



Independent  
Review Office

# **IRO Regional Seminars**

## **Wollongong**

March 2025

# **IRO acknowledges traditional owners**



*We acknowledge the Dharawal People as the Traditional Custodians of the land we are meeting on today, and part of the oldest surviving continuous culture in the world. We recognise their continuing connection to Country and thank them for protecting this land and its ecosystems since time immemorial.*

*We pay our respects to Elders past and present, and extend that respect to all First Nations people present today*





# Agenda

- **Welcome** – Samantha Taylor, Independent Review Officer
- **ILARS Update** – Philip Jedlin, Director, ILARS
- **Personal Injury Case Law Update** – Jeffrey Gabriel, Director, Solutions
- **Trauma Informed Care** – David Smout, Equal Rehab
- **Federal Diversity Jurisdiction – What happened next?** – Michelle Riordan, Manager Legal Education
- **IRO Solutions Update** – Jeffrey Gabriel, Director, Solutions
- **IRO Priorities 2025 and Closing Remarks** – Samantha Taylor, Independent Review Officer





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# ILARS Update

**Phil Jedlin**

Director ILARS



# ILARS Update

- ILARS Grants
  - Data
  - Top tips – applications and invoices
  - Improving our communication

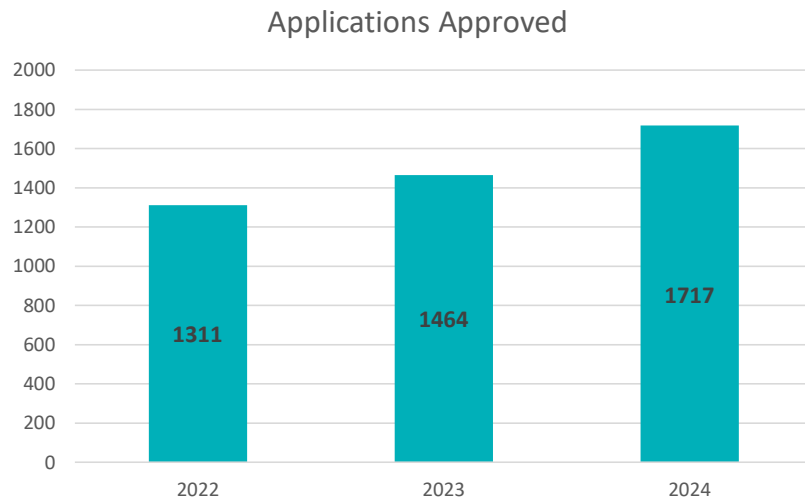




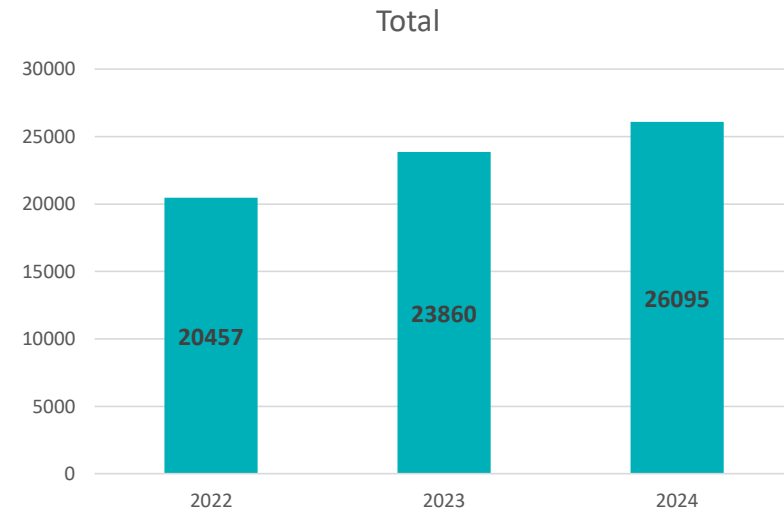
# Applications Approved

Your region includes Illawarra and South Coast  
Data used is for calendar years

## Your Region



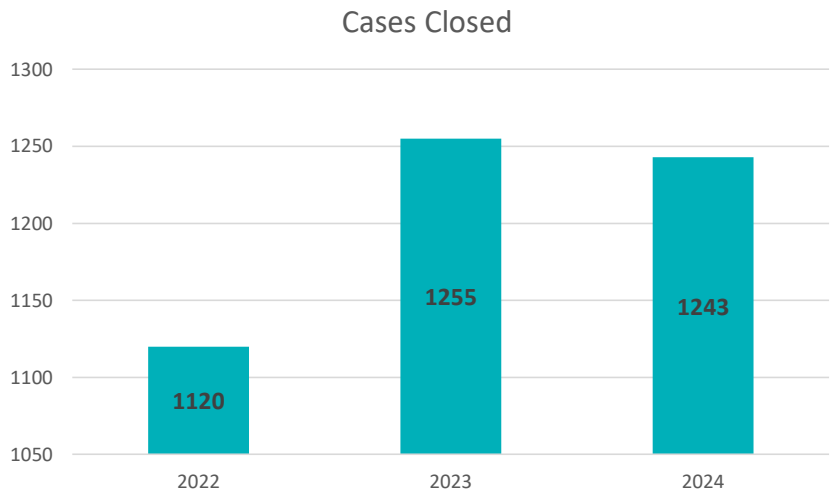
## All Firms



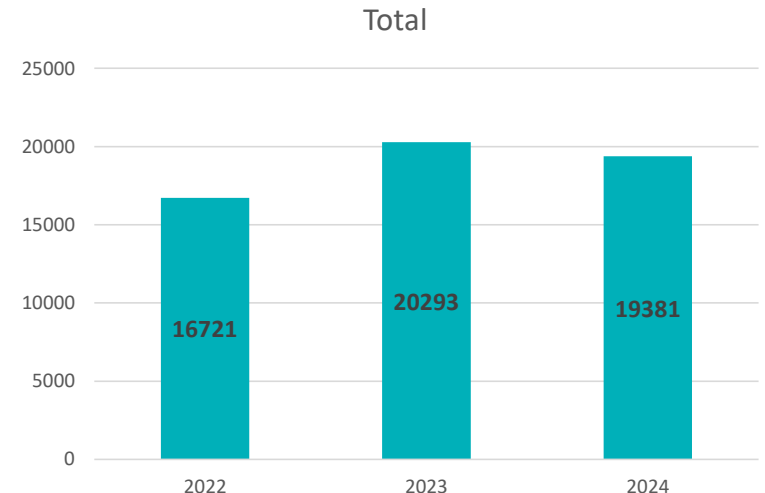


# Closed Cases

## Your Region



## All Firms



# Stages of Cases

Stages	Number of Cases	Percentage	% all Firms
Stage 1	584	33%	31%
Stage 2	899	51%	51%
Stage 3	246	14%	16%
Stage 4	7	0%	0%
Stage 4 Conditional	16	1%	1%
<b>Grand Total</b>	<b>1752</b>	<b>100%</b>	<b>100%</b>



# Injured persons in your Region



	Hearing	Lower extremity	Psychiatric and psychological disorders	The spine	Upper extremity	Grand Total
Your Regions	618	299	569	403	531	2419
All other Regions	755	584	1061	771	1071	4243
Total	1373	883	1630	1174	1602	6662
Percent of matters managed by AL's in your region	45%	34%	35%	34%	33%	36%
-Excluding Hearing loss						34%



# Where do your injured workers come from



Region	Hearing	Lower extremity	Psychiatric and psychological disorders	The spine	Upper extremity	Grand Total
South Coast	423	288	523	421	515	2170
Illawarra	197	127	225	154	222	925
Riverina Macarthur/ Camden	54	26	33	35	44	192
Murray	22	22	33	24	20	121
Other Region	5	13	13	10	19	60
	41	90	195	120	166	612
<b>Total</b>	<b>742</b>	<b>566</b>	<b>1022</b>	<b>764</b>	<b>986</b>	<b>4080</b>



# Outcomes of cases for 2024



Summary Outcome	Final Outcome		No Final Outcome		Total	
	Number	Percentage	Number	Percentage	Number	Percentage
<b>All Firms</b>						
Advice only	0	0%	4654	39%	4654	22%
Pre-Proceedings	5190	54%	10	0%	5200	24%
Commission or Court	4416	46%	187	2%	4603	22%
Other Outcome	12	0%	6934	59%	6946	32%
<b>Grand Total</b>	<b>9618</b>	<b>100%</b>	<b>11785</b>	<b>100%</b>	<b>21403</b>	<b>100%</b>
Percentage	45%		55%			
<b>Region</b>						
Advice only	0	0%	295	37%	295	20%
Pre-Proceedings	391	58%	1	0%	392	26%
Commission or Court	287	42%	7	1%	294	20%
Other Outcome	0	0%	504	62%	504	34%
<b>Grand Total</b>	<b>678</b>	<b>100%</b>	<b>807</b>	<b>100%</b>	<b>1485</b>	<b>100%</b>
Percentage	46%		54%			



# Application for Grants issues - 2022-24



Issue	All Regions		Your Region	
	Number	%	Number	%
Request for further information	7202	7%	519	8%
Remind Request for further information	942	13%	43	8%
Average time to approve application	4.3		4.1	
- All accepted applications (Days)				
Where NO request made for further information (Days)	3.0		3.1	
Where a request is made for further information (Days)	24.5		20.0	



# Applications



Supporting material

Explanation of the merit/arguable case of a request for funding

Details of insurer's response to claims. Be Mindful of the timeframes for responses to claims by Insurers.

Requests for Updates

Correct ILARS reference in the subject line in correspondence

Accurate details in application for funding

Attaching PDF's, not links



# Invoices - 2022-24



Issue	All Regions		Your Region	
	Number	%	Number	%
Invoices processed from law firms	58102		3977	7%
Number of cases with invoice errors	14134	23%	962	22%
An invoice may have more than one issue and may be returned more than once				
Grant related issues	13420	23%	968	24%
Invoice related issues	6325	11%	408	10%
Issues with MRP invoices	3184	3%	197	1%



# Invoices in Your Region - Requests for amendment



<b>Grant related errors</b>	<b>All Regions</b>	<b>Your Region</b>
Disbursements exceed approved funding	19%	20%
Legal cost exceed approved funding -	20%	21%
Supporting documents not supplied	53%	51%
<b>Invoice related errors</b>		
No unique invoice number-	7%	6%
Wrong amount -	45%	45%
Wrong GST -	12%	12%
No Date	13%	12%



# Recurring Themes

Unique tax invoice number

Only one event number for costs per Tax invoice can be used (except for appeals)

Date Missing or incorrect

ILARS reference incorrect or missing

GST added to disbursements



## Recurring Themes continued

Incorrect amounts

Copies of medico-legal reports

Specify the Doctor, date of examination and category of report

EFT details

Format –PDF is required

Invoices do not tally

# Impact of Invoice errors



Causes a failure in the payment system



Multiple interactions



Causes delay in the payment of the invoice

# Improving how we Communicate with each other



- Requesting Director Reviews
  - Clause 2.12 specifies that a request for a review may be made at any time and must be made by a Lawyer.
  - A Lawyer is defined in clause 1.4 as an 'Approved Lawyer'.
  - This means that requests for reviews of funding decisions should not be made by paralegals or lawyers in your office who are not IRO Approved Lawyers.
- IRO appreciates that much of the work done on a case is not done by Approved Lawyers, however
  - ILARS expects that initial applications for funding and requests for reviews of funding decisions are sent to IRO by Approved Lawyers.



# Improving how we Communicate with each other



- Please send your email to [ILARS Contact Inbox](#) for
  - New grant applications
    - If you have a necessary urgent application (ensure to include “URGENT” in the subject line)
  - Additional invoices for closed cases
  - Non-case related emails

For **existing** ILARS Matters,

- If you receive a response from our Grant Managers, respond to [ILARS Mail Inbox](#) ONLY
- When sending new emails to an existing case, ensure to include the ILARS case number – C/NN/YYYYY or G/NN/YYYYY in the subject line and **do not** cc the ILARS Grant Manager’s personal email or other ILARS email boxes.
- For an **Extension of Stage Funding request**, submit as a new email (i.e., not replying to previous emails) to the [ILARS Mail Inbox](#) with the subject line “Stage \*\* Extension of Funding”.
  - This will assist with prompt assessment and reallocation of your request. Failure to address the subject line in this manner, will cause delay in assessment of your request.
- For Disbursement only funding requests, **do not** use the words “Extension” or “Extension of Funding” within the request, for correct allocation of your funding request.
- Where you receive an email from the ILARS team requesting ‘further information’ please reply to that email (to [ILARS Mail Inbox](#) ONLY) with the same subject line.
- Include only 1 ILARS case number in the subject line – please ensure this is the current case and not a closed case.



# Improving how we Communicate with each other



- IRO sends a number of communications to stakeholders including Approved Lawyers.
- These include IRO Alerts, ILARS practice Notes, IRO Bulletin and IRO News
- These are sent to Approved Lawyers and others who sign up to receive these publications on the website - [Sign up to IRO Publications](#)
- It is important that all staff who are involved in Workers Compensation sign up so they can receive important messages from IRO.
- Many of the errors we receive in mail messages are from staff in your offices who have not received or read our publications
- We also encourage you to circulate the above to all your Workers Compensation Team members



# QUESTIONS





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# Personal Injury Case Law Update

**Jeffrey Gabriel**

Director Solutions

# Cases – Workers Compensation

Surveillance as evidence of capacity

- *Bruzzese v Burwood City Council [2024] NSWPIC 663 – Member Burge*
  - Psychological injury
  - Multiple attendances at PIC
  - Surveillance as evidence of capacity
  - Cross examining person with psychological injury
  - Conduct of insurer and staff



# Cases – Workers Compensation

Section 9A and death claim

- *Huang v Noni B Holdings Pty Ltd & Ors [2024] NSWPIC 671* – Senior Member Beilby
  - Allergic reaction to nuts found in a carrot cake purchased on the coffee run
  - Issue – was employment a substantial contributing factor to injury that resulted in death? Held – yes
  - Currently on appeal

# Cases – Workers Compensation

## Section 11A and host employer

- *Makdessi v Millennium Security Specialist Services Pty Ltd [2025] NSWPCPD 3* – ADP Parker
- Host employer directed IP to work on a different site
- Application of *Jeffrey v Lintipal Pty Limited [2008] NSWCA 138*
- Evidence (lack thereof) as to employer direction
- Onus on employer to make out 11A defence

# Cases – Workers Compensation

Functional Neurological Disorder after a stressor

- *Petronio v State of New South Wales (Northern NSW Local Health District) [2025] NSWPIC 32* – Member McDonald
  - Claim for psychological injury and functional neurological disorder
  - Lack of contemporaneous evidence
  - Applying *AV v AW [2020] NSWCCPD 9*

# Cases – Motor Accidents

Lacerations to the skin as non-threshold injury

- *Allianz Australia Insurance Limited v The Estate of the Late Summer Abawi [2024] NSWSC 1245* – Griffiths AJA
  - Definition of soft tissue in 1.6(2) of MAIA
  - Under appeal
- *Sam v QBE Insurance (Australia) Limited [2025] NSWPICMP 1* – Member Harris, Assessors Couch and Lahz
  - Right arm injury pleaded (among others). Abrasion that healed within two weeks = non-threshold
  - Ongoing entitlements stat bens and common law for other injuries found to be threshold injuries

# Cases – Motor Accidents

Causation and pre-existing injuries

- *Mahroei v QBE Insurance (Australia) Limited [2024] NSWPICMP 339* – Member Harris, Assessors Barrett and Baker
  - Two different motor accidents.
  - Psychological injury pleaded in both
  - Threshold injury dispute for the latter accident

# Cases – Motor Accidents

Best endeavours to resolve a claim for damages

- *Kaur v Transport Accident Commission [2024]*  
*NSWPIC 177* – Member Ford
  - Section 7.32 (3) MAIA
  - 17 days between claim for damages and application in Commission
  - Best endeavours are mandatory

# Cases – Motor Accidents

Claim for economic loss lacking in substance

- *Park v Insurance Australia Limited t/as NRMA Insurance [2024] NSWPIIC 225* – Member White
  - 74-year-old pensioner in an MVA
  - Supplementary statement alleged work and loss of income
  - Need evidence to substantiate claim

# Cases – Motor Accidents

Commencement of statutory benefits – due search and enquiry

- *Najjar v Insurance Australia Limited t/as NRMA Insurance [2024] NSWPIC 328* – Member Bolton
  - Section 6.13 of the MAIA
  - Clause 8A MAI Regulation
  - Backdating of benefits
  - When is a valid claim made?



# Cases – Motor Accidents

## Proving causation

- *Isaac v AAI Limited t/as AAMI [2024] NSWPICMP 364*
  - Member Macken, Assessors Barnsley and Couch
    - 79-year-old claimant
    - Scan 18 months post accident shows partial tear
    - Degenerative or frank injury?

# Cases – Motor Accidents

Contributory negligence in single vehicle accidents

- *McDonough v Youi Pty Limited [2024] NSWPIC 445* – Member Cassidy
  - Single vehicle accident on a motorcycle
  - Sections 3.11 and 3.28 MAIA
  - Expert evidence regarding crash and speed

# Cases – Motor Accidents

Home renovations as attendant care services?

- *Lau v QBE Insurance (Australia) Limited [2024] NSWPIIC 724* – Member Cassidy
  - Treatment and care – Section 1.4
  - What is an everyday task?
  - Purpose of the task is relevant

# Cases – Motor Accidents

Application of MACA 1999 to government buses

- *McTye v Ching Yu Chang by his tutor Leo Alexander Birch [2025] NSWCA 3*
  - Claimant struck by a STA bus
  - Section 121 *Transport Administration Act 1988* amended in 2017. Damages assessed under MACA 1999 despite MAIA 2017
  - State Transit Authority now dissolved. What about private buses?

# QUESTIONS



## Holistic and Client Centered CTP Case Management

Struggling with complex rehab  
needs for your clients?

*Expert-led recovery plans that help your  
clients rebuild faster.*



*Scan to transform  
your clients  
recovery journey*



 (02) 8026 0173

 [ctpsupport@equalrehab.com.au](mailto:ctpsupport@equalrehab.com.au)

 [equalrehab.com.au](http://equalrehab.com.au)

20 March 2024

# Trauma Informed Care

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David Smout – Occupational Therapist  
Equal Rehab

# What is Trauma

## What events can typically cause trauma?

- Acts of violence such as an armed robbery, war, or natural disasters
- Personal trauma such domestic violence, or child abuse, traumatic loss
- An event that was perceived as life-threatening, such as an illness or a serious motor vehicle or workplace accident
- It can also be secondary trauma from finding out that a family member or friend was involved in a traumatic event

## Trauma is not just an event, but the residual impact of the event

## Trauma is more than just PTSD

- You don't need a diagnosis of PTSD to be impacted by trauma
- Research has found PTSD can often be under diagnosed (Zimmerman M, July 1999)

# Who Experiences Trauma



It is estimated that 75% of Australian adults have experienced a traumatic event at some point in their lives (Stress and trauma, 2024).



A much lower percentage are diagnosed with PTSD, although many do experience symptoms of trauma.



Trauma occurs when a person is overwhelmed by events or circumstances and responds with intense fear, horror, and helplessness.



# What is the Impact of Trauma



## Neurological

It is thought to impact brain development in children. Although more research is needed to scientifically prove this



## Psychological/Cognitive

Difficulty controlling arousal levels in response to emotional and sensory stimulation  
Poorer attention and memory  
Difficulties with processing of social information  
Becoming reactive  
Disruptions to sleep

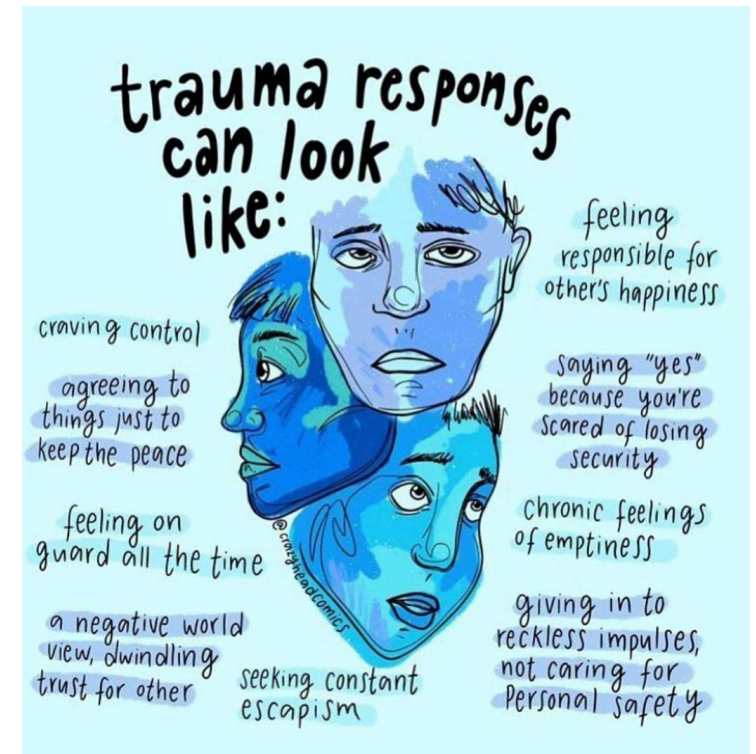


## Behaviour

Risk taking  
Isolation  
Self-destructive behaviour

# Symptoms of trauma

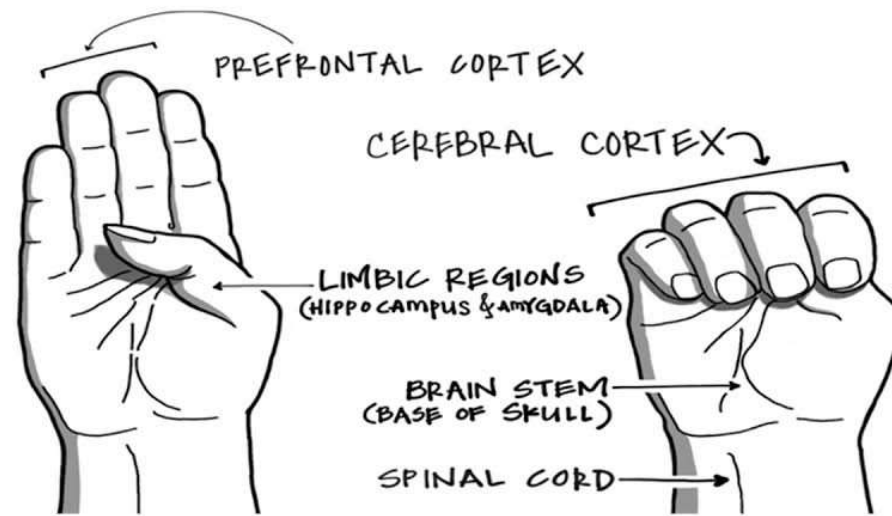
- What might you see in someone who has experienced trauma?
  - Irritability
  - Violent /angry outbursts
  - Reckless behaviour
  - Getting startled easily, feeling 'jumpy'
  - Overly alert to danger (hypervigilance)
  - Finding it hard to sleep
  - Finding it hard to concentrate.



# Biological Explanation

## Flipping Your Lid

### Hand Model of the Brain



# Trauma Summary

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Trauma is the lasting emotional response to a distressing event

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A large percentage of people will experience some trauma in their lives

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The biological, psychological, cognitive, and behaviour impact of trauma will affect everyone differently

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These symptoms can often lead to complicated behaviours and destructive coping strategies

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How do we support people with trauma?

# What is Trauma Informed Care

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- **6 Principles of trauma informed care**
  - Safety
  - Trustworthiness and transparency
  - Choice
  - Collaboration
  - Empowerment voice and choice
  - Cultural, historical, and gender issues



# Trauma Informed Care



## What trauma informed care is NOT

It is not treatment for trauma  
It is not helping someone process trauma



## What it IS

It is creating a culture of understanding  
Creating a space someone can feel safe  
Educating people to understand the signs and symptoms of trauma  
Learning how to defuse rather than escalate people with trauma  
Prevent re-traumatisation

# How Does it Work?

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- Understanding a persons needs and wants
- How this impacts them
- How support them can help meet their needs



## Maslow's hierarchy of needs

# Trauma Informed Care in Practice

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An attitude, a lens to look at people and situations

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It recognises the widespread impact of trauma and understand paths for recovery

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Recognize the signs and symptoms of trauma in patients, families, and staff

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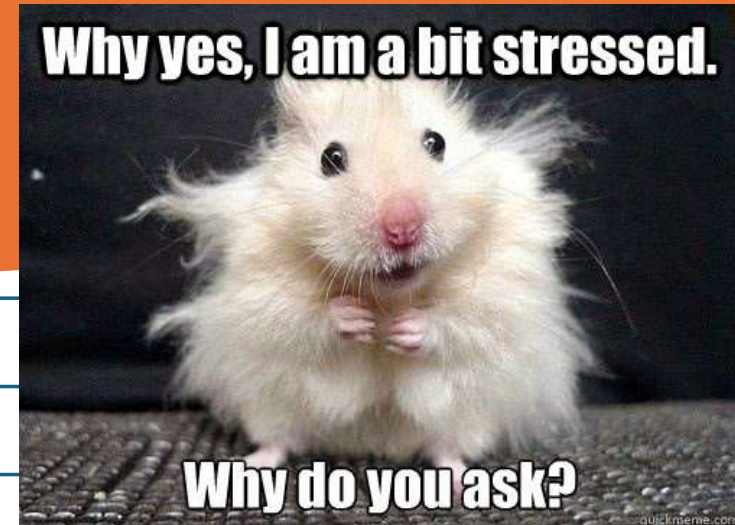
Uses knowledge about trauma to help develop policies, procedures, and practices

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Actively avoid re-traumatization



# Tips



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Self-care for yourself comes first

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Build a relationship of mutual trust and respect

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Include the persons' perspective regarding decisions

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Recognize the value for the person to have some locus of control

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Calm ourselves first and don't respond in kind of an elevated person

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Empathise

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Welcome complaint and don't dismiss them

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Offer options

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Empower the person to make their own decisions

# Case Study

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- Barriers
  - Demonstrates self-destructive behaviours
  - Feels disempowered
  - Perceives threats to their safety all around them
- Strategies
  - Try to create a feeling of safety
  - Demonstrate trustworthiness through transparency
  - Give the person choices
  - Empowerment voice and choice
  - Cultural, historical, and gender issues



imgflip.com

# Case Study

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- Looking for ways to demonstrate our trustworthiness
- Holding out a hand to offer help, even if they refuse it.
- Keep being consistent and offering support
- Don't reciprocate their behaviour



# Questions?

- References

- Stress and trauma. (2024, February 14). Retrieved from Australian Institute of Health and Welfare: <https://www.aihw.gov.au/reports/mental-health/stress-and-trauma#mi>
- The effect of trauma on the brain. (2016, June). Retrieved from Australian Institute of Family Studies: <https://aifs.gov.au/resources/practice-guides/effect-trauma-brain-development-children>
- Zimmerman M, M. J. (July). Is posttraumatic stress disorder underdiagnosed in routine clinical settings? *Nerv Ment Dis*, 1999.



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# **Federal Diversity Jurisdiction - What happened next**

**Michelle Riordan**

Manager Legal Education



# Relevant decisions

- ***Kanajenahalli No. 3 [2023] NSWCA 202***
- ***McKeown v Secretary, Department of Education* (unreported)**
- ***Chetty v Queanbeyan-Palerang Regional Council [2024] NSWDC 12***
- ***Ramsay v Southern NSW Local Health District;***
- ***Manning v Sydney Trains;***
- ***Honey v Robert Sheridan Family Trust;***
- ***Duncan v Department of Education;***
- ***Magnan v Upper Shire Council [2024] NSWDC 326***



## What we now know:

- **Federal diversity jurisdiction** describes matters in which the High Court of Australia has original jurisdiction, including matters between:
  - (1) A State and a resident of another State; and
  - (2) Residents of different states.
- **The PIC is not a Court of a State** for the purposes of ss 75–77 of the *Constitution* and s 39 of the *Judiciary Act (Cth)* and **it lacks judicial power** to determine matters that are subject to Federal diversity jurisdiction.

## What we now know:

- In *Kanajenhalli No. 3*, the Court of appeal held that ***the PIC has administrative power to determine disputes*** in matters that are Federally-impacted.
- Determining a dispute under s 11A WCA ***involves an exercise of administrative power.***
- In *Ramsay, Manning , Honey, Duncan and Magnan*, the District Court held that determining disputes under ss 4, 4(b), 9A, 11A, 33 to 38 and 60 WCA also ***involve an exercise of administrative power.***



# McKeown v Secretary, Department of Education (unreported)

- Section 11A dispute arose before the decision in *Kanajenahalli no. 3*.
- The worker applied to the District Court under s 26 of the PIC Act and sought remittal to the PIC.
- The respondent refused to consent to remittal and the Court decided not to remit it.
- The matter was listed the matter for a fully-contested 5-day hearing.
- Not reached in June 2023 and relisted in September 2023.

# McKeown



- When the hearing commenced, the respondent advised the Court of the decision in *Kanajenahalli no. 3*.
- The Court remitted the matter to the PIC but it did not order the respondent to pay the costs thrown away as a result of its refusal to consent to remittal.
- The matter cost the Operational Fund counsel's fees exceeding \$49,000 and professional fees exceeding \$24,000.
- The dispute was ultimately determined in the PIC based on a MAP decision.





# ***Ramsay; Manning; Honey; Duncan & Magnan [2024] NSWDC 326***

- The Attorney-General intervened in these matters under s 26 of the PIC Act.
- IRO funded Senior Counsel to appear for the plaintiffs, in order to obtain a determination about what disputes involve the exercise of judicial power and/or administrative power.
- Judge Waugh SC heard the matters together and gave judgment on 7/08/2024.





## ***Ramsay; Manning; Honey; Duncan & Magnan***

- The Court held that if determining the dispute in the PIC “*would involve an exercise of federal jurisdiction*”, it could grant leave for it to proceed in the District Court under s 26(3) of the PIC Act.
- However, if it was satisfied that the PIC “*has jurisdiction to determine it*”, the matter can be remitted to the PIC under s 26(5) of the PIC Act.
- The Court held that the PIC had jurisdiction to determine all disputes between the parties, and it remitted them to the PIC under s 26(5).



# ***Ramsay; Manning; Honey; Duncan & Magnan***



- The Court held that in *Searle*, the Court of Appeal held that whether a determination by the PIC involves an exercise of Federal jurisdiction raises the question of whether it would be purporting to exercise judicial power.
- Two critical questions must be addressed in an application under s 26:
  - (1) What issues have arisen in the application to the PIC? and
  - (2) Would determining these issues involve an exercise of judicial power?
- The parties sought remittal to the PIC.





## ***Ramsay; Manning; Honey; Duncan & Magnan***

- In *Chetty*, his Honour held that determining a dispute issue under s.4(b)(i) WCA (whether employment was the main contributing factor to contracting a disease) involves issues of fact and this involves ***an exercise of administrative power***.
- Determining a s 9A dispute involves "*questions of impression and degree, and 'a finding as to relative contributing factors is a finding of fact'*": *Secretary, Department of Education v Dawking* [2024] NSWCA 4 per Gleeson JA (Mitchelmore and Kirk JJA agreeing) at [43]. In other words, it involves issues of fact.



## ***Ramsay; Manning; Honey; Duncan & Magnan***

- Determining disputes under ss 33 and 38 WCA, involve consequential calculations following the determination of issues of fact that arise under provisions such as ss 4, 9A and 11A WCA. These involve ***an exercise of administrative power***.
- A dispute under s 60 WCA does not depend on any breach of duty by the employer. It therefore ***does not involve*** an exercise of judicial power.



# **ILARS funding of federal jurisdiction matters**

- Legal advice and assistance at no cost to worker
- Fund federal jurisdiction matters on a 'best equivalence' basis
- Additional work funded as complexity increase at Attorney General's rates
- Separate funding for Counsel

[Federal jurisdiction funding policy.pdf \(nsw.gov.au\)](#)





# QUESTIONS





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# IRO Solutions Update

**Jeffrey Gabriel**

Director Solutions

# Topics to be covered

- Overview of IRO Solutions function
- What makes a good complaint and response
- Trends and issues raised in IRO Solutions 2023-24 and 2024-25
- Early solutions work

# Topics to be covered

- Case studies
- After the complaint is closed
- Responding to feedback
- Challenges facing IRO Solutions (and all of us)

# IRO Solutions functions

- Enquires from workers compensation customers.
- Complaints from both workers and CTP customers (Schedule 5, Part 4 of the Personal Injury Commission Act 2020).
- Early solutions (Schedule 5, Clause 9(2) – “to provide assistance in finding solutions for disputes between workers and insurers”).

# IRO Complaint Handling Protocol



- The IRO Complaint Handling Protocol (CHP):
- Defines how we deal with matters including our approach to finding ‘fair and reasonable’ solutions.
- Sets out when we may decline to deal with a matter.
- Provides complainants the right to seek a review of an IRO decision to decline or close a complaint.



# What makes a good complaint

- Chronology
- Evidence substantiating allegation
- Evidence attempting resolution before IRO
- Proposed solutions
- Poor complaint can → IRO declining to deal with the complaint

# What makes a good response

- When responding to a complaint, we value insurers who:
  - Share a relevant chronology, including details of any attempts to resolve things with the customer directly – is there a reason why the matter remains unresolved?
  - Provides a paper trail showing actions taken – emails, letters, file notes etc.
  - Propose fair solutions – SIRA’s Customer Service Conduct Principles provide a benchmark for insurer service delivery and accountability.



# Closing or Escalating a Complaints



- Covered in CHP:
  - Does solution address complaint?
  - Is solution fair and reasonable?
  - Should IRO take it further or someone else?



# Workers Compensation Matters

Financial year	Enquiries	Complaints
<b>Jul to Dec 2024</b>	3417 (up 4%)	4,711 (up 15%)
<b>2023/24</b>	6,947	8,302
<b>2022/23</b>	7,687	7,306
<b>2021/22</b>	7,502	6,396

# Top five WC complaint issues FY2023/24



Primary Issue	No.	% of all complaints
Delay in determining liability	2,472	30%
Delay in payment	1,877	23%
Denial of liability	829	10%
General case management	751	9%
Weekly benefits	732	9%





# Motor Accident Matters

Financial year	Enquiries	Complaints
<b>Jul to Dec 2024</b>	163 (down 53%)	459 (up 28%)
<b>2023/24</b>	544	806
<b>2022/23</b>	982	877
<b>2021/22</b>	472	799





# Top five CTP complaint issues FY2023/24

Primary Issue	No.	% of all complaints
Treatment and care	229	28%
Income support/weekly benefits	196	24%
Case manager	97	12%
Claim payments	66	8%
Threshold injury	44	5%



# Trends and Issues – Complaints

- Average days to close a WC complaint – 6.2 days
- Average days to close a CTP complaint – 9 days
- Observations
  - **Causes** of delays
  - Similar issues in CTP and WC complaints



# IRO Early Solutions

- Specifically called out in PIC Act
- No Response to Claim (NRTC)

TIP: If NRTC – carefully check timelines and check with insurer before seeking Stage 3 funding

- Other early solutions



# Trends and Issues – Complaints from Solicitors



- Complaints from Lawyers on behalf of claimants
  - Around 29% of all WC complaints (2023-24)
  - Around 20% of all CTP complaints (2023-24)
- Most common issues in WC complaints raised by lawyers
  - Delay in determining liability 41% (29% from all)
  - Request for documents 22% (10% from all)
  - Delay in payment 18% (23% from all)





# Case Studies – Workers Compensation

- Delay in weekly benefits
  - Concurrent employment
  - Putting insurer to proof on payments made
- Work capacity decision
  - Change of address in Certificate of Capacity
  - Insurer cited verbal notification
  - New WCD remade

# Case Studies – Workers Compensation

- Reasonable Excuse and Section 11A
  - Use of case law to show not a valid RE
  - Provisional payments as a solution
- Suspension of weekly benefits
  - Multiple complaints
  - Cited Section 270 of 1987 Act.
  - Should have cited 1998 Act

## Case Studies – Motor Accidents

- Calculation of Pre-Accident Weekly Earnings (PAWE)
  - Discretion to deal with complaint
  - Use of case law
- Treatment and care - IME venue
  - Ins refused request to change venue of IME
  - IRO queried compliance with MAG 4.155
  - IME vacated as treatment provider addressed queries

# After the complaint is closed

- IRO Engagement Strategy
  - Law firms
  - Insurers
  - Regional / Sydney Seminars
- SIRA MOU
  - Data sharing, Ops meetings
  - Icare engagement
  - Ops meetings

# Responding to feedback

- Feedback from IRO Engagement Strategy
  - When IRO declines complaints
- FiftyFive5
  - Case closures
  - Standard templates
  - Better questioning

# Challenges for Solutions Et Al

- Volume of Complaints
- Increasing Share of Psychological Injuries
- Post-COVID Resilience
- Litigation Mindset
- Scheme design and legislative reform

# QUESTIONS





Independent  
Review Office

# **IRO Priorities 2025 and Closing Remarks**

**Samantha Taylor**

Independent Review Officer