We are continually improving our technology systems and process design to increase the efficiency of IRO services. This work has principally been led under the umbrella of the Business Process Review, discussed above.

Table 11: Performance against IRO Direction 2020/22

Priority	Supporting activities during FY2021/22	Key success measure	Status for FY2021/22
Increasing our impact in finding early solutions	<ul style="list-style-type: none"> Established new function to deal with complaints by persons injured in motor vehicle accidents Revised IRO Complaint Handling Protocol to improve our capability to investigate and solve intractable complaints 	<p>> 90% achievement of performance measures (timeliness, quality)</p> <p>> 80% satisfaction with IRO services (accessibility, timeliness, fairness, expertise)</p>	<p>Achieved in part</p> <p>> 95% of complaints finalised within 15 days</p> <p>> 80% ILARS applications assessed within 5 working days</p> <p>> 90% of approved invoices paid on time</p> <p>see also UX results referred to above</p>
Increasing our impact in improving statutory compensation schemes	<ul style="list-style-type: none"> Developed IRO Inquiry program Completed first IRO systemic Issue report: <i>Delay in determining liability</i> Inquiry Appointed senior communications advisor Implemented use of Power BI to improve data analysis and sharing 	<p>At least two Systemic Issue reports issued each calendar year</p>	<p>Achieved in 2021</p> <p>Published reports on:</p> <ul style="list-style-type: none"> Insurer delays in determining liability for claims and requests: (Microsoft Word - IRO Final Report - Schedule 5 inquiry - delay in determining liability - Jun 2021 (nsw.gov.au)) Practical issues arising from the operation of section 59A WCA (Section 59A Issues Paper October 2021 - 06.10.2021 (002)_1.pdf (nsw.gov.au))
Improving the wellbeing and development of IRO people and our workplace	<ul style="list-style-type: none"> Implemented increased flexibility in the workplace to support the wellbeing of IRO team members in responding to and recovering from COVID-19 Trained staff in key areas including complaints and unreasonable conduct 	<p>> 80% staff engagement as measured by People Matter Employee Survey (PMES)</p>	<p>IRO employee engagement for 2021 as measured by PMES at 78% (+3%)</p>
Increasing the effectiveness and efficiency of IRO operations	<ul style="list-style-type: none"> Established the IRO as a separate Public Sector agency Re-established ILARS as a statutory function of the IRO Implemented Resolve improvements Initiated business processes review 	<p>> 80% satisfaction with IRO services (accessibility, timeliness, fairness, expertise)</p>	<p>Achieved in part; see UX results referred to above</p>

Corporate Governance

The Independent Review Officer is appointed by the Governor. The IRO is a public sector agency established under Clause 5 of Schedule 5 to the PIC Act and Part 3 of Schedule 1 to the *Government Sector Employment Act 2013*. The Independent Review Officer is responsible for ensuring that the IRO and its staff operate in accordance with all legislative and government sector requirements.

The IRO has in place an Executive Committee (including IRO Directors and the Executive Officer) and a People Leaders Group (PLG, including IRO Executives and Managers) to oversee the activities of the agency.

Over the current reporting period, the IRO has continued its uplift work to ensure we have suitable governance and operational arrangements in place to support our new agency status. Building on the work conducted in FY2021/22, we have:

- finalised an exchange of letters with SIRA to document IRO's funding arrangements;
- worked with KPMG to develop and implement a sophisticated forecasting model to determine contingent liability for ILARS;
- worked with our Audit and Risk Committee, chaired by Bruce Turner AM, to ensure our financial reporting and risk identification and management strategies are accurate and robust, to build and maintain trust in our activities;
- agreed on an internal audit program for FY2022/23 with DCS.

We have expanded our suite of governance policies and procedures in key identified areas such as financial reporting, privacy protection, and audit and risk management, adopting a number of DCS policies in relation to areas of shared services (for areas such as ICT, conflicts of interest, and procurement) where appropriate, or developing IRO-specific policies where needed.

We have developed a detailed risk register, which is reviewed quarterly, as well as a settled risk appetite statement with respect to managing key risks to the IRO's core operations

and service delivery, and have participated in the Customer Service Cluster risk maturity audit to help inform our risk identification and mitigation activities.

For the current reporting period:

- **Internal Audit and Risk Management** – the IRO is in 'transitional arrangements' to become compliant with the eight core requirements set out in the Internal Audit and Risk Management Policy for the NSW Public Sector. This is further described in the attached Internal Audit and Risk Management Attestation Statement for 2021/22 for the IRO (see Appendix).

We have completed our first internal audit-focused on IRO processes to pay ILARS-related invoices. The audit identified areas for improvement in our controls including in how corrections are made to payment files, access rights in IRO's case management system, the accuracy of some data entry and the approval of invoices from medical report providers. The areas identified for improvement have been included in the Business Process Review's program of work.

In addition, the Audit-General's Office completed the first audit of IRO's financial statements. The Auditor's Opinion, as recorded in the IRO's 2020/21 Annual Report, was that the statements had been prepared in accordance with relevant laws and standards, and fairly present the IRO's financial position, financial performance and cash flows. The Audit Office's Management Letter identified opportunities for improvement, such as documenting the IRO's funding arrangements with SIRA, implementing a contract register, establishing a process to record accruals and provisions, the use of purchase orders and identifying and recording prepayments, all of which were addressed during FY2021/22.

- **Cyber Security** – The IRO relies on the DCS cyber incident response plan and Information Security Management System (ISMS) of DCS. We manage cyber security risks, in conjunction with DCS, in a manner consistent with the Mandatory Requirements set out in the NSW Cyber Security Policy.

The IRO did not experience any cyber security incidents in the last 12 months. The IRO relies on the DCS cyber incident response plan and has undertaken significant governance uplift work as part of DCS's Project Trust. This includes recognising IRO's Resolve case management system as a 'Crown Jewel' information system, undertaking a Personal Information Control Uplift, Sensitivity Classification and labelling and adopting Essential Eight Security Maturity Controls as part of our Information Security Management System (ISMS).

The IRO has adopted the DCS Risk Assessment Framework and completed a Business Impact Analysis (BIA), Business Continuity Plan (BCP) and Disaster Recovery Plan (DRP). The Resolve application has been migrated to the Amazon (AWS) cloud servers behind the DCS Firewall.

The IRO has completed Cyber Security Maturity reporting for annual attestation for FY2021/22, which will be consolidated with the DCS-led cluster wide attestation, to be submitted to Cyber Security NSW by 31 October 2022.

The Cyber Security Annual Attestation Statement for the 2021-2022 Financial Year for the Department of Customer Service (Secretary – NSW Department of Customer Service) is located in the Appendix.





APPENDIX

Appendix

Additional IRO Data FY2021/22

Data from the following tables is extracted from our Resolve case management system.

Percentages may not add up to 100 per cent, as in most tables they are rounded to the nearest per cent.

Early Solutions

Table 1(a): Workers Compensation (WC) complaint and enquiry issues for matters opened during FY2021/22

Issue	Complaint Number	%	Enquiry Number	%
Complaint about service provider	-	0%	43	1%
Delay in determining liability	1935	25%	180	2%
Delay in payment	1538	20%	122	2%
Denial of liability	754	10%	800	10%
Employer complaint	-	0%	186	2%
Escalation or investigation – secondary issue only	45	1%	-	0%
General case management	940	12%	1170	15%
How to make a claim	-	0%	2073	26%
Independent Legal Assistance and Review Service (ILARS) lawyer complaint	-	0%	261	3%
Independent medical examiner (IME)/ injury management consultant (IMC)	264	3%	234	3%
Non-insurer complaint	273	4%	4	0%
Privacy surveillance	-	0%	6	0%
Query about leave entitlements	-	0%	58	1%
Query about workers compensation (WC) benefits	-	0%	1325	17%
Request for documents	772	10%	116	1%
Weekly benefits	675	9%	485	6%
Who is the insurer?	-	0%	81	1%
Work capacity decision	346	5%	406	5%
Workplace injury management (WIM)	141	2%	275	4%
Total	7683	100%	7825	100%

Note: A case may have more than one issue.

Table 1(b): Compulsory Third Party (CTP) complaint and enquiry issues for matters opened in FY2021/22

Issue	Complaint Number	%	Enquiry Number	%
Complaint about service provider	-	0%	5	1%
Delay in determining liability	-	0%	2	0%
Denial of liability	-	0%	61	12%
General case management	-	0%	80	16%
How to make a claim	-	0%	155	31%
Non-insurer complaint	-	0%	14	3%
Request for documents	-	0%	6	1%
Weekly benefits	-	0%	20	4%
Who is the insurer?	-	0%	18	4%
Investigations	8	1%	-	0%
Income support/weekly payments	171	15%	-	0%
Claim payments	76	7%	-	0%
Claim liability	53	5%	-	0%
Treatment and care	209	18%	-	0%
Minor injury	43	4%	28	6%
Query about compulsory third party (CTP) benefits	-	0%	105	21%
Domestic assistance	37	3%	-	0%
Settlement	9	1%	-	0%
Case manager	138	12%	-	0%
Examination	16	1%	-	0%
Claim lodgement	20	2%	-	0%
Insurer internal reviews	19	2%	-	0%
Common law	30	3%	-	0%
Dispute handling	44	4%	-	0%
Report	16	1%	-	0%
Fees	29	3%	-	0%
Property damage	198	17%	-	0%
Third party/service provider management	14	1%	-	0%
Earning capacity	-	0%	2	0%
Certificate of capacity/fitness	2	0%	-	0%
Return to work management	1	0%	-	0%
Fault	-	0%	7	1%
Fault status	5	0%	-	0%
Return to work assistance benefits	2	0%	-	0%
Recovery Plan	6	1%	-	0%
Provisional payments	1	0%	-	0%
Privacy surveillance	-	0%	3	1%

Lifetime care and support (LTCS)	1	0%	-	0%
Fraud	2	0%	-	0%
Total	1150	100%	506	100%

Note: A case may have more than one issue.

Table 2(a): Source of workers compensation complaints and enquiries in FY2021/22

Issue	Number	%
Lawyer	9144	63.3%
Web search	2362	16.4%
icare/SIRA	832	5.8%
Government department	616	4.3%
Word of mouth	584	4.0%
Other source	272	1.9%
Insurer	245	1.7%
Doctor	153	1.1%
Union	105	0.7%
Rehabilitation provider	28	0.2%
Employer	28	0.2%
Personal Injury Commission	17	0.1%
Advertising	16	0.1%
IRO campaign	5	0.0%
Total	14407	100%

Note: The IRO records the source of complaints and enquiries as reported by the injured person or their representative. The high incidence of 'lawyer' sourced complaints reflects that many complaints and enquiries come to IRO after an Approved Lawyer has obtained ILARS grants.

Table 2(b): Source of CTP complaints and enquiries in FY2021/22

Issue	Number	%
Doctor	3	0.22%
Employer	1	0.07%
Government department	90	6.45%
Insurer	34	2.44%
Lawyer	287	20.57%
Other source	322	23.10%
Union	2	0.14%
Web search	591	42.37%
Word of mouth	37	2.65%
icare/SIRA	28	2.01%
Total	1395	100%

Table 3(a): How workers compensation complaints and enquiries were received in FY2021/22

Format that complaints and enquiries were received	Number of Cases
Workers Compensation (WC) complaints and enquiries	14438
Complaints	6936
Email	2741
ILARS	201
In person	6
Letter	5
Telephone	2640
Website	1343
Enquiries	7502
Email	829
ILARS	14
In person	1
Letter	4
Telephone	6452
Website	202

Table 3(b): How CTP complaints and enquiries were received in FY2021/22

Format that complaints and enquiries were received	Number of Cases
Compulsory Third Party (CTP) complaints and enquiries	1395
Complaints	923
Email	435
Telephone	398
Letter	1
Enquiries	472
Email	47
Telephone	418
Website	7

Table 4(a): Workers compensation complaint timeliness – How long to close a workers compensation complaint in FY2021/22

Issue	Same day	Next day	2 to 7 days	8 to 15 days	16 to 30 days	More than 30 days	Total
Delay in determining liability	157	161	1139	322	50	3	1832
Delay in payment	127	117	870	281	59	7	1461
Denial of liability	264	54	277	82	10	-	687
General case management	198	53	337	138	26	2	754
Independent medical examiner (IME)/injury management consultant (IMC)	31	21	114	37	14	-	217
Non-insurer complaint	177	14	35	10	1	-	177
Request for documents	82	88	481	83	9	2	745
Weekly benefits	77	31	298	143	38	6	593
Work capacity decision	87	20	138	51	18	3	317
Workplace injury management (WIM)	27	11	56	14	1	-	109
Total	1227	570	3745	1161	226	23	6892

Table 4(b): CTP complaint timeliness – How long to close a CTP complaint in FY2021/22

Issue	Same day	Next day	2 to 7 days	8 to 15 days	16 to 30 days	Over 30 days
Case manager	13	6	52	16	5	3
Certificate of capacity/fitness	1	-	-	-	-	-
Claim liability	10	1	22	9	1	-
Claim lodgement	1	1	10	4	-	-
Claim payments	5	3	36	12	-	-
Common law	6	1	12	5	1	-
Delay in payment	-	-	-	1	-	-
Dispute handling	6	3	14	6	1	-
Domestic assistance	4	2	12	4	3	-
Examination	3	-	5	4	-	-
Fault status	4	-	-	-	-	-
Fees	13	2	10	3	-	-
Fraud	1	-	-	1	-	-
Income support/weekly payments	13	13	77	42	4	-
Insurer internal reviews	2	2	8	2	-	-
Investigations	2	1	2	1	-	-
Minor injury	11	3	10	5	-	-
Property damage	171	17	8	-	-	-
Recovery plan	-	1	-	-	-	-
Report	-	3	7	2	-	-
Return to work assistance benefits	-	1	-	1	-	-
Settlement	4	2	1	1	-	-
Third party/service provider management	2	3	4	-	-	-
Treatment and care	34	11	73	29	8	2
Total	306	76	363	148	24	5

Table 5(a): Workers compensation complaints outcomes for complaints finalised in FY2021/22

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Delay in determining liability	8	1175	174	96	280	1733
Domestic assistance	-	70	3	12	17	102
ADL approved	-	22	-	5	5	32
Claim not made in accordance with section 60AA (WCA)	-	5	-	1	2	8
Entitlement exhausted	-	6	-	-	1	7
Declined after IRO complaint	-	11	2	1	2	16
Accepted after IRO complaint	-	26	1	5	7	39
Initial notification	1	72	27	6	12	118
Initial notification incomplete	-	1	1	1	-	3
Initial notification not received	-	5	5	-	1	11
No response provided and outside timeframes	1	4	6	2	1	14
Provisional liability inside timeframes	-	6	8	2	2	18
Provisional liability outside timeframes	-	4	-	1	-	5
Reasonable excuse applied in time	-	45	7	-	6	58
Reasonable excuse defective	-	7	-	-	2	9
Recurrence / Whole claim	-	111	12	8	24	155
Claim accepted inside timeframes	-	11	-	-	4	15
Claim accepted outside timeframes	-	17	3	3	6	29
Claim denied inside timeframes	-	18	1	1	1	21
Claim denied outside timeframes	-	19	4	-	5	28
Insurer not on risk	-	7	1	1	2	11
No decision and inside timeframes	-	18	-	1	3	22

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
No decision and outside timeframes	-	14	3	2	1	20
Recurrence not determined	-	-	-	-	1	1
Request not received	-	7	-	-	1	8
Section 287A (WIMA)	-	49	3	3	17	72
Claim accepted inside timeframes	-	2	-	1	-	3
Claim accepted outside timeframes	-	5	-	-	1	6
Claim denied inside timeframes	-	6	1	-	3	10
Claim denied outside timeframes	-	6	1	-	6	13
Insurer not on risk	-	1	-	-	-	1
No decision and inside timeframes	-	6	1	1	2	10
No decision and outside timeframes	-	13	-	1	3	17
Request not received	-	10	-	-	2	12
Section 66 (WCA)	1	65	17	8	19	110
Claim accepted inside timeframes	-	3	-	-	3	6
Claim accepted outside timeframes	-	22	5	1	6	34
Claim denied inside timeframes	-	4	-	-	1	5
Claim denied outside timeframes	-	5	2	1	2	10
Claim not duly made	-	1	-	1	-	2
Insurer not on risk	1	4	1	-	1	7
No decision and inside timeframes	-	9	4	4	3	20
No decision and outside timeframes	-	16	5	1	2	24
Request not received	-	1	-	-	1	2
Weekly Benefits / Medical Treatment	6	808	112	59	191	1176
Claim accepted inside timeframes	-	87	12	3	18	120
Claim accepted outside timeframes	1	243	30	20	70	364

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Claim denied inside timeframes	-	79	10	5	12	106
Claim denied outside timeframes	-	164	17	15	30	226
Insurer not on risk	3	14	5	1	-	23
No decision and inside timeframes	2	75	12	7	26	122
No decision and outside timeframes	-	63	14	3	22	102
Request not received	-	83	12	5	13	113
Delay in payment	2	908	129	115	224	1378
Certificate of determination (COD)/ settlement	-	162	51	29	39	281
Centrelink and/or Medicare delay	-	57	11	9	13	90
Decision being appealed	-	1	-	-	2	3
Insurer admin error	-	19	12	7	9	47
Insurer within timeframes and not paid	-	3	2	-	1	6
Interest obtained	-	4	-	1	-	5
Interpretation of terms dispute	-	7	6	-	2	15
Lawyer hasn't provided all documents required	-	17	1	2	2	22
Correct amount paid after IRO complaint	-	54	19	10	9	92
Medical/travel	1	265	29	28	86	409
Claim already paid	-	28	4	-	10	42
Claim disputed	-	21	1	2	4	28
Claim not received	-	11	-	-	2	13
Insufficient information/Invoices not provided	-	30	8	4	9	51
Insurer not on risk	-	3	-	1	-	4
Insurer within timeframes	-	14	-	-	4	18
Correct amount paid after IRO complaint	1	158	16	21	57	253

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Weekly benefits	1	481	49	58	99	688
Employer error making payments	-	76	9	7	13	105
Employer error where insurer takes over payments	-	39	3	2	2	46
Insurer admin error	1	199	18	33	50	301
Irregular payments	-	26	6	3	9	44
No apparent error with payments	-	74	7	9	15	105
No certificate of currency (COC)	-	50	4	3	7	64
No electronic funds transfer (EFT)/tax file number (TFN) details	-	12	2	1	2	17
Pre-injury duties (PID) certificate - no entitlement	-	5	-	-	1	6
Denial of liability	7	437	47	30	105	626
Defective form changed and reissued	-	7	-	-	-	7
Defective form withdrawn	-	3	-	-	1	4
Insurer maintains denial on review	-	38	2	2	14	56
Insurer overturns decision after Notice of Complaint	-	31	4	4	5	44
Matter referred for review or legal advice	7	339	38	24	77	485
Section 59A (WCA) applied	-	13	3	-	5	21
Section 59A (WCA) overturned	-	6	-	-	3	9
General case management	19	433	54	37	117	660
Insurer notified of complaint	-	232	28	21	81	362
Referred to insurer	12	132	17	8	29	198
Referred to SIRA, icare or other	7	69	9	8	7	100

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Independent medical examiner (IME)/ injury management consultant (IMC)	-	134	13	11	35	193
Appointment cancelled - information from treating doctors received	-	5	-	-	1	6
Appointment cancelled - referral procedure not followed	-	19	1	2	4	26
Appointment maintained	-	62	6	4	15	87
Appointment rescheduled	-	37	5	3	14	59
Location changed	-	3	-	1	-	4
Travel organised	-	3	-	1	1	5
Choice of three IMEs provided after IRO complaint	-	5	1	-	-	6
Non-insurer complaints	20	113	18	6	43	200
No action	17	374	35	34	79	539
Employer complaint	15	33	8	3	11	70
Referred to Fair Work or Industrial Relations Commission (IRC)	2	9	2	2	6	21
Referred to other	10	9	2	-	3	24
Referred to SIRA/ Safework	3	15	4	1	2	25
ILARS lawyer complaint	2	47	7	1	16	73
Refer worker to the Office of the Legal Services Commissioner (OLSC), law firm or other	2	40	7	1	12	62
Updated the IRO Principal Lawyer	-	7	-	-	4	11

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Privacy/Surveillance	-	2	-	-	2	4
Referred to NSW Information and Privacy Commission (IPC)	-	-	-	-	1	1
Referred to other	-	2	-	-	1	3
Service Provider	3	31	3	2	14	53
Referred to other	3	19	2	2	8	34
Referred to SIRA	-	12	1	-	6	19
Request for documents	-	519	67	37	85	708
Liability accepted	-	283	43	21	49	396
Docs not provided	-	25	5	3	2	35
Docs provided after Notice of Complaint	-	228	33	15	40	316
Docs provided to third party	-	11	1	2	3	17
Request not received	-	19	4	1	4	28
Liability Disputed	-	236	24	16	36	312
Docs not provided	-	24	7	-	4	35
Docs provided to third party only	-	5	-	-	-	5
Privilege claimed	-	1	-	1	-	2
Docs provided after IRO complaint	-	206	17	15	32	270
Weekly Benefits	1	373	48	31	76	529
Overpayment	-	23	4	2	4	33
Insurer or employer presses with recovery	-	11	-	-	3	14
Insurer stops recovery	-	12	4	2	1	19
Payments changed	1	163	19	17	37	237
Change of entitlement period	-	7	3	3	5	18
Employer error where insurer takes over payment	-	7	1	-	-	8
Employer not passing on correct payment	-	49	3	4	5	61

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Indexation applied after PI	-	9	1	1	2	13
Legislative reduction in PIAWE	-	3	1	-	2	6
No apparent error with payments	1	68	7	3	18	97
Payments increased after permanent impairment (PI) (statutory rate or 95%)	-	14	1	5	2	22
Work capacity decision or section 40 assessment (WCA)	-	6	2	1	3	12
Payments have not started	-	58	4	3	9	74
Insurer maintains reasonable excuse	-	18	2	-	3	23
Employer error where insurer takes over payments	-	3	-	-	-	3
Employer not passing on weekly payments	-	11	1	2	3	17
Reasonable excuse applied within time	-	10	-	1	1	12
Reasonable excuse withdrawn after IRO Complaint	-	16	1	-	2	19
Payments stopped	-	129	21	9	26	185
Correct rate applied	-	6	-	-	-	6
Employer error where insurer takes over payments	-	2	1	-	-	3
Employer not passing on weekly payments	-	5	2	3	3	13
Insurer admin error	-	32	8	3	5	48
No apparent error with payments	-	21	2	1	7	31
Section 119 (WIMA) non-attendance IME applied	-	5	-	-	2	7
Section 119 (WIMA) non-attendance IME overturned	-	5	-	-	1	6

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Section 39 limit applied	-	15	2	-	4	21
Section 48A / 57 suspension applied	-	16	2	1	3	22
Section 48A / 57 suspension overturned	-	3	2	-	-	5
Section 52 retirement age applied	-	5	-	-	-	5
Section 52 retirement age overturned	-	1	-	-	-	1
WCD or section 40 assessment (WCA)	-	3	-	1	-	4
Weekly benefits declined	-	10	2	-	1	13
Work capacity decision	-	236	12	18	35	301
Pre-Injury average weekly earnings (PIAWE)	-	116	6	6	19	147
Insurer maintains decision	-	28	-	1	5	34
Not obvious error referred for review	-	46	5	5	8	64
PIAWE increased and back payment provided	-	30	1	-	6	37
PIAWE reduced where notice period not applied	-	1	-	-	-	1
PIAWE reduced where notice provided	-	11	-	-	-	11
Work capacity decisions (non-PIAWE)	-	120	6	12	16	154
Incorrect notice provided	-	2	1	-	-	3
Injured worker (IW) referred to Approved lawyer (AL)	-	89	5	12	14	120
New work capacity decisions (WCD) issued	-	9	-	-	1	10
Stay not applied	-	1	-	-	-	1

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
WCD under review	-	8	-	-	-	8
WCD withdrawn	-	11	-	-	1	12
Workplace injury management (WIM)	-	52	8	7	18	85
Injury management program (IMP)	-	3	1	1	2	7
IW not compliant	-	2	-	-	2	4
NTD changed	-	-	1	-	-	1
IMP amended after IRO Complaint	-	1	-	1	-	2
Rehabilitation	-	20	2	4	5	31
Case conference cancelled	-	1	-	-	1	2
Case conference organised	-	3	-	1	1	5
Referred to injury management consultant (IMC)	-	1	-	-	-	1
Rehab not required	-	2	1	1	-	4
Rehab provided section 41A	-	4	-	-	-	4
Rehab provider changed	-	9	1	2	3	15
Return to Work	-	29	5	2	11	47
Duties not provided by employer	-	8	1	1	3	13
Duties not suitable	-	2	1	-	2	5
Rehabilitation allocated	-	2	-	1	2	5
Return to work (RTW) plan amended	-	4	1	-	1	6
Section 53/ JobCover Placement Program (JCPP) approved	-	2	1	-	-	3
Section 53/ JobCover placement program (JCPP) declined	-	3	1	-	1	5
Vocational program approved	-	1	-	-	-	1

Outcome	Other Insurer including Not Provided	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Workplace assessment required	-	7	-	-	1	8
Duties provided by employer after IRO complaint	-	-	-	-	1	1
Total	74	4754	605	422	1097	6952

Table 5(b): CTP complaints outcomes for FY2021/22

Outcomes	CTP Insurer	Other Insurer including Not Provided	Total
No action	155	51	206
Resolved action	215	-	215
Resolved benefit	159	-	159
Resolved information	109	-	109
Resolved referred elsewhere	160	73	233
Total	789	124	922

Table 6(a): Number and type of workers compensation complaints finalised after 30 June 2022

Issues	Number of cases
Delay in determining liability	39
Delay in payment	19
Denial of liability	4
General case management	14
IME/IMC	3
Non-insurer complaint	2
Request for documents	7
Weekly benefits	12
Work capacity decision	2
Workplace injury management	2
Total	104

Table 6(b): Number and type of CTP complaints finalised after 30 June 2022

Issues	Number of cases
Case manager	3
Claim payments	3
Domestic assistance	1
Income support/weekly payments	1
Minor injury	2
Settlement	1
Treatment and care	4
Total	15

Grants of Legal Funding

Table 7(a): Amounts paid in FY2021/22

Payment Type	Total Amount (\$)	Number of Payments	% of Disbursements	Average Amount (\$)
Professional fees	47,646,079	15,739	-	3,027
Complexity uplift	551,326	341	-	1,617
Appeal	332,837	167	-	1,993
Medico-legal	18,421,647	14,450	62%	1,275
Barrister fees (inc. country loading)	4,044,956	2,533	14%	1,596
Clinical notes	2,956,712	31,714	10%	93
Medical report provider service fee	2,332,773	25,805	8%	90
Treating specialist report	1,042,129	2,167	3%	481
Nominated treating doctor (NTD) report	412,828	1,536	1%	269
Travel	265,382	1,349	1%	197
Interpreter	175,215	1,058	1%	166
Other*	155,219	362	1%	429
Non-attendance fee	63,773	149	0%	428
Barrister country loading	12,733	16	0%	796
Solicitor loading	1,797	3	0%	599
Meal allowance	2,656	52	0%	51
Total	78,418,024	97,441	100%	-
Total professional fees	\$ 48,530,243	-	62%	-
Total disbursements	\$ 29,887,781	-	38%	-

Note: *Other includes Court filing fees, ancillary expenses associated with court proceedings or unregulated expenses. The amounts paid are for the grants approved and processed for period 1 Jul 2021 - 30 Jun 2022, and are extracted from the IRO case management system, Resolve. There may be discrepancies between financial management system data (SAP) and case management system due to time lag.

Table 8(a): Types of body system for ILARS grants applications received in FY2021/22

Injury location	Percentage
Cardiovascular system	0.1%
Chronic pain	0.3%
Digestive systems	0.5%
Ear, nose, throat and related structures	0.9%
Haematopoietic system	0.1%
Hearing	14.4%
Lower extremity	13.4%
Nervous system	0.5%
Psychiatric and psychological disorders	20.6%
Respiratory system	0.7%
Endocrine system	0%
Skin	0.7%
Spine	21%
Upper extremity	24.2%
Urinary and reproductive systems	0.1%
Visual system	0.6%
Other	1.9%
Total	100%

*Note: percentages are rounded to nearest 1 decimal place.

Table 9(a): Types of injury for ILARS grants applications received in FY2021/22

Injury location	Percentage
Psychological system	20.5%
Ear	14.6%
Back	17%
Shoulder	8.1%
Multiple - trunk and limbs	3.2%
Knee	6.1%
Hand, fingers and thumb	3.6%
Upper limb - multiple locations	2.3%
Neck	2.2%
Ankle	1.9%
Multiple - other	1.2%
Wrist	2.1%
Multiple - neck and shoulder	1.6%
Lower limb - multiple locations	1.3%
Foot and toes	1.5%
Death	1.1%
Multiple - upper and lower limbs	1.1%
Lower leg	0.9%
Hip	0.9%
Trunk - multiple locations	0.9%
Elbow	0.9%
Head - multiple locations	0.8%
Abdomen and pelvic region	0.7%
Upper arm	0.8%
Multiple - neck and trunk	0.5%
Eye	0.6%
Cranium	0.4%
Forearm	0.3%
Respiratory system	0.6%
Multiple - head and other	0.4%
Unspecified locations	0.4%
Face	0.4%
Mouth	0.2%
Ribs	0.3%
Upper leg	0.2%
Genitourinary system	0.0%

Injury location	Percentage
Nervous system	0.2%
Nose	0.1%
Circulatory system	0.1%
Digestive system	0.3%
Other and multiple systemic conditions	0.1%
Unspecified systemic conditions	0.0%
Total	100%

*Note: percentages are rounded to nearest 1 decimal place.

Table 10(a): Nature of injury for ILARS grant applications received in FY2021/22

Nature of Injury	Percentage
Intracranial injuries	0.5%
Fractures	2.5%
Wounds, lacerations, amputations and internal organ damage	4.8
Burn	0.4%
Injury to nerves and spinal cord	15.3%
Trauma to joints and ligaments	22.9%
Trauma to muscles and tendons	13.9%
Joint diseases (arthropathies) and other articular cartilage diseases	0.0%
Spinal vertebrae and intervertebral disc diseases	0.7%
Diseases involving the synovium and related tissue	0.0%
Diseases of muscle, tendon and related tissue	0.1%
Other soft tissue diseases	0.2%
Mental disorders	20.3%
Digestive system diseases	0.4%
Skin and subcutaneous tissue diseases	0.1%
Nervous system and sense organ diseases	15.1%
Respiratory system diseases	0.5%
Circulatory system diseases	0.1%
Infectious and parasitic diseases	0.2%
Neoplasms (cancer)	0.1%
Other diseases	0.1%
Other claims	0.3%
Death	1.1%
Other injuries –poisoning, electrocution, heat stress etc	0.3%
Total	100%

*Note: percentages are rounded to nearest 1 decimal place.

Table 11(a): ILARS outcomes for ILARS grant applications received in FY2021/22

Outcome	Other outcome	Grant achieved desired outcome
ILARS Funding Withdrawn	444	-
Administrative reason	12	-
Consolidated with other grant	108	-
Duplicate grant	111	-
Lawyer's request	136	-
Matter resolved in another jurisdiction	4	-
No response to ILARS follow up	31	-
Not eligible for funding	42	-
Instructions withdrawn	1007	-
Instructions withdrawn	277	-
Worker retained new Lawyer	730	-
Not proceeding after preliminary grant	3096	2569
Below threshold (threshold issue)	25	-
Commutation negotiations failed	2	-
Lawyer's advice to worker	-	2569
Lost contact with worker	423	-
Medical evidence not supportive	369	-
Not maximum medical improvement (MMI)	68	-
Not viable	107	-
Section 66 (WCA) below WPI threshold	840	-
Worker's instructions	1255	-
No outcome recorded	7	-
Resolved prior to Commission	16	4966
Advice given not to proceed	14	-
Agreement with Insurer	-	89
Insurer accepts claim	-	1889
Insurer withdraws notice	-	160
Not recorded	2	-
Over threshold by agreement	-	49
Resolved after IRO enquiry or internal review	-	392
Resolved by complying agreement after claim made	-	2387
Resolved in Commission	299	3171

Outcome	Other outcome	Grant achieved desired outcome
Commutation	-	24
Registered	-	24
Expedited assessment	9	197
Consent direction	-	139
Direction made by Commission	-	53
Direction not made by Commission	9	-
Not recorded	-	2
Recommendation made	-	3
Medical assessment	244	808
Above threshold	-	24
Certificate of Determination (COD) section 66 (WCA) TOD	-	38
COD section 66 (WCA) WPI	-	708
Discontinued pre MAC no COD	2	-
MAC below threshold hearing aids only	-	17
Not MMI MAC (section 66 claim)	-	12
Not MMI MAC (threshold issue)	-	6
Not MMI MAC refused (threshold issue)	2	-
Not reached threshold (threshold issue)	15	-
Not recorded	-	3
Section 66 (WCA) not reached threshold	225	-
Resolved at conciliation - settled by consent	-	2
Medicals	-	1
WPI	-	1
Conference	-	893
Closed period	-	49
Death benefits	-	25
Medicals	-	151
Not recorded	-	1
Weeklies	-	83
Weeklies and medicals	-	283
WPI	-	150
WPI and medicals	-	46
WPI and weeklies	-	18
WPI, weeklies and medicals	-	56
Wrap up	-	31

Outcome	Other outcome	Grant achieved desired outcome
Following hearing – COD Statement of reasons employer	46	-
Following hearing – COD Statement of reasons worker	-	387
Death benefits	-	67
Medicals	-	117
Not recorded	-	1
Weeklies	-	33
Weeklies and medicals	-	85
WPI	-	54
WPI and medicals	-	8
WPI and weeklies	-	10
WPI, weeklies and medicals	-	12
Resolved TC - settled by consent	-	761
Closed period	-	21
Death benefits	-	30
Medicals	-	207
Not recorded	-	1
Weeklies	-	53
Weeklies and medicals	-	172
WPI	-	177
WPI and medicals	-	35
WPI and weeklies	-	16
WPI, weeklies and medicals	-	34
Wrap up	-	15
Settlement during hearing	-	101
Death benefits	-	2
Medicals	-	27
Weeklies	-	7
Weeklies and medicals	-	35
WPI	-	17
WPI and medicals	-	3
WPI and weeklies	-	2
WPI, weeklies and medicals	-	8

Outcome	Other outcome	Grant achieved desired outcome
Appeals	116	117
Court of Appeal	1	-
By the employer in favour of employer	1	-
Resolved after appeal to Supreme Court	2	5
By worker in favour of employer	2	-
By worker in favour of worker	-	5
Medical Appeal Panel	100	97
By employer in favour of employer	17	-
By employer in favour of worker	-	39
By worker in favour of employer	83	-
By worker in favour of worker	-	58
Non-Presidential Member to President	13	15
By employer in favour of employer	2	-
By employer in favour of worker	-	10
By worker in favour of employer	11	-
By worker in favour of worker	-	5
Discontinued from Commission - No result	149	-
Resolved in common law claim	-	51
Total	5127	10878

Table 12: No response to claim (NRTC) received in FY2021/22

Outcome	Former NSW Insurer	Scheme agent	Self-insured	Specialised insurer	TMF	Total
Section 287A (WIMA)	-	91	38	11	16	156
Claim accepted after enquiry	-	10	3	2	3	18
Claim accepted before enquiry	-	1	1	-	-	2
Claim denied after enquiry	-	13	15	6	6	40
Claim denied before enquiry	-	17	6	1	-	24
Insurer inside timeframes	-	2	1	-	1	4
Insurer not on risk	-	-	1	-	2	3
Insurer outside timeframes	-	43	6	1	1	51
Request not received	-	5	5	1	3	14

Section 60 (WCA)/ weekly benefits	2	107	28	8	24	169
Claim accepted after enquiry	-	30	3	5	5	43
Claim accepted before enquiry	-	17	2	-	2	21
Claim denied after enquiry	-	11	6	1	2	20
Claim denied before enquiry	-	13	1	1	-	15
Insurer inside timeframes	-	2	1	-	-	3
Insurer not on risk	1	2	-	-	3	6
Insurer outside timeframes	1	28	14	1	10	54
Request not received	-	4	1	-	2	7
Section 66 (WCA)	1	246	61	40	55	403
Claim accepted after enquiry	-	17	4	4	-	25
Claim accepted before enquiry	-	3	-	-	2	-
Claim denied after enquiry	-	38	10	13	9	70
Claim denied before enquiry	-	31	3	2	4	40
Counteroffer issued after enquiry	-	31	7	5	7	50
Counteroffer issued before enquiry	-	15	2	1	1	19
Insurer inside timeframes	-	44	6	3	10	63
Insurer not on risk	-	4	2	-	1	7
Insurer outside timeframes	-	54	22	10	15	101
Request not received	1	9	5	2	6	23
Total	3	444	127	59	95	728

Note: NRTC matters are claims where the insurer has not responded within the required time frame. WCA; WIMA.

Insurer Data

Table 13a: WC matters received by insurer in FY2021/22

Insurer	Complaint	Enquiry	ILARS	NRTC	Total
Scheme agent	4740	3588	12026	444	20798
Allianz 701	204	86	196	34	520
Allianz Australia Workers Compensation (NSW) Ltd	296	189	612	36	1133
CGU Workers Compensation (NSW) Ltd	2	8	22	-	32
EML 701	2403	1932	7777	205	12317
EML 702	526	400	821	47	1794
Employers Mutual NSW Limited	75	84	323	12	494
Gallagher Bassett Services Pty Ltd	1	5	38	1	45
GIO General Limited	999	702	1520	77	3298
icare Workers Insurance	-	-	59	-	59
icare-Workers Care	5	15	76	-	96
Insurance and Care NSW (icare)	3	2	150	-	155
QBE 701	72	42	104	11	229
QBE Workers Compensation	4	8	113	2	127
Uninsured Liabilities	36	33	25	10	104
GIO 701	114	82	185	9	390
Xchanging	-	-	5	-	5
Self-insured	601	506	1449	127	2683
3M Australia Pty Ltd	1	-	1	-	2
Aldi Stores	9	4	21	-	34
ANZ Banking Group Limited	-	2	5	1	8
Ausgrid Management Pty Ltd	6	21	23	1	51
Australian Unity Limited	9	13	36	2	60
BHP Group Limited	8	-	5	2	15
Blacktown City Council	5	9	29	2	45
Bluescope Steel Ltd	13	4	53	-	70
BOC Limited	-	2	3	-	5
Boral Limited	3	2	26	5	36
Brambles Industries Limited	-	-	4	-	4
Brickworks Ltd	1	-	1	-	2
Campbelltown City Council	1	3	19	-	23

Insurer	Complaint	Enquiry	ILARS	NRTC	Total
Canterbury Bankstown Council	2	6	13	2	23
Central Coast Council	7	8	21	2	38
City of Sydney Council	4	4	20	2	30
Coca-Cola Amatil	1	-	2	-	3
Coles Group Ltd	82	63	161	19	325
Colin Joss & Co Pty Limited	4	6	23	-	33
ComfortDelGro Corporation Australia Pty Ltd	1	2	3	-	6
Commonwealth Steel (Molycop)	3	1	3	-	7
CSR Limited	-	3	5	-	8
DAC Finance Pty Ltd (trading as Opal Aged Care)	4	6	9	-	19
Endeavour Energy	6	-	7	1	14
Estia Investments Pty Ltd	-	-	2	-	2
Fairfield City Council	-	2	4	1	7
Fletcher International Exports Pty Ltd.	3	1	2	1	7
Hawkesbury City Council	-	-	2	-	2
Healius Limited	5	10	16	-	31
Holcim (Aust) Holdings Pty Limited	-	-	5	1	6
Infrabuild (Manufacturing) Pty Limited (Formerly GFG Alliance, OneSteel, Liberty or Arrium)	6	7	14	1	28
Inghams Enterprises Pty Ltd	7	5	8	2	22
ISS Facility Services	3	7	9	-	19
ISS Property Services Pty Ltd	5	6	31	4	46
JELD-WEN Australia Pty Ltd	1	2	7	1	11
Lake Macquarie City Council	5	6	10	2	23
Life Without Barriers	9	8	1	-	18
Liverpool City Council	7	3	10	2	22
MARS Australia Pty Ltd	-	1	3	-	4
McDonald's Australia Holdings Limited	4	8	4	-	16
Myer Holdings Ltd	2	6	5	-	13
Newcastle City Council	2	2	8	2	14
Northern Beaches Council	4	7	10	1	22
Northern Co-Operative Meat Company Limited	1	2	3	-	6

Insurer	Complaint	Enquiry	ILARS	NRTC	Total
NSW Trains	13	3	5	3	24
Pacific National (NSW) Pty Ltd	1	-	4	-	5
Persol Australia Pty Ltd	8	18	19	5	50
Qantas Airways Limited	23	18	108	10	159
Rail Corporation NSW	10	7	2	-	19
Randstad	-	3	9	-	12
RGF Staffing Melbourne One Pty	1	5	-	-	6
Shoalhaven City Council	-	4	13	2	19
Sonic Healthcare Limited	2	1	-	-	3
Southern Meats Pty Ltd	1	-	-	-	1
Sutherland Shire Council	1	-	9	-	10
Sydney Trains	44	42	21	4	111
RGF Staffing Melbourne One Pty	1	5	-	-	6
Shoalhaven City Council	-	4	13	2	19
The Star Entertainment Group Ltd	8	4	1	4	17
Toll Holdings Ltd	35	23	69	10	137
Tomago Aluminium	-	1	7	-	8
Transport for NSW Workers Compensation Services	24	7	92	5	128
The Star Entertainment Group Ltd	8	4	1	4	17
Toll Holdings Ltd	35	23	69	10	137
UGL Rail Services Pty Limited	1	2	2	-	5
Unilever Australia (Holdings) Pty Limited	4	1	7	1	13
University of New South Wales	8	4	6	-	18
University of Wollongong	3	3	3	-	9
Ventia Australia Pty Ltd - formerly Broadspectrum (Australia) Pty Ltd	38	13	19	9	79
Veolia Environmental Services (Australia) Pty Ltd	2	2	8	-	12
Wesfarmers Limited	20	10	56	4	90
Westpac Banking Corporation Ltd	9	15	33	-	57
Wollongong City Council	1	2	21	1	25
Woolworths Group Ltd	99	66	240	9	414

Insurer	Complaint	Enquiry	ILARS	NRTC	Total
Specialised insurer	424	238	649	59	1370
Catholic Church Insurance Limited	193	90	185	30	498
Coal Mines Insurance Pty Limited	27	29	4	-	60
Guild Insurance Ltd	36	18	58	2	114
Hospitality Employers Mutual	64	44	116	7	231
Racing NSW Insurance Fund	36	18	56	12	112
StateCover Mutual Ltd	68	39	230	8	345
TMF	1097	893	1822	95	3907
Allianz TMF	253	270	581	28	1132
Employers Mutual NSW Ltd - TMF	300	287	423	17	1027
QBE TMF	544	336	818	50	1748
Other insurers including not provided*	65	2269	4186	-	6520
Total	6927	7494	20132	725	35278

*These cases include ILARS hearing loss claims and advice only matters where the insurer has not been identified.

Note: Former NSW insurers and non-NSW insurers have been excluded

Table 13(b): CTP Complaints and enquiries received by insurer FY2021/22

Insurers	CTP Complaint	CTP Enquiry	Total
Other insurer including not provided	124	196	320
CTP insurer	799	276	1075
AAMI	79	24	103
Allianz	94	56	150
GIO	121	48	169
Lifetime Care	2	-	2
NRMA	325	100	425
QBE	169	47	216
Youi	9	1	10
Total	923	472	1395

Corporate Reporting Information

Accessing IRO information

Privacy

There were no internal reviews conducted by the IRO under the *Privacy and Personal Information Protection Act 1998* (NSW) (PPIPA) in FY2021/22.

During the reporting period, we provided staff with training on privacy awareness, participated in 2022 Privacy Awareness Week and appointed privacy champions. The IRO has also completed and implemented its Privacy Management Plan, which is available on the IRO website. We have also launched a number of privacy information, notification and breach reporting templates, to promote best practice and consistent advice and reporting within the IRO. The IRO has undertaken a Personal Information Uplift process as part of the Cluster-wide Project Trust work, including development of a data collection and retention policy for our 'crown jewel' (the Resolve case management system) and review of data security classification and sensitivity labelling.

Right to Information

The IRO adopts a proactive approach to the release of information where possible, consistent with the principles of and its obligations under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act). During FY2021/22, the IRO proactively released information, including performance reports, COVID-19 reports and statistical information about business operations and performance.

During the FY2021/22 reporting period, we received one formal GIPA application. We also facilitated access to information requested informally from a number of members of the community (principally in relation to information about their own matters or complaints).

The details of the formal application we received under the GIPA Act during this reporting period are set out below.

Table A: Number of applications by type of applicant and outcome FY2021/22

Applicant type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm / deny information held	Application withdrawn
Media	-	-	-	-	-	-	-	-
Member of Parliament	-	-	-	-	-	-	-	-
Private sector business	-	-	-	-	-	-	-	-
Non-for profit organisation or community group	-	-	-	-	-	-	-	-
Members of public (application by legal representative)	-	-	-	-	-	-	-	-
Member of public (other)	1	-	-	-	-	-	-	-

Note: More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome FY2020/22

Application type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm / deny information held	Application withdrawn
Personal information applications	1	-	-	-	-	-	-	-
Access applications (other than personal information applications)	-	-	-	-	-	-	-	-
Access applications that are partly personal information applications and partly other	-	-	-	-	-	-	-	-

Note: A personal information application is an access application for personal information (as defined in section 4 of the GIPA Act) about the applicant (the applicant being an individual)

Table C: Invalid applications FY2021/22

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of GIPA Act)	0
Application is for excluded information of the agency (section 43 of GIPA Act)	0
Application contravenes restraint order (section 110 of GIPA Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to the GIPA Act FY2021/22

Reason	Number of times consideration used
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0

Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0
Information about complaints to Judicial Commission	0
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2015</i> (NSW)	0
Information about authorised transactions under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i> (NSW)	0

Note: More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of GIPA Act FY2021/22

Reason	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table F: Timelines FY2021/22

Timeframe	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	1
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	1

Table G: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome) FY2021/22

Review type	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner	0	0	0
Internal review following recommendation under section 93 of GIPA Act	0	0	0
Review by NSW Civil and Administrative Tribunal	0	0	0
Total	0	0	0

Note: The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: Applications for review under Part 5 of the GIPA Act (by type of applicant) FY2021/22

Applicant	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access applications relates (see section 54 of the GIPA Act)	0

Table I: Applications transferred to other agencies under Division 2 of Part 4 of the GIPA Act (by type of transfer) FY2021/22

Type of transfer	Number of applications transferred
Agency initiated transfers	0
Applicant initiated transfers	0

Public Interest Disclosure

The IRO has adopted the DCS Fraud and Corruption Internal Reporting Policy. This Policy provides guidance for staff on the process for making public interest disclosures (PIDs), as well as advice on the support and protections available to them under the *Public Interest Disclosures Act 1994* (NSW) (PID Act) when making a PID.

The Fraud and Corruption Internal Reporting Policy is available on the DCS intranet. It includes details of nominated officers who are authorised to receive PIDs.

There were no PIDs made by IRO staff during the FY2021/22 reporting year.

Consultants

Table J: Use of consultants FY2021/22

Consultant	Business Unit	Category	Purpose	Amount (\$)
The Burrow Group	Strategy, Policy and Support	Management Service	Website Design/ seminar	\$5,305
ILARS Review	ILARS	Management Service	-	\$113,700
Business Process Review (BPR)	Office of the IRO	Management Service	BPR Consultation	\$827,540
Fiftyfive5	Office of the IRO	Management Service	User experience	\$98,413
Nemesis	Office of the IRO	Management Service	Investigation/ Consultation	\$13,200
ARC	Office of the IRO	Management Service	ARC	\$8,107
NTT	Office of the IRO	Management Service	Cloud migration to AWS	\$13,198
KPMG	ILARS	Management Service	ILARS Demand and Expenditure Forecast model	\$14,000
Total	-	-	-	\$1,093,462

Consumer Response

The IRO is committed to maintaining and, where possible, improving the quality of the services we provide to the people who use our services. The best source of information about the quality of our services is from the people who use them. This can be in the form of complaints, feedback or compliments. A complaints policy was implemented by the then WIRO in September 2020. In March 2021, following an internal workshop, we implemented the IRO Complaints and Compliments Policy and the IRO Unreasonable Conduct Policy and Procedure.

In mid-2022, the IRO commenced a review of its Complaints and Compliments Policy and Unreasonable Conduct Policy and Procedure to make sure that it remains fit for purpose, adopts current best practice, and is clear and accessible for all those who may rely on it, including both IRO staff and customers. Key stakeholders were directly invited to share their feedback on the Policy. The updated policies have been released and are available on the IRO website.

The IRO received 11 complaints, and 82 compliments, from 1 July 2021 to 30 June 2022.

Complaints and compliments received in this financial year have assisted us in identifying areas for improvement in our procedures and service delivery, as well as in identifying systemic issues more broadly.

Table K: IRO complaints received by outcome and type for FY2021/22

		Complaint type			
		Practice, policy or procedure	Aspect of our service	Staff behaviour or conduct	Total
Complaint outcome	Complaint sustained	-	4	1	5
	Complaint sustained in part	-	2	2	4
	Complaint not sustained	-	1	1	2
	Total	0	7	4	11

Employment and Senior Executive Statistics

Senior executives and salaries by band for FY2021/22

During the reporting period, the IRO had four senior executive positions, one of which was held by a woman throughout the period. The details of the levels of the IRO executive positions and corresponding remuneration are shown below.

The Independent Review Officer is paid in accordance with determinations of the Statutory and Other Officers Remuneration Tribunal.

Table L: Senior executive salaries FY2021/22

Employment Category	Female	Male	Range \$	Average Range \$
Band 3	0	1	\$354,201-\$499,251	\$426,726
Band 2	0	0	0	0
Band 1	1	2	\$197,400-\$281,551	\$239,476
Total	1	3	-	-

Employee Relations Policies and Practices

Human resources

As at 30 June 2022, there were 68 people below the senior executive level working for the IRO on an ongoing basis in either a full time or part time capacity.

Table M: Number of employees by employment category

Employment Category	Number of Employees
Grade 11/12	30
Grade 9/10	3
Grade 7/8	13
Grade 5/6	17
Grade 3/4	2
Grade 1/2	3

No exceptional movements in wages, salaries or allowances were made in the first year of operation. A personnel service arrangement between DCS and the IRO has been established under a Memorandum of Understanding.

The IRO has adopted the DCS employee relations policies and practices, including the DCS Positive and Productive Workplace policy, which assists employees to manage conflicts and grievances in the workplace. The policy focuses on maintaining a harmonious workplace by addressing conflicts as quickly and as close to the source as possible. The policy adopted by the IRO is under review at the date of publication.

COVID-19 related policy

The IRO adopted the Public Sector Policy and Principles to apply pandemic special leave during the COVID-19 response.

The Flexible Working Hours Agreement was varied to provide for extended bandwidth and suspension of core working hours. This change allowed for staff to work their hours in a more flexible pattern over a longer bandwidth, to help balance working remotely. IRO has drafted its own COVID-19 Safety Plan which is published on the internal Knowledge Portal for staff. It has been updated in line with the DCS Crisis Controller's updates to the DCS COVID-19 Safety Plan.

In FY2021/22, the IRO began development of an Induction Manual for all new IRO staff. This will be launched in FY2022/23.

Risk Management and Insurance Activities

Business risk insurance

During FY2021/22, IRO insurance coverage was provided through icare.

Liability management performance

In this reporting period, the IRO completed a significant program of work, with the assistance of KPMG, to develop a model to forecast ILARS demand and expenditure, and to calculate the contingent liability for all ILARS grants. That model has been finalised, and has been run at the end of each quarter of the reporting period to project the IRO's contingent liability.

The model run for quarter 4 of FY2021/22 shows that the contingent liability amount is \$128,613,000 and the total open cases was 29,544 as at 30 June 2022.

Account payable performance

The IRO aims to pay all its invoices within 30 days unless legislatively required to pay sooner.

The IRO uses purchase cards (PCards) for the payment of low dollar-value transactions. PCards are also used for a number of other IRO expense categories where transactions are \$10,000 or less in value and are not subject to a contractual requirement for a Purchase Order.

The IRO aims to pay law firms and medical report providers for legal grants and disbursements managed by ILARS within 30 days. Law firms are not designated as small businesses in the payments system by IRO.

During FY2021/22, there were zero instances where penalty interest was paid for the late payment of invoices.

Table N: Aged analysis at the end of each quarter (for FY2021/22):

Quarter	Current	Less than 30 days overdue	Between 30 and 60 days overdue	Between 61 and 90 days overdue	More than 90 days overdue	Total
All vendors						
Sep 21	\$18,887,846	\$11,511	-	-	-	\$18,899,357
Dec 21	\$20,270,318	\$31,306	-	-	-	\$20,301,624
Mar 22	\$21,058,699	\$22,506	\$3,747	-	-	\$21,084,952
Jun 22	\$23,602,141	\$655,944	-	-	-	\$24,258,085
Small business vendors						
Sep 21	\$66,970	\$16,859	-	-	-	\$83,829
Dec 21	\$50,765	\$31,306	-	-	-	\$82,071
Mar 22	\$59,031	\$4,893	-	-	-	\$63,925
Jun 22	\$114,299	\$17,634	-	-	-	\$131,933

Note: A small business is defined as a NSW business with less than 20 employees that supply to participating NSW Government agencies (www.smallbusiness.nsw.gov.au/what-we-do/our-work/faster-payment-terms). The IRO's payment system does not distinguish law firms that are small businesses when making payments on approved invoices to acquit ILARS Grants of Funding, and invoices from the law firms are therefore not included in the 'small business vendors' report.

Accounts due or paid within each quarter

Table O: Accounts due or paid by per quarter (in FY2021/22); all vendors

Measure	Sep 21	Dec 21	Mar 22	Jun 22
Number of invoices due for payment	3695	4049	4273	4660
Number of invoices paid on time	3691	4045	4266	4642
Percentage of invoices paid on time (based on number of invoices)	100%	100%	100%	100%
Amount due for payment	\$18,899,357	\$20,301,624	\$21,084,952	\$24,258,085
Amount paid on time	\$18,887,846	\$20,270,318	\$21,058,699	\$23,602,141
Actual percentage of accounts paid on time (based on \$)	100%	100%	100%	97%
Number of payments for interest on overdue accounts	-	-	-	-
Interest paid on late accounts	-	-	-	-

Small business vendors

Table O(i): Small business vendors

Measure	Sep 21	Dec 21	Mar 22	Jun 22
Number of invoices due for payment	11	9	8	12
Number of invoices paid on time	9	5	7	9
Percentage of invoices paid on time (based on number of invoices)	82%	56%	88%	75%
Amount due for payment	\$83,829	\$82,071	\$63,925	\$131,933
Amount paid on time	\$66,970	\$50,765	\$59,031	\$114,299
Actual percentage of accounts paid on time (based on \$)	80%	62%	92%	87%
Number of payments for interest on overdue accounts	-	-	-	-

Note: The report does not include payments made to employees, payments related to payroll and superannuation. All numbers are reported as at 30 days from receipt of a correctly rendered invoice. The IRO's payment system does not distinguish law firms that are small businesses when making payments on approved invoices to acquit ILARS Grants of Funding, and invoices from the law firms are therefore not included in the 'small business vendors' report.

Internal Audit and Risk Management Attestation Statement for the 2021-2022 Financial Year for Independent Review Office

I, Simon Cohen, Independent Review Officer, am of the opinion that the Independent Review Office has internal audit and risk management processes in operation that are compliant with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core Requirements		For each requirement, please specify whether compliant, non-compliant, or in transition
Risk Management Framework		
1.1	The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2	The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function		
2.1	The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2	The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3	The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
Audit and Risk Committee		
3.1	The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2	The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'.	Compliant

Membership

The independent Chair and Members of the Audit and Risk Committee are:

- Independent Chair, Bruce Turner AM, 1 March 2021 to 29 February 2024
- Independent Member, Elizabeth Gavey, 20 April 2021 to 19 April 2024
- Independent Member, Lee Sullivan, 20 April 2021 to 19 April 2024



Simon Cohen
Independent Review Officer

Date: 04/10/22

Agency Contact Officer
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DCS Chief Audit Executive (8575 1248)
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Department of Customer Service

Cyber security Annual Attestation Statement for the 2021-2022 Financial Year for the Department of Customer Service (Secretary – NSW Department of Customer Service)

I, Emma Hogan, am of the opinion that the Department of Customer Service has managed cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy. The evidence presented to me as a part of this attestation gives me confidence that the aggressive and comprehensive cyber security resilience strategy DCS has been implementing has delivered extensive maturity improvements which will strengthen our ability to keep the trust of our clients.

Risks to the information and systems of the Department of Customer Service have been identified and assessed. The Department of Customer Service is continuously improving cyber risk management processes and operations to effectively manage cyber risks.

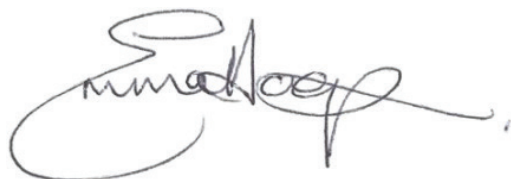
Governance is in place to manage cyber security maturity and related initiatives, including uplift of the ACSC Essential Eight. Independent audits on cyber security have been conducted, commitment and processes are in place to treat any opportunities for improvement. The Department of Customer Service has designed and operates a contemporary cyber incident response plan, which has been tested during the reporting period.

The Department of Customer Service will continue to harden its technology environments and increase awareness of cyber security risks for all staff. Through an aggressive and comprehensive cyber security resilience strategy, the Department of Customer Service will continue to ensure that the security of citizen information and trust in the services of government are maintained to the best of its abilities against increasingly complex and prevalent threats. The strategy is focused on long-term, sustainable processes and solutions. The Department of Customer Service acknowledges and accepts the risk until target maturity levels are met.

This attestation covers, in addition to the DCS core agencies, the following agencies:

- Independent Review Office
- Long Service Corporation.

Yours sincerely



Emma Hogan Secretary, NSW Department of Customer Service



INDEPENDENT AUDITOR'S REPORT

Office of the Independent Review Officer

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of Office of the Independent Review Officer (the Office), which comprises the Statement by Independent Review Officer, the Statement of Comprehensive Income for the year ended 30 June 2022, the Statement of Financial Position as at 30 June 2022, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Office's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

The Independent Review Officer's Responsibilities for the Financial Statements

The Independent Review Officer is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Independent Review Officer's responsibility also includes such internal control as the Independent Review Officer determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Independent Review Officer is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Weini Liao
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales

7 November 2022
SYDNEY

STATEMENT BY INDEPENDENT REVIEW OFFICER

Pursuant to section 7.6 (4) of the *Government Sector Finance Act 2018* ('the Act'), I state that these financial statements:

- have been prepared in accordance with the Australian Accounting Standards and the applicable requirements of the Act, the Government Sector Finance Regulation 2018 and the Treasurer's directions, and
- present fairly the Office of the Independent Review Officer's financial position, financial performance and cash flows as at 30 June 2022.

Simon Cohen
Independent Review Officer

Date: 07 November 2022

Office of The Independent Review Officer

STATEMENT OF COMPREHENSIVE INCOME

For the year ended 30 June 2022

	Notes	Actual 2022 \$	Budget 2022 ¹ \$	Actual 2021 ² \$
Expenses Excluding losses				
Employee related expenses	2(a)	8,928,629	11,264,000	3,244,656
Operating expenses	2(b)	4,700,876	70,796,000	2,581,130
Grants and Subsidies	2(c)	76,474,176	-	30,325,844
Other expenses		-	1,488,000	-
Total expenses excluding losses		90,103,681	83,548,000	36,151,630
Revenue				
Grants and other contributions	3(a)	90,282,758	83,537,000	35,825,253
Acceptance by the Crown of employee Benefits and other liabilities	3(b)	(179,077)	-	326,377
Total revenue		90,103,681	83,537,000	36,151,630
Operating result		-	(11,000)	-
Net result	14	-	(11,000)	-
Total other comprehensive income		-	-	-
TOTAL COMPREHENSIVE INCOME		-	(11,000)	-

The accompanying notes form part of these financial statements.

¹ The Budget amounts in the Financial Statements are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period – see Note 14. The budget has since been revised and the net result is zero.

² The Office of the Independent Review Officer (OIRO) commenced operations on 1 March 2021 – see Note 1(a). Actual amounts for 2021 represent four months of OIRO operations for the period from 1 March 2021 to 30 June 2021.

Office of the Independent Review Officer STATEMENT OF FINANCIAL POSITION

As at 30 June 2022

	Notes	Actual 2022 \$	Budget 2022 \$	Actual 2021 \$
ASSETS				
Current assets				
Cash and cash equivalents	4	1,380,780	3,889,000	2,708,733
Receivables	5	7,198,517	-	3,266,550
Total current assets		8,579,297	3,889,000	5,975,283
Non-current assets				
Total non-current assets		-	-	-
Total assets		8,579,297	3,889,000	5,975,283
LIABILITIES				
Current liabilities				
Payables	6	5,641,793	3,000,000	3,129,476
Provisions - Employee	7(a)	1,062,616	900,000	889,879
Provisions - Other	7(b)	1,863,592	-	1,942,662
Total current liabilities		8,568,001	3,900,000	5,962,017
Non-current liabilities				
Provisions - Employee	7(a)	11,296	-	13,266
Total non-current liabilities		11,296	-	13,266
Total liabilities		8,579,297	3,900,000	5,975,283
Net assets		-	(11,000)	-
EQUITY				
Accumulated funds		-	(11,000)	-
Total equity		-	(11,000)	-

The accompanying notes form part of these financial statements.

Office of the Independent Review Officer STATEMENT OF CHANGES IN EQUITY

For the year ended 30 June 2022

	Accumulated Funds	Total Equity
	\$	\$
Balance at 1 July 2021	-	-
Net result for the year	-	-
Other comprehensive income	-	-
Total comprehensive income for the year	-	-
Transaction with owners in their capacity as owners	-	-
Balance at 30 June 2022	-	-
	Accumulated Funds	Total Equity
	\$	\$
Balance at 1 March 2021 (date of inception)	-	-
Net result for the period	-	-
Other comprehensive income	-	-
Total comprehensive income for the period	-	-
Balance at 30 June 2021	-	-

The accompanying notes form part of these financial statements.

Office of the Independent Review Officer STATEMENT OF CASH FLOWS

For the year ended 30 June 2022

	Notes	Actual 2022 \$	Budget 2022 \$	Actual 2021 \$
CASH FLOW FROM OPERATING ACTIVITIES				
Payments				
Employee related		8,990,332	11,264,000	1,683,778
Suppliers for goods and services		5,707,566	-	1,319,438
Grants & Subsidies		73,567,032	-	26,966,703
Other		-	72,284,000	233,348
Total payments		88,264,930	83,548,000	30,203,267
Receipts				
Grants and contributions		86,572,253	83,537,000	32,912,000
Other		364,724	-	-
Total receipts		86,936,977	83,537,000	32,912,000
NET CASH FLOWS FROM OPERATING ACTIVITIES	8	(1,327,953)	(11,000)	2,708,733
CASH FLOWS FROM INVESTING ACTIVITIES				
NET CASH FLOWS FROM INVESTING ACTIVITIES		-	-	-
CASH FLOWS FROM FINANCING ACTIVITIES				
NET CASH FLOWS FROM FINANCING ACTIVITIES		-	-	-
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS		(1,327,953)	(11,000)	2,708,733
Opening cash and cash equivalents		2,708,733	3,900,000	-
CLOSING CASH AND CASH EQUIVALENTS	4	1,380,780	3,889,000	2,708,733

The accompanying notes form part of these financial statements.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Office of the Independent Review Officer (OIRO) is a NSW Government agency and is controlled by the State of New South Wales (NSW), which is the ultimate parent entity. The OIRO is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

The OIRO is established under Schedule 5 to the *Personal Injury Commission Act 2020 (PIC Act)*, and section 21 and Schedule 1, Part 3 of the *Government Sector Employment Act 2013*. The OIRO commenced operations on 1 March 2021.

The Independent Review Officer is the head of agency of OIRO.

The financial statements cover the year ended 30 June 2022 and comparative information has been provided for the previous period (1 March 2021 to 30 June 2021). These financial statements for the year ended 30 June 2022 have been authorised for issue by the Independent Review Officer on 04 November 2022.

(b) Basis of Preparation

Prior to 1 March 2021, the Independent Review Officer's functions were established in the *Workplace Injury and Workers Compensation Act 1998 (WIMA)*. The Workers Compensation Independent Review Office (WIRO) was established to assist the Independent Review Officer to exercise the Officer's functions. The WIRO was not a public sector agency and was not required to prepare financial statements.

The OIRO financial statements are general purpose financial statements, which have been prepared on an accrual basis and in accordance with:

- Applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations).
- The requirements of the *Government Sector Finance Act 2018 (GSF Act)* and the Government Sector Finance Regulation 2018 (GSF Regulation) and in Treasurer's Directions issued under the GSF Act.

Financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

The financial statements are prepared on the assumption that the OIRO is a going concern as at 30 June 2022 and will continue its normal operating activity for the foreseeable future. Reasons for this include:

- The OIRO's functions are prescribed by legislation (under Schedule 5 to the PIC Act).
- The WIMA (section 34), and *Motor Accident Injuries Act 2017 (MAIA)* (section 10.12) and *Motor Accident Compensation Act 1999 (MACA)* (section 212) provide for the establishment of operational funds for specified purposes.
 - The Workers Compensation Operational Fund (WCOF) and the Motor Accidents Operational Fund (MAOF) established under these Acts are administered by the State Insurance Regulatory Authority (SIRA) (see below).
- Section 35 of the WIMA provides for payments into and from the WCOF, including relevantly:
 - Payment into the WCOF of money contributed by insurers.
 - The remuneration of the Independent Review Officer and OIRO staff, and the costs incurred in connection with the exercise of the functions of the Officer arising under the Workers Compensation Acts.
- Section 38 of the WIMA requires SIRA to determine the amount to be contributed by insurers to the WCOF, having regard to various matters including an estimate of the amounts already paid and to be paid from the WCOF.
- Management has considered and discussed the possibility of a full realisation of contingent liabilities on any given date and notes that the Exchange of Letters between the OIRO and SIRA detail that the liability will be funded in accordance with legislative requirements.
 - There is an enhanced awareness about these contingent liabilities maturing, and Management notes that the liabilities are to be funded in accordance with section 35 of the WIMA.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

- Management has assessed the OIRO's cash flow projections for the next 12 months and is confident in the positive cash flows, drafted based on 2022-23 budgeted inflows and average weekly cash outflows.

In addition to the relevant legislation, the Exchange of Letters between the OIRO and SIRA provide further information regarding the submission process for the OIRO annual budget, financial reporting, provision of funding and year end procedures. Regular meetings between the OIRO and SIRA provide a forum to review the OIRO's financial results, discuss any forecast material adjustments to budget, and canvass any additional information that SIRA may require from the OIRO to effectively undertake its function in maintaining the operational funds.

Judgements, key assumptions, and estimations that management have made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest dollar and are expressed in Australian currency, which is the OIRO's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with the AAS, which include Australian Accounting Interpretations.

(d) Accounting for Goods and Services Tax

Income, expenses, and assets are recognised net of the amount of goods and services tax (GST), except where:

- amount of GST incurred by OIRO as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of the cost of acquisition of an asset or part of an item of expenses; and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

(e) Insurance

The OIRO's insurance activity is conducted through the NSW Treasury Management Fund Scheme of self-insurance for Government entities covered by Insurance and Care NSW (iCare). The expense (premium) is determined by the Fund Manager based on past claims experience.

(f) Superannuation on Annual Leave Loading

The OIRO has determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current inquiries, other information currently available to management, and after considering the facts from a decision in the Federal Court of Australia: Finance Sector Union of Australia v Commonwealth Bank of Australia [2022] FedCFamC2G 409. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period.

This position will be re-assessed in future reporting periods as new information comes to light on this matter.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

(g) Equity - Accumulated Funds

The category 'Accumulated Funds' includes all current retained funds. There is no prior year retained funds as OIRO is a Zero Net Cost of Service business.

(h) Comparative Information

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements. The comparative period is only for four months from 1 March 2021 to 30 June 2021 as OIRO was a newly established entity in 2020-21, so it may not be an appropriate comparison.

The OIRO is required to reclass comparative year's accruals as a result of misclassification for the financial year ended 30 June 2021. The reclassification is necessary to restate \$1,942,662 accruals to provisions as the methodology applied to the recognition of the accruals was inconsistent with AASB 101. The reclassification relates to the FY2021 ILARS accruals and MRP invoice accruals, movements of which are listed below:

CURRENT LIABILITIES - PAYABLES	2021	Movements	2021
	Restated \$	\$	\$
Accrued Salaries Wages & On Costs	331,356	-	331,356
Unearned Income * refer to Budget Supplementation	-	-	-
Corporate credit card	814	-	814
Trade payables	1,005,054	-	1,005,054
ILARS - Professional fees and Disbursements accruals	857,992	(2,501,149)	3,359,141
ILARS - Medical Report Provider (MRP) accruals	558,487	558,487	-
Sundry accruals	375,773	-	375,773
Total	3,129,476	1,942,662	5,072,138

OTHER PROVISIONS

	2021	Movements	2021
	Restated \$		\$
Current			
ILARS - MRP Provision	653,872	653,872	-
ILARS – Professional fees and Disbursements	1,288,790	1,288,790	-
Resolve Software Provision	-	-	-
Project Architecture Provision	-	-	-
Total	1,942,662	1,942,662	-

Note: The above table is an extract only, showing only those financial statement line items affected by the correction of misclassification.

(i) Impact of COVID-19 on Financial Reporting for 2021-22

The primary area of heightened risk from COVID-19 is to OIRO's workforce, where all roles are primarily office-based. As a result, significant focus has been placed on managing work health and safety (WHS) risks, including physical, mental, and social impacts. Office-based staff continued working from home arrangements consistent with public health advice and directions from time to time, and the OIRO has acted to reduce any adverse impact on staff arising from these work arrangements. All staff have also been provided with guidance in relation to hygiene, travel, illness prevention and flexible working. The OIRO continues to support the health and safety of its staff.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

A further assessment of the OIRO's liquidity risk and credit risk, considering relevant assumptions and estimates, has been performed, resulting in no impact being identified as a result of COVID-19, therefore, there is no uncertainty about OIRO's ability to continue as a going concern as at 30 June 2022 as a result of the COVID-19 pandemic.

(j) Changes in accounting policies, including new or revised Australian Accounting Standards

i. Effective for the first time in 2021-22:

The accounting policies applied in 2021-22 are consistent with those of the previous financial year except as a result of the following new or revised AAS that have been applied for the first time in 2021-22.

- AASB 2020-5 Amendments to Australian Accounting Standards – Insurance Contracts

The OIRO has assessed the impact and concluded that the adoption of the new standards does not have an impact on statement of comprehensive income, statement of financial position, other comprehensive income, and the statement of cash flows for the financial year.

ii. Issued but not yet effective

OIRO has assessed the potential impact of the new standards and interpretations issued but not yet effective and determined they are unlikely to have a material impact on the financial statements.

2. EXPENSES EXCLUDING LOSSES

(a) Employee related expenses

	2022	2021
	\$	\$
Salaries and wages (including annual leave)	7,961,553	2,549,662
Payroll tax and fringe benefit tax	405,395	135,633
Superannuation - defined contribution plans	694,389	215,317
Superannuation - defined benefit plans	(857)	-
Workers' compensation insurance	68,252	-
Long service leave ³	(178,220)	326,377
Other Long Service Leave on costs	(21,883)	17,667
Total	8,928,629	3,244,656

(b) Other operating expenses

	2022	2021
	\$	\$
Advertising	3,804	-
Auditors remuneration - audit of the financial statements ⁴	149,500	20,400
Books & Periodicals	4,350	-

³ The negative balances in Long Service Leave expenses in 2021-22 was the result of NSW Treasury's end of year Present Value Long Service Leave top-up process, based on actuarial review. Movements in present value discount factor is adjusted back to the profit and loss as a debit/(credit) depending on whether the discount factor is higher or lower than prior year.

⁴ The full amount of the 2021 Audit fee is \$75,000 with \$20,400 paid in the financial year ending 30 June 2021 and the balance \$54,600 paid in the financial year ending 30 June 2022. The Audit fee for the financial year ending 30 June 2022 is \$94,900.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

	2022	2021
	\$	\$
Computer expenses	652,808	621,099
Conference	82,148	27,400
Consultants	1,093,462	268,640
Contractors	1,137,326	409,550
Corporate cost allocation	778,354	614,230
Fees & Charges	179,149	-
Host fees	36,604	-
Legal	11,345	5,124
Maintenance	590	-
Minor equipment	6,779	-
Network operating costs	57,512	-
Occupancy	344,271	344,721
Other operating expenses	2,842	185,472
Postage & Telephone	39,167	12,485
Printing & Stationery Stores	2,680	34,052
Training	111,921	37,957
Travel & MV expenses	6,264	-
Total	4,700,876	2,581,130

Recognition and Measurement

Corporate Allocation

This includes corporate services provided to OIRO by the Department of Customer Service. Some of the functions provided include corporate finance, corporate affairs, procurement, workplace and facilities, governance, risk and performance, information security, cluster information and communication technology (ICT), people and culture, and the Office of the Secretary.

The Corporate Costs Allocation model is made up of the following components

➤ Direct costs

- Outposted roles, roles that are directly attributable to an Agency, or any other directly attributable other operating costs.

➤ Indirect costs

- Calculated as total Corporate Services, plus People and Culture, plus Office of the Secretary budgets, less Direct Costs
- The remaining labour costs and other operating costs (for Corporate Finance, People and Culture, Chief Information Security Officer (CISO), Workplace Services, Governance, Risks and Performance, Procurement, Office of the Chief Operating Officer and Office of the Secretary) are then apportioned across the Customer Service cluster on a percentage of Full Time Equivalent (FTE) basis.

Consultants

This includes invoices for the business process review consulting team, consulting fees relating to the Independent Legal Assistance and Review Service (ILARS) demand and expenditure forecasting model, and consulting fees for a user experience survey exercise.

Contractors

This includes the fees for current contract employees. An 'other contractor' expense is any individual or organisation (other than a consultant) who is engaged to undertake work that would or could be regarded as normally undertaken by an employee, but internal expertise is not available.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

Fees & Charges

This includes fees for interpreting, GovConnect NSW recovery fees and the employee assistance program fees. GovConnect NSW is a partnership between the NSW Government and shared service providers. GovConnect NSW provides support for Human Resources, Payroll, Finance and ICT services. Approximately 16,000 individuals utilise the GovConnect NSW platform across multiple clusters, including Customer Service, Premier and Cabinet, Communities and Justice, Health and Treasury.

Occupancy

This includes the internal accommodation charge from Department of Customer Service (DCS) to OIRO in 2021-22. DCS is responsible for adhering to the Tenancy schedule in place with Property NSW (PNSW). As a result, DCS settles occupancy charges and seeks reimbursement from the OIRO.

(c) Independent Legal Assistance and Review Service (ILARS) Grants

	2022	2021
	\$	\$
Disbursements	32,187,894	12,213,809
Approved Lawyer Professional Fees	44,286,282	18,112,035
Total	76,474,176	30,325,844

ILARS Grants

ILARS grants managed and administered by the OIRO, allows Approved Lawyers (ALs) to apply for funding (grants) to provide injured eligible workers legal advice about, and assistance to pursue, workers compensation rights and entitlements. Grants of funding cover professional fees, counsel's fees, medical report fees and the cost of other disbursements and incidental expenses reasonably necessary to investigate a claim or pursue a dispute about a claim, including where a claim progresses to the Personal Injury Commission or higher courts, where appropriate.

ALs make applications to the OIRO for grants of funding to assist injured eligible worker clients. In 2021-22, 20,148 applications for ILARS grants were received by the OIRO from ALs.

The applications are assessed by the OIRO staff to determine whether a grant should be approved in accordance with the ILARS Funding Guidelines.

Funding will be approved (whether at the time of initial application or by way of an extension request made by the AL) to Stage 1 (including the provision of comprehensive legal advice), Stage 2 (further investigation), Stage 3 (Personal Injury Commission proceedings), or Stage 4 (Appeals). Each of the Stages corresponds to an assessment of the work an AL is required to do to best assist their client.

In some matters, the OIRO will directly intervene with insurers to attempt to achieve early solutions without the need for extensive funding.

Legal costs including professional fees and barristers' fees are generally invoiced by and paid to the AL at the conclusion of the work conducted under a grant and following an assessment and approval by the OIRO. In 2021-22, 16,484 applications for ILARS grants were finalised by the OIRO.

ILARS grants payments are classified as disbursements in the financial statements, including expenses such as medical report fees, travel expenses etc.

Grants expenses are recognised when grant payments are approved and invoices are received by the OIRO.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

To support funding requests to SIRA from the WCOF, the OIRO estimates the contingent liability for open ILARS grants on a quarterly basis. The quarterly demand and expenditure forecasting model outputs are shared with SIRA and discussed to understand if further funding is required. The Contingent Liability is noted in the Financial Statements.

3. REVENUE

(a) Grants and contributions

	2022	2021
	\$	\$
Grants from WCOF	89,747,758	35,554,141
Grants from MAOF	535,000	271,112
Total	90,282,758	35,825,253

The operations of OIRO are funded by the WCOF and the MAOF. As above, these funds are administered by SIRA.

Recognition and Measurement

Income is recognised in accordance with the requirements of AASB 1058 Income of Not-for-Profit Entities.

(b) Acceptance by the Crown of employee benefits and other liabilities

The following liabilities have been assumed by the Crown Entity:

	2022	2021
	\$	\$
Long Service Leave - Crown accepted ⁵	(178,220)	326,377
Superannuation - Crown accepted	(857)	-
Total	(179,077)	326,377

4. CURRENT ASSETS - CASH AND CASH EQUIVALENTS

	2022	2021
	\$	\$
Cash at bank	1,380,780	2,708,733
Closing Cash at Bank	1,380,780	2,708,733

5. CURRENT ASSETS - RECEIVABLES

	2022	2021
	\$	\$
Debtors	13,001	-
GST Receivable	507,444	353,297
Prepayments	51,184	-
Supplementary ILARS Funding (funded from the WCOF) *	6,626,888	2,913,253
Total	7,198,517	3,266,550

⁵ The Long Service Leave adjustment is based on the present value calculation provided by NSW Treasury. The negative balances in long service leave expenses financial year 2021-22 was the result of Treasury's end of year Present Value Long Service Leave top-up process, based on actuarial review. Movements in present value discount factor is adjusted back to the profit and loss as a debit/(credit) depending on whether the discount factor is higher or lower than prior year.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

*At 30 June 2022, the OIRO had a deficit of funds of \$6,626,888 (FY21: \$2,913,253) in its Statement of Comprehensive income and has requested an increase of funds from the SIRA to fund this deficit.

As above, section 35 of the WIMA provides for the OIRO to be funded from the WCOF in connection with the exercise of the functions of the Independent Review Officer arising under the Workers Compensation Acts. The Exchange of Letters between the OIRO and SIRA ensures that the OIRO is to be funded to manage its operations, and any variances between the funds received and expenses are reported in the Statement of Financial Position as either a receivable or payable. As any surplus funds may have to be returned to SIRA and additional funding may be required to meet any deficit.

Details regarding credit risk of trade receivables that are neither past due nor impaired, are disclosed in Note 10.

Recognition and Measurement

All 'regular way' purchases or sales of financial asset are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The entity holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment

The entity recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

For trade receivables, the entity applies a simplified approach in calculating ECLs. The entity recognises a loss allowance based on lifetime ECLs at each reporting date. The entity has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

ECL is not relevant to the operations of the OIRO, as the entity is funded from the MAOF and WCOF, as administered by SIRA.

Budget Supplementation

As at 30 June 2022, OIRO's actual expenditure was greater than the agreed budget amount from SIRA. Therefore, a budget supplementation for additional funds amounted to \$6,626,888 was submitted to SIRA to cover the expenditure gap and to bring the Net Cost of Service to zero. The OIRO has notified SIRA of the additional funding required from the WCOF, consistent with the funding agreements between OIRO and SIRA (see Note 1(b)). Due to year end cut-off, the OIRO has taken up this amount as revenue receivable on the Statement of Financial Position.

Conversely, in instances where actual expenditure is less than the funding advanced by SIRA, OIRO will release surplus revenue to the Statement of Financial Position i.e. as an amount repayable to SIRA (unearned income). Any unearned income is offset against a budget supplementation.

In 2021-22, the net supplementation from SIRA to the OIRO was \$6,623,758 (\$6,626,888 less \$3,130 (P13 LSL adjustment)).

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

6. CURRENT LIABILITIES - PAYABLES

	2022	2021
	\$	Restated \$
Accrued Salaries Wages & On Costs	277,964	331,356
Unearned Income * refer to Budget Supplementation	3,130	-
Corporate credit card	13,245	814
Trade payables	340,302	1,005,054
ILARS - Professional fees and Disbursements payables - refer to Note 1(h)	3,223,747	857,992
ILARS - Medical Report Provider (MRP) payables refer to Note 1(h)	1,410,260	558,487
Sundry accruals	373,145	375,773
Total	5,641,793	3,129,476

Recognition and Measurement

Payables represent liabilities for goods and services provided to the OIRO. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised net result when the liabilities are derecognised as well as through the amortisation process.

ILARS payables include invoices received from ALs and MRPs and approved by the OIRO on or before 30 June 2022 in the Resolve case management system for payment, but not yet processed in accounting system SAP as at 30 June 2022.

7. CURRENT / NON-CURRENT LIABILITIES

(a) EMPLOYEE PROVISIONS

	2022	2021
	\$	\$
Current		
Annual Leave provision on-costs	948,399	755,749
Long Service Leave provision on-costs	114,217	134,130
Total	1,062,616	889,879
Non-current		
Long Service Leave provision on-costs	11,296	13,266
Total	11,296	13,266
Aggregate employee benefits on-costs		
Provisions – current	1,062,616	889,879
Provisions – non-current	11,296	13,266
Total	1,073,912	903,145
Provisions expected to be settled within 12 months from reporting date		
Annual leave provision on-costs	693,760	637,967
Long Service leave provision on costs	-	-
Total	693,760	637,967

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

Provisions expected to be settled in more than 12 months from reporting date

Annual leave provision on-costs	254,638	117,782
Long Service leave provision on costs	125,513	147,396
Total	380,151	265,178

(b) OTHER PROVISIONS

	2022 \$	2021 Restated \$
Current		
ILARS - MRP Provision ⁶ - refer to Note 1(h)	1,632,278	653,872
ILARS – Professional fees and Disbursements - refer to Note 1(h)	-	1,288,790
Resolve Software Provision	111,314	-
Project Architecture Provision	120,000	-
Total	1,863,592	1,942,662

Provisions expected to be settled within 12 months from reporting date

ILARS - MRP Provision - refer to Note 1(h)	1,632,278	653,872
ILARS – Professional fees and Disbursements - refer to Note 1(h)	-	1,288,790
Resolve Software Provision	111,314	-
Project Architecture Provision	120,000	-
Total	1,863,592	1,942,662

Employee benefits and related on-costs

Salaries and wages, annual leave, and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 Employee Benefits (although short-cut methods are permitted).

Actuarial advice obtained by NSW Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 8.4% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The entity has assessed the actuarial advice based on the entity's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the entity does not expect to settle the liability within 12 months as the entity does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

⁶ ILARS - MRP Provision includes outstanding invoices for the financial year ending 30 June 2022 but not yet received from MRPs, estimated based on the average of the last three invoices received from the MRP and taken up as a Provision.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

Long Service Leave

The Agency's liabilities for Long Service Leave are assumed by the Crown. The Agency accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown of employee benefits and other liabilities".

Long Service Leave is measured at present value in accordance with AASB 119 Employee Benefits. This is based on the application of certain factors (specified in NSWTC 21-03) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

Other provisions

A reclassification of provisions has been implemented by the OIRO this financial year. In 2021, the ILARS - MRP expenses of outstanding invoices not received before 30 June 2021 were recognised as accruals only and not provisions. The reclassification deemed necessary per AASB 101 as there is uncertainty concerning the timing and amount of the future expenditure required for settlement by the OIRO. Predominantly the MRP provisions estimate were calculated using invoice averages over the last three months. However, in instances where data were not reliable management has taken other approaches to ensure a reliable estimate were established. These calculations were either based on 10 months historical data or on actual confirmation from service providers.

8. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

	2022	2021
	\$	\$
Net cash flows from operating activities	(1,327,953)	2,708,733
Increase / (decrease) in prepayments and other assets	3,931,966	3,266,550
Decrease / (increase) in provisions	(91,696)	(903,145)
Decrease / (increase) in payables	(2,512,317)	(5,072,138)
Net result	<u>-</u>	<u>-</u>

9. CAPITAL COMMITMENT

The OIRO has no outstanding capital commitments at balance date.

10. FINANCIAL INSTRUMENTS

The OIRO's principal financial instruments are outlined below. These financial instruments arise directly from the OIRO's operations or are required to finance the OIRO's operations. The OIRO does not enter or trade financial instruments, including derivative financial instruments, for speculative purposes.

The OIRO's main risks arising from financial instruments are outlined below, together with the OIRO's objectives, policies, and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The OIRO has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the OIRO, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the OIRO on a continuous basis.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

As at 30 June 2022			
Class	Note	Category	Carrying amount \$
Financial Assets			
Cash and cash equivalents	4	Amortised cost	1,380,780
Receivables ⁷	5	Amortised cost	6,639,889
Financial Liabilities			
Payables ⁸	6	Financial liabilities measured at amortised cost	5,437,160
As at 30 June 2021			
Class	Note	Category	Carrying amount \$
Financial Assets			
Cash and cash equivalents	4	Amortised cost	2,708,733
Receivables	5	Amortised cost	2,913,253
Financial Liabilities			
Payables	6	Financial liabilities measured at amortised cost	4,962,443

Derecognition of financial assets and financial liabilities

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the entity transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either:

- the entity has transferred substantially all the risks and rewards of the asset; or
- the entity has neither transferred nor retained substantially all the risks and rewards of the asset but has transferred control.

When the entity has transferred its rights to receive cash flows from an asset or has entered a passthrough arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the entity has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the entity's continuing involvement in the asset. In that case, the entity also recognises an associated liability.

The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the entity has retained.

Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the entity could be required to repay.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

⁷ Excludes statutory receivables and prepayments (i.e., not within scope of AASB 7)

⁸ Excludes statutory payables and unearned revenue (i.e., not within scope of AASB 7)

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

(a) Credit risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the OIRO. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of OIRO, including cash at bank and receivables. No collateral is held by the OIRO. The OIRO has not granted any financial guarantees.

The OIRO considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the OIRO may also consider a financial asset to be in default when internal or external information indicates that the OIRO is unlikely to receive the outstanding contractual amounts in full before considering any credit enhancements held by the OIRO.

(b) Cash and cash equivalents

Cash comprises bank balances. The OIRO does not earn interest on its daily bank balances.

(c) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices.

There was no effect on the OIRO's results due to possible change in Market variables.

(d) Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

In 2015-16, NSW Treasury introduced cash management reforms that now apply to the OIRO. Under the reforms, the OIRO will not earn interest from Treasury on its financial assets.

The OIRO did not have exposure to interest rate risk as it did not have funds invested earning interest.

(e) Liquidity risk

Liquidity risk is the risk that an organisation will be unable to meet its payment obligations when they fall due.

The OIRO manages its risk by obtaining enough funds from SIRA to support its operations and working to ensure, wherever possible, that expenses are contained within budget.

The OIRO has exchanged letters with SIRA in June 2022 outlining funding arrangements for the OIRO. The letters reflect the legislative requirement for the costs incurred by OIRO in connection with the exercise of its functions to be met from the WCOF and MAOF. Where OIRO has insufficient cash flow to meet its expenditure during the financial year:

- The OIRO may seek a cash advance where the insufficient cash flow arises from a timing issue, and the OIRO is otherwise within budget, by writing to SIRA seeking the advance. SIRA will advance the funding, subject to funding availability and will adjust the remaining budget, in consultation with the OIRO.
- The OIRO will seek a budget supplementation where the insufficient cash flow is a budgetary issue, by writing to SIRA seeking budget supplementation.

During the financial year ended 30 June 2022, there was no default or breach on any loans payable. No assets have been pledged as collateral. The OIRO does not have any loans or assets that could be pledged as collateral.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

The OIRO's exposure to liquidity risk is deemed insignificant based on current assessment of risk.

Based on management's assessment on natural disasters (including COVID-19), there was no change to the underlying terms and conditions of OIRO financial liabilities. The OIRO chose to reduce the payment period on creditors and other payables to assist with struggling businesses during the COVID-19 period. This has not affected the OIRO's ability to settle and pay for all debts as and when they arise.

The table below summarises the maturity profile of the entity's financial liabilities based on contractual undiscounted payments, together with the interest rate exposure.

			Interest rate exposure			Maturity dates		
	Weighted Average Effective Int. Rate %	Nominal Amount ⁹	Fixed Interest Rate	Variable Interest Rate	Non-interest bearing	< 1 year	1 to 5 years	> 5 years
2022 Payables ¹⁰	N/A	5,437,160	-	-	5,437,160	5,437,160	-	-
2021 Payables	N/A	4,962,443	-	-	4,962,443	4,962,443	-	-

(f) Fair Value Measurement

i. Fair value compared to carrying amount

The OIRO does not hold financial assets and financial liabilities where the fair value differs from the carrying amount.

11. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

	2022	2021
	\$	\$
Contingent Liabilities - ILARS Grants	<u>127,713,000</u>	<u>118,371,000</u>

As at the 30 June 2022, there were 29,544 cases, and a contingent liability of \$127,713,000 was estimated excluding any accruals and provisions recognised in the financial statements.

According to AASB 137- *Provisions, Contingent Liabilities and Contingent Assets*, a contingent liability must be disclosed on OIRO's financial statement rather than a provision because the economic outflow is not "probable" or cannot be reliably quantified until the court proceedings has occurred.

The contingent liability has been estimated utilising a demand and expenditure forecasting model developed by the OIRO case management data. The contingent liability estimation has been based on historical ILARS grant data from financial years between 2014 to 2022, grouped by the high-level primary injury category and outcome mix. The cost estimate was based on the historical proportions between different outcomes. The model uses an average cost to finalise per outcome less average cost already spent based on the case mix of open cases. An indexation rate of 5.5%¹¹ was used as the forecast rate for both disbursements and professional fees, together with a discount factor of 3.29%¹² and 10% applies to professional fees (based on ILARS guidelines changes which occurs every 3-4 years). The SIRA funding arrangements for contingent liabilities were explained in detail at Note 1(b).

⁹ The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the entity can be required to pay. These amounts include both interest and principal cash flows and therefore will not reconcile to the amounts disclosed in the statement of financial position

¹⁰ The amounts disclosed here exclude statutory payables and unearned revenue (not within scope of AASB 7)

¹¹ Indexation is 5.5% based on Treasury economic forecast applied to disbursements.

¹² Discount factor of 3.29% was applied to the model based on 3 years Commonwealth Bond rate.

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

12. RELATED PARTY DISCLOSURES

Key management personnel

	2022	2021
	\$	\$
Short-term employee benefits:		
Salaries	989,000	332,030
Non-monetary allowances	-	-
Other long-term employee benefits	-	-
Post-employment benefits	93,000	29,495
Termination benefits	-	-
Total remuneration	1,082,000	361,525

The OIRO did not enter into any transactions with key management personnel, their close family members, and controlled or jointly controlled entities of key management personnel.

Other related party transactions

The OIRO has entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the OIRO's activities.

These transactions include:

- Grants and contributions received from SIRA, \$90.282m (2021, \$35.825m).
- Long Service Leave assumed by Crown, \$179,077 (2021, \$326,377).
- Payments to DCS for the provision of corporate services, \$778,354 (2021, \$614,230).
- Payments into the Treasury Managed Fund for workers' compensation insurance and other insurances, \$68,252.
- Payments for occupancy charges, \$344,271 (FY21: \$344,271)
- Payments for DCS passthrough charges, approx. \$639,358.

13. EVENTS AFTER THE REPORTING PERIOD

There are no known events after the reporting period which would give rise to a material impact on the reported results or financial position of the OIRO as at 30 June 2022.

14. BUDGET REVIEW

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g., adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

Employee related expenses report a favourable variance to Budget as the full complement of staff has not been recruited at the time of reporting. The favourable variance is offset to some extent by Contractor expenses incurred and not budgeted for to support the workforce needs of the OIRO.

Grants and Subsidies expense consisting of Disbursements and AL Professional Fees, collectively known as ILARS grants, exceeded the expected budgeted value with a negative variance. The reasons for this include an increase in the past several years in applications for ILARS grants from ALs, and a steadily increasing numbers of ILARS grants being finalised by the OIRO. ILARS grants are generally invoiced by and paid to the AL at the conclusion of work conducted under the grant (see Note 2(c)). The increase in ILARS expenditure resulted in a receivable of \$6,623,758 required from SIRA as at the end of June 2022 (see Note 5).

Office of the Independent Review Officer NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2022

The Budget for Grants and Subsidies is included in the Operating expenses of the OIRO in the Statement of Comprehensive Income. However, due to the materiality of the ILARS expenditure, the Actual expenses for 2022 have been disclosed under a separate heading of Grants and Subsidies and detailed in Note 2(c).

Net result

The approved budget net result for 2021-22 was (\$11,000). The actual net result is equal to zero as the OIRO is a Zero Net Cost of Service Agency. A budget adjustment was processed to correct the approved net result of (\$11,000).

Assets and liabilities

The approved budget net assets of (\$11,000) consisted of \$3.889m total assets and \$3.9m total liabilities. The net assets as at 30 June 2022 is equal to zero. The OIRO is a Zero Net Cost of Service Agency and does not hold any retained funds or equity in the entity.

Cash flows

The approved budget cash flows of \$3.889m was higher than actual cash flows of \$1.380m largely due to the increase in ILARS expenditure during the period.

END OF AUDITED FINANCIAL STATEMENTS



Compliance Checklist

Table P: Compliance checklist

Compliance requirement	Section in the annual report
Access	Cover page
Aims and objectives	About IRO
	Corporate performance – Strategic priorities
Annual report production cost and online availability	About this report
Charter	About IRO
Consultants	Consultants
Consumer response	Consumer response
Cyber Security Policy attestation	Corporate governance
Disability inclusion action plans	N/A
Disclosure of controlled entities	N/A
Disclosure of subsidiaries	N/A
Financial statements	Financial statements
Funds granted to non-government community organisations	N/A
<i>Government Information (Public Access) Act 2009</i>	Accessing IRO information
Human resources	Employment and senior executive statistics
	Employee relations policies and practices
Identification of audited financial statements	Financial statements
Internal audit and risk management policy attestation	Risk management, attestation and insurance activities
Land disposal	N/A
Legal change	Legislative changes
Letter of submission	Letter of submission
Management and activities	About IRO
	IRO Snapshot 2021/22
	Solutions
	Grants of Legal Funding
	System Overview
	Corporate performance
	Corporate governance
Management and structure	About IRO
Multicultural policies and services program	N/A - triennial reporting
Numbers and remuneration of senior executives	Employment and senior executive statistics

Compliance requirement	Section in the annual report
Payment of accounts	Accounts payable performance
Privacy and Personal Information Protection Act 1998 (PPIPA)	Accessing IRO information
Promotion	N/A
Public interest disclosures (PID)	Public interest disclosures
Requirements arising from employment arrangements	Corporate governance
	Employment and senior executive statistics
Research and development	N/A
Risk management and insurance activities	Corporate governance
	Risk management and insurance activities
Summary review of operations	IRO Snapshot
	Corporate performance
Work health and safety (WHS)	N/A - triennial reporting
Workforce diversity	N/A - triennial reporting

Data Dictionary

Commission

Commission in this report refers either to the Workers Compensation Commission (for proceedings and decisions prior to 1 March 2021) or the Personal Injury Commission (for proceedings and decisions on or after 1 March 2021).

Complaint

A complaint is an expression of dissatisfaction or grievance made to the IRO about an insurer where a response or resolution is explicitly or implicitly expected.

Sections 27 and 27A of the WIM Act provide that one of the functions of the Independent Review Officer is to deal with complaints about the acts or omissions of insurers that affect a worker's rights, entitlements or obligations under workers compensation legislation.

CTP enquiries

CTP enquiries are enquiries received from persons injured in motor accidents.

Early solutions matter

A matter that is the subject of an ILARS grant of funding, where the injured worker has legal representation and where it may be appropriate for the IRO to intervene to prompt early solutions.

Enquiry

An Enquiry is a request for information which does not require referral to an insurer.

Early intervention matter

An early intervention matter is one that is the subject of an ILARS grant of funding, where the injured worker has legal representation and where it may be appropriate for the IRO to intervene to prompt an early solution.

Final outcome

Includes: matters finalised after proceedings have been commenced in the Personal Injury Commission by the worker and the Commission decides the dispute; and matters resolved with the agreement of the injured worker and insurer before proceedings are commenced or during proceedings in the Commission (including where early solutions are achieved with the assistance of the IRO).

No final outcome

Includes all matters where the worker does not advance a claim or dispute including where comprehensive legal advice is provided, where the worker ceases to instruct a lawyer, where a lawyer advises a worker not to proceed, where a lawyer has lost contact with a worker or where a claim is investigated (including by obtaining specialist medical evidence) but the relevant impairment threshold or pre-requisites to pursue a claim are not met. In these grants the 'matter' does not proceed to any outcome.

Number and type of complaint

For the purposes of Table 3 and Table 4, data is categorised as one issue per complaint. Where a complaint involves multiple issues, the primary issue only is recorded. This is consistent with SIRA practice.

Outcomes of Complaints and early intervention matters:

Resolved - Benefit

to prompt the acceptance of a claim which had not previously been determined, an increase in the value of an existing benefit (for example, increased weekly payments) or the insurer to overturn a decision to dispute liability.

Resolved - Action

to prompt the insurer to take action to progress a claim, for example to amend an injury management plan or to arrange a medical examination.

Resolved - Information

to provide information to the injured worker, for example to confirm correct advice was provided by the insurer after independent examination by the IRO or ensure access to information the worker is entitled to.

Referred

to refer the injured worker to another entity (such as a IRO Approved Lawyer) or organisation who is best able to assist them.

Position improved

Includes matters resolved by direct negotiation after investigation of a worker's claim and matters where the IRO successfully intervened at an early stage to prompt a solution or resolution of a dispute.

Position not improved

Includes all matters where matters proceed to a final result where the injured worker does not improve their position (i.e. the worker's dispute before the Commission is determined in favour of the insurer or employer).

Resolved pre-proceedings

Matters resolved pre-proceedings with the agreement of the injured worker and insurer. All matters that were resolved at pre-proceedings represent an improved position. NB: where the parties cannot agree, the matter either proceeds to the Commission or is not continued by the work, and where the matter is not continued by the worker, the grant is recorded as having no final outcome; see above.

WC complaints

For the purposes of Table 1, 'WC complaints' data does not include early intervention matters.

All tables

Percentages may not add up to 100%, as they are rounded to the nearest per cent.



Independent
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