



Independent  
Review Office

# Costs Indexation Implementation

## Stakeholder consultation

The Independent Review Office (IRO) is seeking feedback on the plan for implementation of professional fees costs indexation. The consultation period commences on 18 November 2024 and submissions are due by 5pm on 29 November 2024.

Stakeholders are invited to comment on the plan, with a focus on timing and appropriateness for achieving the objectives of indexation.

### Background

Clause 6(d) of the *Personal Injury Commission Act 2020* provides that the Independent Review Officer has the function of managing and administering the Independent Legal Assistance and Review Service (ILARS). The statutory purpose of ILARS – set out in clause 9(2) – is to provide funding for legal and associated costs for workers seeking advice regarding the decisions of insurers under workers compensation legislation and to provide assistance in finding solutions for disputes between workers and insurers.

The current ILARS Funding Guidelines (Guidelines) were issued in February 2021 and came into effect on 1 March 2021. The Guidelines do not contain any provision for increasing, or indexing, the amounts set out in the Professional Fees Schedule in part 6.3 and there has been no amendment to those amounts since March 2021.

### ILARS Review

In 2022 a Review of ILARS was undertaken by an expert Committee external to the IRO. It examined how effectively current arrangements and in particular, the Guidelines, enabled the effective achievement of the statutory purposes of ILARS. The Review Committee's report was published in July 2023.

IRO accepted in principle Recommendation 24 of the 2022 ILARS Review:

That the Fee Schedule be indexed to CPI or another appropriate benchmark, with annual adjustments

The IRO commissioned Dr Matthew Butlin to provide advice on implementation of indexation of the professional fees schedule in part 6.3 of the Guidelines. The resulting *Indexation Review: Independent Legal Assistance Review Service (ILARS) report*<sup>1</sup>, was published by IRO on 13 June 2024. In response, IRO undertook to consider Dr Butlin's recommendation in consultation with stakeholders, as part of its response to the ILARS Review recommendations.

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<sup>1</sup> [Indexation Review Report - Final.pdf](#)

IRO has resolved to implement costs indexation in accordance with Dr Butlin's recommendations, with some adjustment for timing.

## Implementation plan

IRO proposes to implement professional costs indexation applying the following principles:

- Costs indexation will be applied to professional fees for Approved Lawyers
- Indexation of professional fees will take place on 1 March of each calendar year except in circumstances identified in recommendation 1 of Dr Butlin's report
- IRO will adopt the December quarter Australian Bureau of Statistics Producer Price Index Australia Legal Services (PPI Legal Services) as the index to be applied to professional fees. IRO will exercise its discretion to round indexed amounts to the nearest ten dollars (\$10.00).
- The date of finalisation of work performed under a grant will determine which version of the relevant professional fee will apply.

For example, if a matter resolves on 15 January 2025, by way of a Certificate of Determination issued by the Personal Injury Commission on that date, the professional fee prescribed by the Guidelines in effect from 1 March 2021 to 28 February 2025 will apply. Conversely, where a matter resolves by way of a worker executing a complying agreement on 3 March 2025, the professional fee prescribed by the Guidelines issued on 1 March 2025 will apply.

- For the purpose of the first instalment of indexation:
  - IRO will issue a new version of the Guidelines
  - Amendments will consist of changes to the value of fees in part 6.3 of the Guidelines and some minor consequential changes

IRO intends to undertake a further, detailed review of the Guidelines, commencing in early 2025. This review is also the outcome of the 2022 Review (recommendations 2, 6, 23, 25, 26). It is intended that the 2025 Review will consider options for a process for embedding costs indexation on a yearly basis, without the need to issue new Guidelines each time.

## Additional matters

IRO also accepts recommendation 31 of the 2022 ILARS Review and will take the opportunity to incorporate the Appeal Costs Policy<sup>2</sup> into the Guidelines to be issued in February 2025.

Fees for counsel will not be indexed in March 2025. Indexation of counsel's fees will be referred for consideration by the 2025 ILARS Funding Guidelines Review.

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<sup>2</sup> [Microsoft Word - Final - Appeal Costs under the Independent Legal Assistance and Review Service](#)

### Project timeline\*

Date	Milestone
November 18-29	Stakeholder consultation period
December 2-13	Review of stakeholder submissions and amendments to plan, as necessary
December 16-20	Final approval of implementation plan by Officer Implementation plan published on IRO website
January 31	Anticipated date for publication of PPI Legal Services
February 3-7	Executive Order published
February 10-21	New Guidelines tabled in parliament
February 24-28	New Guidelines and supporting material published on website
1 March 2025	Indexed costs apply to matters finalised from this date

\* Timeline subject to date of publication of PPI Legal Services