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Workers Compensation independent review office

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# CASE REVIEWS (Recent cases)

**The case reviews are not intended to substitute for the headnotes or ratios of the cases. You are strongly encouraged to read the full decisions. Some decisions are linked to AustLii, where available.**

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## [Recusal from appeal hearing for reasonable apprehension of bias]

***Inghams Enterprises Pty Ltd v Belokoski* [2017] NSWCA 313**
**(NSWCA: McColl JA, Basten JA, Bellew J – Date of Decision: 7 December 2017)**

The worker made a claim in relation to an injury in 2009 and commenced proceedings in the Workers Compensation Commission before Senior Arbitrator Snell (as he then was). In September 2014, at the Con/Arb, the matter of the weekly payments claim was resolved by consent of the parties and the proceedings were finalised

The worker commenced the new proceedings in the Commission in 2015. The new proceedings were listed before a different arbitrator who resolved the matter in the that worker's favour. The employer appealed, which was listed before Deputy President Snell, and submitted that Snell DP recuse himself from hearing the appeal. The Deputy President sought submissions on whether either party objected to him hearing the appeal, since his involvement in the earlier proceedings as a senior arbitrator (despite noting that he could not recall the earlier proceedings). Snell DP declined to recuse himself and dismissed the employer's appeal.

The employer submitted to the Court of Appeal that: (1) the Deputy President erred in declining to recuse himself; (2) the error to not recuse himself from hearing the initial appeal was compounded by the Deputy President's subsequent conduct of the appeal, where (2)(a) he intervened to invite submissions on an authority that he ultimately held was decisive in favour of the worker, (2)(b) in the course of dealing with those subsequent submissions, he restricted the employer to a narrower and more technical reading of its appeal grounds, even narrower than the approach taken by the worker's counsel, and

(2)(c) he did not propose to conduct an oral hearing so that such matters could be ventilated; and (3) that the Deputy President's role as a conciliator in the earlier proceedings was relevant to the expression of opinion as to whether injury was in issue (allegedly making a statement in the TC that "there was no real issue regarding injury").

Basten JA (McColl JA and Bellew J agreeing) cited several authorities and applied the relevant test concerned with the determination of apprehended bias, being "whether a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question the judge is required to decide" (at [15]-[18]).

Basten JA dismissed the employer's ground of error on the basis that there was no evidence that the Deputy President made the comment concerning "injury" in the TC. His Honour found that the employer's lawyer did not swear an affidavit in the proceedings in the Commission on the issue, did not give oral evidence, and did not make written submissions. There was also no transcript of the TC provided to the Court. His Honour determined that it was open to the Deputy President to dismiss the application for recusal in that no contrary evidence was provided (at [25]-[26]).

His Honour stated, at [27], that:

> "The basis on which the application was made provided no context for the alleged comment that injury was not in issue … Without the context, it would be pure speculation to draw any inference from the comments. A fair-minded observer would not do so."

His Honour also found the second ground of appeal problematic, to the extent that something that was not erroneous could not be compounded by the allegations taken against the Deputy President in relation to the arbitral appeal.

At [28]-[29], Basten JA stated:

> "… How they could provide any basis for supporting a reasonable apprehension of bias, even if the statement carried the connotation relied on by the appellant is obscure."

> "… The idea that a tribunal demonstrates a possibility of prejudgment by drawing the attention of one party to an authority which may be against its position is hard to comprehend."

His Honour also rejected the submission that the employer was restricted to a "narrow and technical reading" of its grounds of appeal.

His Honour stated, at [34], that:

> "… it was recognition that the appellant was seeking to substitute four separate grounds for one dealing with apprehended bias by [Snell DP] in a way which was apt to cause procedural unfairness to the [worker]. How such a course could demonstrate prejudgment on the part of the Deputy President is utterly obscure."

Further, it was found that: “what the appellant sought to do in support of this ground was to sift through the Deputy President’s reasons for decision and light upon aspects of the reasoning which, it was conceded, did not reveal any error of law, and seek to use these to demonstrate that the initial apprehension of bias was confirmed.” As was observed by the High Court in ***Michael Wilson & Partners v Nicholls*** **[2011] 244 CLR 427; [2011] HCA 48**, his Honour surmised that such an approach was, beyond doubt, fallacious (at [36]).

At [38], his Honour also rejected the submission that the employer was denied procedural fairness because of the Deputy President’s refusal to conduct an oral hearing, and stated that such an event “cannot possibly give rise to an apprehension of prejudgment”.

There was no direct evidence that the Deputy President had “managed” the earlier proceedings in order to achieve a consensual outcome, such that it formed a basis of a reasonable apprehension of prejudgment. The appellant did not provide an explanation contrary to this (at [41]-[42]). The ground of appeal was not made out. The appeal was dismissed with costs.

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## ["Worker" under cl 15 of Sch 1 of 1998 Act, "rodeo rider"]

***Australian Bushman's Campdraft and Rodeo Association Ltd v Gajkowski* [2017] NSWWCCPD 54**
**(WCC, Keating P – Date of Decision: 15 December 2017)**
(Appeal of decision of Arbitrator Bell in ***Gajkowski v The Camden Show Society Inc* [2017] NSWWCC 124**)

In ***Gajkowski v The Camden Show Society Inc* [2017] NSWWCC 124**, the apprentice butcher worker was injured after falling off a horse while participating as a competitor in a rodeo show held by the respondents. The issue before the Commission was whether he was a "worker" under cl 15 of Sch 1 of the 1998 Act.

The arbitrator found that the worker was a "worker" under Sch 1 because he earned substantial amounts from the show circuit. The worker's opportunity to win substantial prize money to advance his riding career constituted a "reward" for engagement (at [40]-[42] per the arbitrator). The respondents engaged the worker to ride bulls, which afforded diversion or amusement for the crowds in a public performance, making the worker an entertainer under cl 15 of Sch 1 (at [46]-[47] per the arbitrator). Both respondents were found liable to pay compensation because they each conducted the rodeo shows during which the worker was injured and were therefore significantly involved in the process of holding and conducting the event. The respondents were held to be equally liable to pay compensation. The worker was awarded medical treatment expenses and weekly payments in accordance with the agreed PIAWE as an apprentice butcher at the time of injury.

On appeal, the appellant (second respondent to the initial proceedings) submitted that:

1. The arbitrator erred in:

    a. misconstruing the term "engaged" in cl 15(1) and failing to consider whether the worker was contractually bound to take part as an entertainer in any public performance;
    b. misconstruing the term "reward" in cl 15(1) by wrongly finding that it included the opportunity to win prize money or the opportunity to advance one's career by participating in a competition, and
    c. misconstruing the term "entertainer in any public performance" in cl 15(1)(c) by failing to find that it refers to a person who participates in a performance with an aesthetic element, and not to a person competing in a sporting event.

2. The arbitrator erred in finding that the appellant is a person who conducted or held a public performance, and

3. The arbitrator erred in finding that the appellant and the second respondent (The Camden Show Society Inc) are equally liable for the payment of the compensation awarded.

Keating P found that:

Meaning of “engaged” in cl 15(1):

- the arbitrator failed to deal with the question of whether or not the worker had entered into a legally enforceable agreement with the employer(s) and event organiser, and there was no evidence to support a finding that there was a legally enforceable agreement (at [127]-[129]).

- applying ***Parsons v Southern Tableland and South Coast Racing Association*** **[1978] 1 NSWLR 47**, there could be no legally enforceable agreement between the parties in that the variable and discretionary nature of the prize money payable is strongly against a finding that there was such an agreement for valuable consideration in place (at [133]-[134]).

Meaning of “engaged for fee or reward” in cl 15(1):

Keating P accepted the appellant’s submission and determined that:

- the task of statutory construction must begin with a consideration of the text itself, and that it is evident from cl 15 that the protections it offers are only available to workers who are engaged in fee or reward. In the worker coming away from the rodeo with nothing by way of fee or reward, the clear meaning of the text in cl 15 itself cannot be satisfied (at [177]).

- the worker’s participation in the rodeo was not an engagement for reward, and could only be described at best as providing an opportunity or a contingent possibility of a reward; that is insufficient to attract the benefits of cl 15 (at [178]).

- the arbitrator erred in misconstruing the term “reward” in cl 15(1) by incorrectly finding that it included the opportunity to win prize money or the opportunity to advance one’s career by competing (at [179]).

- in finding that there was no legally enforceable agreement for valuable consideration and that any prize money was contingent and discretionary, the worker was not “engaged for fee or reward” (at [181]).

Meaning of “entertainer” in cl 15(1)(c):

The President accepted the appellant’s submissions and held that:

- by dealing with the worker’s submission that the provision in cl 15(1)(c) must be read in the context of the beneficial legislation, the consideration of bull riding as a performance would  give the legislation an unreasonable or unnatural construction, because it would read down cl 15 from a provision that affords benefits to performers to those engaged in sporting contexts or contests generally (at [219]).

- the agreement between the parties was not an agreement to provide entertainment, but was an agreement for the right to enter or participate in the rodeo competition; the arbitrator's finding to the contrary led to the misconstruction of cl 15(1)(c) and is an error (at [221]).

His Honour also determined that the arbitrator's findings were either incorrect or not supported by sufficient evidence with respect to retaining competition fees, payment of prize money, decisions regarding the effects of weather on the event, the provision of judges, and the degree of control asserted over which events were held and who competed in the rodeo (at [259]).

Keating P found that the appellant did not have an active role in bringing about the rodeo, and that its role was administrative and facilitative, such that the appellant did not hold or conduct the rodeo event, with the second respondent being the active player in these instances (at [271]-[272]).

In making such findings, particularly the second respondent's active role in holding and conducting the rodeo, his Honour held that the second respondent should be 100% liable for the payment of compensation to the worker (if the findings on the previous grounds were proved wrong) (at [283]).

Ultimately, his Honour found that the worker was not a "worker" for the purpose of cl 15(1) and that the arbitrator's decision be revoked.

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***The Camden Show Society Inc v Gajkowski* [2017] NSWWCCPD 55**
**(WCC: Keating P – Date of Decisions: 15 December 2017)**
(Appeal of the decision of Arbitrator Bell dated 31 May 2017, cited in the *WIRO Bulletin* Issue No. 10)

The appeal was pursued on the same grounds as, and heard and considered together with, ***Australian Bushman's Campdraft and Rodeo Association Ltd v Gajkowski* [2017] NSWWCCPD 54**.

Keating P adopted the same decision on appeal and revoked the arbitrator's decision in ***Gajkowski v The Camden Show Society Inc* [2017] NSWWCC 124**.

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## DECISIONS OF NOTE:

The following decisions are currently the subject of either judicial review or appeal proceedings in the Supreme Court:

- ***Agricultural & Development Holdings Pty Ltd v Marian Renay Parker (as Executrix of the Estate of the late Matthew Luke John Nowlan*** **[2017], M1-001422/17, unreported)**
  **(subject of judicial review proceedings)**

and

- ***Hunter Quarries Pty Limited v Alexandra Mexon as Administrator for the Estate of Ryan Messenger*** **[2017] NSWSC 1587**
  **(subject of Court of Appeal proceedings)**

Both decisions have previously been highlighted in ***WIRO Bulletin – Issue No. 14*** **(October/November 2017)**.

The issues concerned are whether or not a worker who has died immediately after the workplace injury could receive a 100% WPI assessment, and the various interpretation of "permanency" and "MMI' in similar circumstances.

The eventual decisions of the Court will assist practitioners and scheme users on those relevant issues. WIRO will continue to monitor the cases, and urge practitioners to do the same.

# PROCEDURAL REVIEW UPDATES (WCD reviews)

**All the procedural reviews of WCDs are published by the WIRO and can be accessed at wiro.nsw.gov.au/information-lawyers/work-capacity-decisions**

**Decision WIRO – 118 (Date of Decision: 9 January 2018)**

**[Denial of procedural fairness, fair notice period]**

On 21 June 2017, the insurer wrote to the worker, purporting to give "Fair Notice", that a WCD would be made, and invited the worker to send relevant information to be taken into account in making the decision by 5 July 2017. The insurer wrote to the worker again on 5 July 2017 in identical terms except that the worker was to send the further information by 20 July 2017.

On 26 July 2017, the insurer sent another notice to the worker and advised that a WCD was made on the same date, on the basis of a work capacity assessment conducted on 14 June 2017.

The delegate of the WIRO found that the insurer denied the worker procedural fairness in that the worker was not provided a sufficient and timely opportunity to send further information as requested by the insurer. It was determined that the worker had no prospect of being able to influence the outcome of the decision because the work capacity assessment, on which basis the WCD was made, had already been conducted prior to the two letters of notice sent by the insurer.

The delegate of the WIRO stated that:

> "[6] … It was incumbent on the insurer to give fair notice to the applicant prior to the [work capacity] assessment being conducted, since it was the outcome of the assessment which directed the final decision.
>
> [7] … [T]he insurer should have conducted a subsequent assessment following the effluxion of the fair notice period prior to making the final work capacity decision."

Acknowledging that there were no "hard and fast" rules in the Guidelines regarding the fair notice, the delegate of the WIRO opined that:

> [8] … [T]he insurer in this case purported to give Fair Notice to the worker on two occasions, neither of which could result in any benefit to the applicant, since the assessment on which the decision was based had already occurred."

The delegate of the WIRO set aside the WCD and recommended that the insurer make another WCD after an appropriate period of fair notice was given to the worker.

# CASE STUDIES (Cases from ILARS and the WIRO Solutions Group)

**Each week, the WIRO Solutions Group and ILARS receive hundreds of inquiries and referrals and deal with various issues concerning workers compensation claims and disputes. The following notes are examples of those issues.**

## Reasonable excuse notice and provisional liability payments

The worker alleged he reported his injury on 9 November 2017, but that he did not receive a reasonable excuse notice from the insurer until 20 November 2017. The insurer advised WIRO that they received notification of the injury on 13 November 2017 and, on that basis, issued the reasonable excuse notice within the required timeframe. They also noted that the claim was being disputed. WIRO inquired with the insurer as to how the notification of injury was received. Upon review of the email notice provided by the insurer, WIRO found that the email was received at 4:04pm on 10 November 2017 and asked the insurer to commence provisional liability payments. The insurer accepted that they had not provided notification within 7 days and made back payments of more than $10,000.00 to the worker.

## Lack of qualified medical assessor in NSW

The worker stated he suffered a physical injury and a primary psychological injury, and wished to be assessed for both injuries to determine which would yield the greatest WPI. The worker stated he suffered physical injuries to multiple body systems and that he required an immunologist to determine the accurate physical WPI. There are currently no immunological specialists trained as approved assessors of permanent impairment in the NSW workers compensation scheme. WIRO raised an enquiry with SIRA about this deficiency. SIRA advised that they would contact their counterparts in Queensland, whose guidelines for permanent impairment assessment now mirror the NSW guidelines, in order to find a suitable medical specialist, to invite that specialist to undertake the equivalent assessment in NSW, and to ensure that the specialist be trained and accredited in NSW to undertake assessments in the specific medical specialty.

## Limitation of benefits under s 59A; revived entitlements

The worker claimed the costs of medical treatment in the form of a micro laminectomy. The insurer advised the worker that her entitlement to s 60 medical treatment expenses had expired due to the operation of s 59A of the 1987 Act, because the worker last received weekly payments for a short period in 2009. WIRO pointed out that the worker would be entitled to further medical treatment expenses pursuant to s 59A(3) following the decision in ***Flying Solo Properties Pty Ltd t/as Artee Signs v Collet*** **[2015] NSWWCCPD 14**, where the Commission held that if the medical treatment entitlements had expired due to s 59A, a worker may still be entitled to the benefits where weekly benefits could again become payable. The insurer agreed that, since the worker will have no capacity during and after surgery, her entitlement to weekly benefits and medical treatment expenses would be revived accordingly.

## Assessable injuries for s 39

The worker's lawyer contacted WIRO and stated that the worker was assessed as having 8% WPI for the purposes of s 39. The worker had been assessed for the left shoulder and no other injuries. The worker had previously received lump sum compensation under s 66 for the back, neck, right and left shoulders, and sexual organs in 2002. However, those injuries had not been assessed for the purpose of s 39. Upon inquiry, the insurer agreed with the WIRO that the s 39 assessment had not taken into account all the compensable injuries. The insurer agreed to organise another WPI assessment for all previously compensable injuries.

## Notice of cessation of benefits for visually impaired worker

The worker, who is visually impaired (blind), alleged he was only made aware of the cessation of his benefits under s 39 when he did not receive any payments recently and after contacting the insurer. The new insurer advised they could not locate a copy of the s 39 letter allegedly sent in September 2017. WIRO questioned what steps were made by the insurer to ensure that the notice was relayed properly by a third person to the worker regarding the cessation of his benefits. The matter was referred to the WIRO himself for monitoring. The worker was being assisted by a lawyer who obtained ILARS funding in relation to the s 39 matter.

## Medical assessment but not MMI, WPI threshold for s 39

The worker complained he had been assessed by an IME with 18% WPI, but that since the date of assessment he has had shoulder reconstruction surgery. The worker argued that his WPI would exceed 20% WPI and that he should continue to receive weekly benefits. The insurer advised that their IME report had indicated a degree of permanent impairment of 18% WPI, but that the worker had not reached maximum medical improvement (MMI) at the time of the medical assessment. A supplementary report confirmed that the 18% WPI was inclusive of any additional impairment from further surgery (which the worker had not yet had at the time).

WIRO indicated that SIRA's *NSW workers compensation guidelines for the evaluation of permanent impairment, Fourth edition* requires that a WPI assessment must be done in accordance with how the worker presents on the day, and that any future surgeries should not be included in the assessment. Further, the WIRO noted that the insurer IME's supplementary report contradicted the original report. The WIRO requested the insurer to raise the matter with icare, so that the worker could be deemed as a "worker with high needs". The insurer declined to make a recommendation to icare. The WIRO then recommended that the worker seek legal advice in order for an AMS to confirm that he has not reached MMI. The worker was referred to a lawyer.

## Section 39 matters

**Case 1:** The worker sustained bilateral knee injuries in 2007. The insurer notified the worker that his weekly payments would cease in December 2017 as his impairment 'was not assessable'. The worker had undergone prior surgeries – a left knee high tibial osteotomy and right knee high tibial osteotomy – and was due to undergo further surgery to a single knee in January 2018 approved by the insurer.

WIRO approached icare for a concession of the threshold under Sch 8 Pt 2A cl 28C of the 2016 Regulation on the basis that both the AMA 5 and SIRA's *NSW workers compensation guidelines for the evaluation of permanent impairment, Fourth edition*, strongly suggest that the worker will be more than 20%WPI (Table 17-33, page 547) following surgery.

The scheme agent refused to concede the threshold. ILARS provided funding for the worker to proceed to the Commission to obtain a MAC under s 319(g) of the 1998 Act to indicate that the worker had not reached MMI. The Commission subsequently issued a "Not MMI MAC" in December 2017, and payments continued.

**Case 2:** The worker sustained a back injury in August 2012 and was an 'existing recipient' of weekly payments. He underwent laminectomy and disc excision in 2012, a further laminectomy in 2016, and a spinal fusion in November 2017. The self-insurer approved and paid for medical treatment expenses, including the surgery.

An application was filed for a 'Not MMI MAC' in the Commission. The AMS issued a MAC in December 2017, which found that "*the degree of permanent impairment is fully ascertainable"* on the basis that, having undergone a spinal fusion and two prior surgeries, the base impairment was able to be assessed and that there would be a variation of between 0-3% WPI for activities of daily living (ADL) only, *despite the spinal fusion having been undertaken in the month prior to the assessment.* The AMS did not assess a WPI rating.

The self-insurer declined to concede the threshold following the MAC. The worker directly sought the assistance of the Solutions Team who were informed that the self-insurer did not concede the threshold.

The ILARS Director referred the case to the self-insurer for reconsideration based on AMA 5 and SIRA's *NSW workers compensation guidelines for the evaluation of permanent impairment, Fourth edition*. The self-insurer responded within 48 hours conceding the threshold and recommenced weekly payments to the worker.

**Case 3:** The worker, who lives in a regional area, suffered from multiple organ failure as a result of exposure to chemicals at work with a deemed date of injury post-1 October 2012. He had undergone a double lung transplant and was waiting on a kidney transplant.

The worker's lawyer requested the insurer to concede that the worker was a 'worker with highest needs' under s 32A of the 1987 Act. The insurer declined to make the concession.

The worker requires regular kidney dialysis and, despite his condition, was not recognised as a worker with 'special needs'. The claim was in the process of being 'transitioned' from one scheme agent to another and the worker was becoming increasingly distressed of the fact that by May 2018 (when s 39 was to take effect) he would be left without support.

The worker's lawyer sought funding to have the worker's permanent impairment assessed. The worker's requirements were proposed to be met by three separate IME appointments in Sydney to accommodate his dialysis regimen, with special transport arrangements.

The ILARS Director referred the case to icare with a request that they issue a concession that the worker reached the maximum permanent impairment level of 75% WPI (based on the double lung transplant) and that they look at options that will prevent further distress and anxiety to the worker.

The worker was assigned to the icare Lifetime Care team. He was subsequently evaluated as having greater than 75% WPI on the papers, leading to him being offered the maximum compensable amount under s 66. The worker has now been accepted as a 'worker with highest needs', and his weekly payments will not cease.

WIRO wishes to acknowledge the cooperation of icare and the worker's lawyer in achieving this result.

**Case 4:** The worker sustained bilateral knee injuries in 2003 and had undergone separate total knee replacements in 2013 and 2016, approved and paid for by the insurer. The insurer indicated that the worker's injuries were not stable and that weekly payments would cease on 26 December 2017.

In November 2017, the worker's lawyer sought a concession of the threshold for s 39 on the basis of AMA 5 and SIRA's *NSW workers compensation guidelines for the evaluation of permanent impairment, Fourth edition*. The insurer did not respond. ILARS then referred the case to icare, which on 22 December 2017 obtained from the insurer a concession of the threshold under Sch 8 Pt 2A cl 28C of the 2016 Regulation.

**ILARS-referred matter for back payments of carer expenses**

The applicant is the mother and nominated carer for her son who had been injured in a work accident in 2004, resulting in his quadriplegia. Under a previous Commission award in 2009, the applicant was paid wages as a carer.

Between the date of the award and 2016, when icare assumed responsibility for the payments, there had been no increase in the rate of carer payments, despite indexation. However, since October 2016 the insurer had increased the payments substantially but did not make up the difference for the intervening seven years.

The worker's lawyer sought confirmation of the rate and back payments, despite there being no issue as to liability. ILARS referred the matter to the Solutions Group, which contacted the insurer. The insurer then negotiated a resolution of the back payments directly with the mother (and the worker's lawyer) who accepted over $180,000 in back payments for the period between the award and October 2016.

# WIRO & OTHER ACTIVITIES

## WIRO Wire – updated policy on funding for travel and associated expenses

The WIRO issued a Wire on 12 January 2018 with a revised policy on travel and associated expenses (allowances).

**WIRO Wire – Issued 12 January 2018: Revised ILARS travel and associated expenses (allowances) policy**

## WIRO response to DFSI discussion paper on potential reforms to the dispute resolution system

The WIRO is preparing a response to the Department of Finance, Services and Innovation's discussion paper, '*Improving workers compensation dispute resolution in NSW*', following recommendations made by the Statutory Committee on Law and Justice in its review of the workers compensation scheme. Information about the response may be obtained by contacting Kim Garling.

## WIRO Seminars 2018

WIRO's first seminar in 2018 will be held on 8 March 2018 at the ICC Sydney in Darling Harbour. Invitations and registrations have commenced, and attendance of more than 700 participants is anticipated. The WIRO will release further details in the next weeks leading up to the seminar, including information on regional seminars.

## WIRO Paralegal Courses 2018

Following two successful sessions in Sydney, WIRO is conducting more Paralegal Courses in Wollongong and Newcastle in February 2018. In addition, workshops will be conducted in-house for law practices within the Sydney metropolitan areas. If you wish for WIRO to conduct in-house workshops for between eight to ten paralegals and administrative staff in your practice, you may send your EOIs in the first instance to editor@wiro.nsw.gov.au.

## *WIRO Solutions Brief*

Issue 14 of the *WIRO Solutions Brief* has been published. The newsletter is a regular insurer brief distributed to scheme agents on updates and other information relevant to the operations of the WIRO. To subscribe to the *WIRO Solutions Brief* and/or the *WIRO Bulletin*, please make sure you send an email to editor@wiro.nsw.gov.au.

***WIRO Solutions Brief* – Issue 14** is now available on the WIRO website.

## WIRO meets with insurers

WIRO invites all insurers to undertake a meeting with the office to discuss the general operation of the workers compensation scheme and the operation of the WIRO Solutions Group. WIRO regularly meets with insurers to provide insurer-specific feedback on performance and to discuss systemic issues identified by the WIRO Solutions Group.

If you would like to arrange a meeting with the WIRO Solutions Group, please contact Jeffrey Gabriel at jeffrey.gabriel@wiro.nsw.gov.au or (02) 8281 6308.

# FROM THE WIRO

At the end of December, the first cohort of existing recipients of weekly payments had their benefits ceased due to the operation of s 39 of the 1987 Act. My office continues to assist workers by providing general information and access to lawyers for legal advice. There is also our guide for lawyers, which can be downloaded by visiting http://wiro.nsw.gov.au/section-39-guide-information-lawyers-injured-workers.

Lawyers, scheme agents and injured workers may also review the series of informational videos that my office has created on YouTube. These videos are tailored to assist workers, insurers and lawyers in dealing with this provision. They also provide details of WIRO's funding scheme for disputes related to the assessment of permanent impairment for the purpose of s39. You can find all the videos on our YouTube channel – WIRO YouTube.

I also note that icare and SIRA have each issued service guidelines and fact sheets, which can be viewed on their respective websites.

December has also seen the final cohort of claims that were transferred from QBE and CGU. If any injured workers or practitioners encounter difficulties or have questions about this process, feel free to contact my office on 13 9476.

I am preparing WIRO's submission to the discussion paper on potential reforms to the NSW workers compensation dispute resolution system, which can be viewed here: **Discussion paper improving workers compensation dispute resolution in NSW.** Submissions are due on 16 February 2018, and I encourage all stakeholders to provide feedback as critical issues are at stake.

As a final note, preparations for the 2018 WIRO Seminar and Paralegal Course series are in full swing. I encourage everyone to respond to all the invitations sent out for this purpose and to review their calendars and schedules. I am expecting a good response to our invitation for you to participate in this round of education and awareness initiatives.

If you wish to discuss any scheme issues or operational concerns of the WIRO office, I invite you to contact my office through editor@wiro.nsw.gov.au in the first instance.

**Kim Garling**



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