

# COVID-19 MATTERS

## SUMMARY REPORT | January to March 2022



Independent  
Review Office

Since March 2020, the Independent Review Office (IRO) has recorded details of every complaint, enquiry and Independent Legal Assistance and Review Service (ILARS) funding application with a COVID-19 related issue to track the impact of the virus on injured workers and to inform policy and system responses to COVID-19. This summary report presents the IRO's data on COVID-19 matters from 1 January to 31 March 2022.

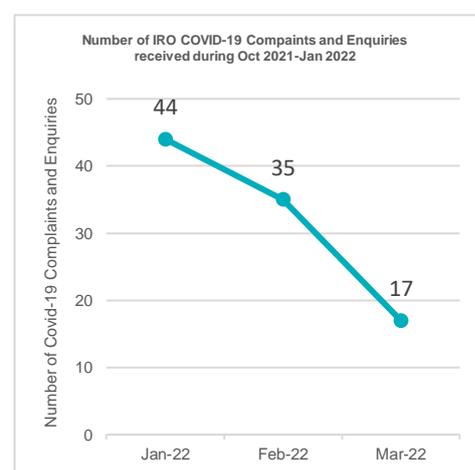
### Complaints and Enquiries

The IRO received 19 complaints and 77 enquiries with COVID-19 issues in the three (3) month period from January 2022 to March 2022 inclusive. Since 1 March 2020, 234 complaints and 362 enquiries with a COVID-19 issue have been received. Complaints have remained relatively stable over the first three months of 2022, but enquiries have declined from a relatively high number in January, which coincided with the peak of the Omicron outbreak in early 2022 (see Table 1 and Graph A).

**Table 1: COVID-19 Complaints and Enquiries received January-March 2022**

Matter Type	January 2022	February 2022	March 2022	1 January 2022 – 31 March 2022
Complaints	5	8	6	19
Enquiries	39	27	11	77
<b>Total</b>	<b>44</b>	<b>35</b>	<b>17</b>	<b>96</b>

**Graph A: Trend in COVID-19 Complaints and Enquiries**



The most common complaint and enquiry issues related to COVID-19 vaccines (23 matters – see for example case study 1) or claiming compensation whilst in isolation or after contracting COVID-19 (44 issues – see for example case study 4). This may reflect the uncertainties faced by injured workers as COVID-19 cases became more widespread in the community.

**Table 2: Top COVID-19 issues, complaints and enquiries, January-March 2022 and cumulative from March 2020 to 31 March 2022**

COVID-19 Issues Complaints and Enquiries	January 2022	February 2022	March 2022	1 March 2020 – 31 March 2020	% COVID-19 matters to date
Issues attending medical treatment/appointment	2	3	1	180	30%
Seeking general claims information	5	12	5	148	25%
Concerns about suitable duties		1		87	15%
Claiming compensation while in isolation or contracting COVID-19	26	10	8	98	16%
Related to COVID-19 vaccines	11	9	3	83	14%

### ILARS Applications

The IRO received 77 ILARS grant application matters in the three (3) month period from January 2022 to March 2022 inclusive. This is fewer than the 112 applications received in the previous three (3) month period (1 October 2021 to 31 December 2021 inclusive).

**Table 3: COVID-19 ILARS Funding Applications - January-March 2022 and cumulative from March 2020 to 31 March 2022**

COVID-19 ILARS Applications	January 2022	February 2022	March 2022	1 March 2020 - 31 March 2022
New applications for funding	21	18	38	262

The highest proportion of grants (52%) again relate to psychological injury, mostly as a result of the implementation of vaccine mandates. The only other significant category of grants (33%) is for disputes about compensation for workers who claim to have caught COVID-19 in the course of employment. This includes workers who might have expected to benefit from the presumption in section 19B(1) of the *Workers Compensation Act 1987* – see case study 2.

At this stage of the pandemic it is too early to assess whether there will be significant numbers of applications for funding to investigate claims for permanent impairment compensation, and if so on what basis these claims might be made.

## COVID-19 Case Studies

### Case study 1 – Enquiry – Adverse reaction to vaccine

A worker had a COVID-19 vaccine in order to comply with a mandate implemented by their employer and suffered a serious adverse reaction. As a result, the worker had no capacity for work and required ongoing medical investigation and treatment. The worker wanted to understand their entitlements in this situation.

IRO provided information about the benefits available to those who suffer 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 2 – Application for funding – 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 the worker had not provided evidence linking their COVID-19 disease 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 they were employed in the retail industry, the worker was entitled to a presumption in accordance with section 19B of the *Workers Compensation Act 1987* that their COVID-19 infection was contracted in the course of employment. 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 medical expenses.

### Case study 3 – Enquiry – Suitable duties for vulnerable worker

A healthcare worker was returning to work after an injury when they were informed they would be required to work with COVID-19 patients. The worker told the employer they would not be able to do this type of work because of health conditions which placed them at risk of severe complications from COVID-19. The employer withdrew suitable duties and criticised the worker for raising these issues. The worker 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.

IRO provided information to the worker about how to request a review of the insurer's decision, and recommended the worker obtain additional information from their treating general practitioner to provide to the insurer. In addition, the worker was advised funding was available for them to obtain independent legal advice from an Approved Lawyer through the ILARS scheme.

### Case study 4 – Complaint – Calculation of PIAWE when COVID-19 is the second injury

The worker had an accepted claim for compensation as a result of an injury which 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.

The worker sought assistance from IRO because the insurer for the second claim calculated their pre-injury average weekly earnings (PIAWE) on the basis of what they were earning after the first injury. This resulted in a much lower weekly payment.

Following IRO's intervention the insurer reviewed its decision and increased weekly payments to reflect the correct calculation of PIAWE.