

5 March 2021

Operational review of Insurance and Care and delivery of recommendations of the Dore Report

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1 Introduction

This report reviews the implementation of the recommendations arising from the 2019 review of the Nominal Insurer (NI) commissioned by the State Insurance Regulatory Authority (SIRA) (the Dore Report). It is constructed as input to the Insurance and Care NSW (icare) and *State Insurance and Care Governance Act 2015* Independent Review undertaken by the Hon. Robert McDougall QC (the McDougall Review).

This report examines SIRA's 21-point plan response to the Dore Report and the actions undertaken by icare. There are welcome changes in the relationships between icare and SIRA through regular Board and senior management meetings, and productive working groups such as the Joint Claims Assurance Committee (JCAC) which has facilitated agreement on Return to Work (RTW) metrics.

Since the Dore Report and SIRA's 21-point plan were published there has been significant disruptive factors affecting icare in particular. Media attention in early 2020 preceded the parliamentary Standing Committee on Law and Justice hearings which extended public scrutiny and criticism. Resignations at Board and senior management level ensued and the COVID-19 pandemic had required workers to stay at home conducting their duties on-line.

icare developed an Authorised Provider (AP) model to provide choice for large employers by increasing the number of service providers. This was also intended to alleviate the case load burden on Employers Mutual Limited (EML) and provide context for contract negotiations. By the end of 2020 EML was awarded a 12-month contract with greater authority of decision making and a co-investment of \$20m for staff training and development.

Key metrics in RTW have shown some improvements but not consistently and are still not above 2017 levels. Customer service indicators such as call answering times and initial contact made have shown improvements. Staff turnover at EML, as the predominant service provider, has continued at a worrying level and the skills and experience deficit must be seen as one of the primary risks to the NI scheme.

Substantial work has been conducted or commissioned by icare with a focus on the three key areas of data quality, RTW and sustainability of the Workers Compensation (WC) scheme. This work has not raised new issues but has confirmed the need to adjust the Claims Service Model (CSM) to a hybrid model, involving more service providers to spread caseloads and the risk inherent to the single service provider model.

Financial sustainability was raised as a concern in the Dore Report and, although dealt with in more detail by another stream of work for the McDougall Review, is referred to here in light of icare's 10 year Business Plan which is based on potentially optimistic assumptions.

One of the key cost pressures is medical costs which have been examined by both SIRA and icare to better understand drivers such as utilisation and fee schedules. SIRA has flagged its intention to remove historical anomalies in fees, whilst icare and its providers need clarity in injury treatment plans based on consistency of fee coding. This is an issue affecting all insurers which ideally requires a national approach.

2 Follow up to the 2019 Dore Report

2.1 21-point action plan – status of agreed actions

Following the Dore Report, SIRA identified key issues to be addressed:

- Early and safe return to work outcomes including psychological injury
- Claims management early intervention and treatment
- Premium transparency and volatility in alignment with SIRA guidelines
- Data quality, and
- Escalating medical costs due to leakage and increases in utilisation.

A 21-Point Action Plan was prepared by SIRA which it is using to monitor NI performance.

As of March 2021, SIRA reported that 13 actions were completed, or completed and ongoing, and eight actions were in progress. The table below gives an indicative status of the 21 Point Plan.

Figure 1. 21-point plan status

1	Business Plan resubmission	Complete	19/20 Plan not amended, 20/21 Plan under consideration by SIRA at October 2020
2	Urgent data quality improvements	Progressing	icare and SIRA progressing
3	Review of Premium Calculation Model	Complete	Comprehensive review of NI formula complete, but implementation delayed due to COVID-19
4	Premium review arrangements	Complete	Quarterly reporting on complaints matters undertaken and ongoing
5	Dedicated case manager	Complete	Implemented by icare for 7 days continuous time loss in line with SIRA's preference
6	Agent incentives for RTW	Progressing	AP agreements between icare, Allianz, GIO and QBE under review by SIRA at October 2020

7	Small business claims management	Progressing	Discussions progressing on model for the sector
8	SIRA Tripartite Reference Group	Complete	Meets once a quarter
9	Review of governance, culture and accountability	Complete	Independent review completed in February 2021 and published by icare on 1 March 2021
10	Quarterly compliance and performance audit	Progressing	Two reports undertaken, third delayed by COVID-19
11	Audit of NI's medical services	Progressing	SIRA commissioned in April 2020
12	Advice to Government on prudential supervision	Complete and ongoing	SIRA monitoring capital adequacy and working with Treasury
13	SIRA and icare board engagement	Complete and ongoing	Joint meeting with icare and SIRA boards arranged twice yearly
14	Advice to Government on legislative matters as required	Complete and ongoing	SIRA continue to provide advice to Government as required
15	SIRA to review performance indicators and compliance benchmarks	Progressing	Range of measures developed by SIRA
16	RTW measurement frameworks	Progressing	Report to be published by SIRA following consultation on discussion paper Return to Work
17	Medical partnerships	Progressing	Active engagement with medical colleges to improve GP awareness of Workers Compensation requirements
18	Reviewing health costs	Complete	SIRA published its Healthcare Review Final Report in December 2020. SIRA's response to the findings are being finalised
19	Customer survey	Complete	First customer experience survey undertaken and summary of findings published. Follow up survey undertaken and report due to be finalised.
20	Half-yearly board meetings	Complete and ongoing	Committed

21	Monitoring JPPOC and JCAC	Complete and ongoing	Meetings undertaken in 2020 and being assessed for continuing
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LEGEND	
icare actions required by SIRA	
icare actions recommended by SIRA	
SIRA regulatory actions related to NI	
SIRA regulator commitments	
Agreed joint SIRA/icare actions	

2.2 2020 EY Claims File Review

Action 10 of the 21-point plan required quarterly compliance and performance audits of claims management for the icare and SIRA boards. The first of these was conducted in quarter 1 of 2020 and was intended to cover 100 files but was reduced to 85, due to COVID-19. It made reference to a review of 2018 accident year claims instigated as part of the Dore Report and compared performance.

In summary the EY July 2020 Review found:

1. Acceptance and communication with the injured worker and employer were done well in the majority of cases
2. Triage of claims had improved with reduced times to move to more appropriate categories, from 90 to 18 days between Empower and Support and 32 to 31 days between Guide and Support
3. Appointment of rehabilitation providers was appropriate and appeared to result in better injury management, and
4. Guidewire controls applying maximum gazetted rates assisted appropriate scrutiny of surgery and associated costs.

Three areas were identified for improvement which were consistent with the initial EY claims file (2019) review:

Liability determination

- Inadequate understanding of liability determination based on injury facts and context in 42% of the sample files
- In around half of the files it appeared that information available had not been used or further investigation not instigated in areas of uncertainty.

Injury and medical management planning

- In 27% of claims employers disputed causation and the majority of these were not appropriately addressed.
- Of 12 psychological claims, employers' concerns were only investigated in 1 case
- Injury Management Plans were generic and not updated or compliant in 40% of files.

Payment of weekly benefits

- Payment of weekly benefits was based on sufficient information in 72% of files
- Interim PIAWE was used in half of the files but only 30% were subsequently updated.

By October 2020 EY had conducted the second quarter review on a sample of 120 claims reported between 1 April 2019 and 31 March 2020 of which 80 were from EML and 40 from Allianz. Although these results are 12-months old, a recent audit by icare of EML's performance gave an unsatisfactory conclusion. This is discussed in the next section.

The second review confirmed the improvements found in the first quarter review have continued in notification and acceptance of claims, time taken to move into the correct category, and appointment of workplace rehabilitation provider support. In addition, the following areas demonstrated improved performance:

- Liability determination
- Triage
- Medical management of injuries
- Payment of weekly benefits.

Although these improvements are welcome, there is ongoing concern that the three areas of concern cited in the EY work and the Dore Report, liability determination, injury and medical management planning and payment of weekly benefits, are still not achieving sufficient levels of consistency.

EY states *“In approximately one third of the claims reviewed, this understanding of the facts surrounding the injury was not well understood.”*¹

The overall conclusion of EY’s second quarter report is that *“there is a lack of pro-activity and in some cases challenge within the claims management process”*.

2.2.1 Finding

In the first quarter review EY expressed views that pointed to differentials in skill and capacity of case managers which led to inconsistencies in case management. The second quarter review continued this concern, albeit with improvements but still not markedly different to their initial review in 2019.

This aspect of personal injury management is a critical point. Skills, training, capability and qualifications are essential to ensuring good outcomes through RTW and support. It is a demanding job requiring resilience and understanding of people in a variety of roles and backgrounds. Career development and role attractiveness are not evident.

2.2.2 Recommendation

Investment in skills and professional development through the Personal Injury Education Foundation (PIEF) or other education resources in conjunction with the wider insurance industry, to build on icare and EML’s current commitments.

3 Claims management

3.1 Insurance and care NSW

There has been a noticeable change in attitude by icare towards SIRA, evidenced by collaborative approaches to data and performance metrics and real progress on several matters, including extended reporting and common measures.

In a comprehensive submission to this review, icare detailed a series of projects across matters pertaining to the 21-point action plan agreed with SIRA. The work required for remediation, compliance and performance improvement is extensive and involves external and in-house resourcing.

EML and other scheme agents have been required to undertake reviews of thousands of claims and maintain normal operations whilst acknowledging the need for better skills and experience at the claims-management front line. icare has allocated considerable resources

¹ EY, *Nominal Insurer 2020 Q1 claim file review – Draft*, undated, 5.

for the work and in renewing agent contracts, enabled more decision rights to EML and APs. The projects include:

- Development of Hybrid Model Operating system
- RTW data alignment with SIRA requirement
- Ensuring data quality of transferred files, and
- Review of PIAWE definitions and application.

icare has acknowledged the difficulties involved in the transition to a centralised claim system on its Nominal Insurer Single Platform (NISP) which is:

“..due to a combination of an over-extension of both icare and EML’s organisational capacities, resources, and claims manager capabilities teething problems with the new technology platform (Guidewire), and a belief that the new operating model would create efficiencies that have not yet been realised.”²

Improvements to RTW, customer service NPS, use of Medical Services Panel and appointment of a Customer Advocate are good indicators of re-setting tactical and strategic approaches to the WC system. But major challenges remain in data quality, skills and capacity, and ongoing sustainability.

Three reports recently delivered to icare have reinforced critical areas for change and risk remediation.

The first is an extensive review by KPMG of PIAWE application for claims lodged during 2019-2020 which found compliance at 36%. This report was commissioned to evaluate the correct application of PIAWE by icare’s scheme agents, which is assessed on an annual basis.³

The errors identified were:

- Relevant period errors
- Incorrect or insufficient evidence used
- Incorrect process for PIAWE payments
- Late payments to workers, and

² icare, *Submission: Claims Operations & Delivery of Recommendations (Dore Response)*, November 2020, 22.

³ It is noted that issues with the historical application of PIAWE identified by icare is dealt with separately to the annual review mentioned above. icare have advised that a remediation plan is now underway to address historical PIAWE application issues.

- Incorrect payments due to errors in PIAWE.

Recommendations made to icare to address these issues were:

- Development of a training program for all team members managing PIAWE calculations
- Ongoing peer and senior review of calculations on a regular basis for all claims
- Requiring agents and icare operational teams to address identified errors, with urgent remediation of errors that were considered high risk, and by definition, had a detrimental effect to customers, and
- Assessing the implications of the results of the KPMG review on the scheme overall, the potential impact on scheme agency remediation and the impact to injured workers.

PIAWE is clearly a critical element for an injured worker to ensure early payment and for employers to assist in minimising time lost and facilitating recovery to RTW. While icare advise that work has commenced to address these issues, it is acknowledged that this remains a key area of risk.

The second report, delivered in January 2021, is an Internal Audit undertaken by icare on Workers Insurance Claims Determination (EML NewCo) (Internal Audit Report on EML) since EML's commencement in January 2018. The purpose of the report was to provide assurance on the design and operating effectiveness of key controls relating to claims processes under the EML NewCo operating model. The Audit conclusion delivered was "unsatisfactory".

The report outlines that the unsatisfactory rating is mainly driven by key risk factors interacting with other risks and the complex rules-based environment. Insight into the complexity of the current system is explained in the context of the control environment:

*"the control environment is a mixture of system-based controls (designed in Guidewire and managed by icare), people development processes (reliant on knowledge and employee skills) and governance activities (quality assurance and management oversight/reporting). As noted in the observations below, different stages of the processes further highlight the inherent complexity in designing an effective control environment."*⁴

⁴ icare, *Internal Audit Report – Workers Insurance Claims Determination (EML NewCo)*, January 2021, 3.

The report goes on to note the interdependencies between EML, icare, SIRA and the Guidewire application which add to the challenges of the overarching control environment.

While acknowledging management's efforts to implement and embed Guidewire claims processes, the report acknowledged that urgent management attention is required with respect to key areas including user access reviews, PIAWE and the vendor/injured worker/employer payment lifecycle.

The third report by PwC is a Post Implementation Review of the Workers Insurance Claims Model delivered in February 2021.

It identifies the following "operationalising" challenges:

1. Highly ambitious schedules with insufficient time for critical activities
2. Loss of technical expertise across the workers compensation scheme
3. Core technology platform was not ready when the new model was activated and then experienced stability issues
4. Insufficient "real" stakeholder engagement and user experience testing, and
5. Insufficient resources dedicated to "go live."

3.1.1 Finding

icare is aware of weaknesses and challenges in basic claims management activities identified through independent assessments. As the control environment has been correctly identified as a mixture of systems and processes overlaid by interdependencies between several organisations, this is a major risk in itself.

3.1.2 Recommendation

icare to examine the Internal Audit Report on EML from a major risk perspective to clearly identify actions, timelines and responsibilities for overcoming the shortcomings identified in the report.

3.2 Improving the claims service model

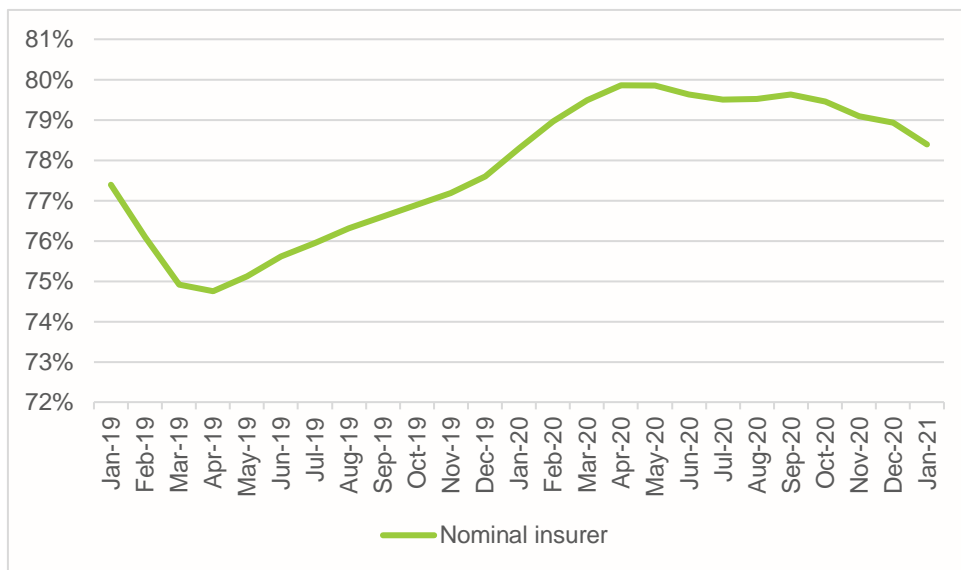
Successful use of technology platforms is dependent on three variables – data quality, metrics and skills. It therefore follows that these should be the priority areas for modification before the system itself. Guidewire as a technology platform is an enabler rather than the solution.

The details of remediation and correction work are numerous and will not be discussed in detail here. However, the highlights of changes implemented include:

- Commitment to allocate a dedicated case manager to any claim with more than seven days continuous time loss (as suggested by SIRA)
- A series of portfolio reviews and quality assurance reviews in terms of timeliness appropriate information and use of liability status
- Management of all claims aligned to the Safe Work Australia Best Practice for Psychological Injuries Guide, and
- Support of claims service providers in psychological claims and the use of section 11A.

Improvements include answering claim calls in under 30 seconds consistently for the last six months, improved case allocation and 341 claims system enhancements to improve data quality and case management decisions over 43,000 files. The review of 17,000 individual claims lodged since 1st of January 2018 showed improvement by 3% in the 13-week RTW rate between September 2019 and April 2020, shown in Figure 2.

Figure 2. 13-week RTW rate for the Nominal Insurer



Source: SIRA, Submission to Operational Review & Delivery of Recommendations of the Dore Report - RTW data supplied on 22 February 2021

When the single provider claims model was introduced in 2018 the intention and expectation was that higher skilled staff would move to the selected provider, EML. This did not happen for a range of reasons cited by icare, including:

- Competition in the labour market due to amendments to the compulsory third-party legislation introduced in 2017
- Labour market perceptions about the new claims service model

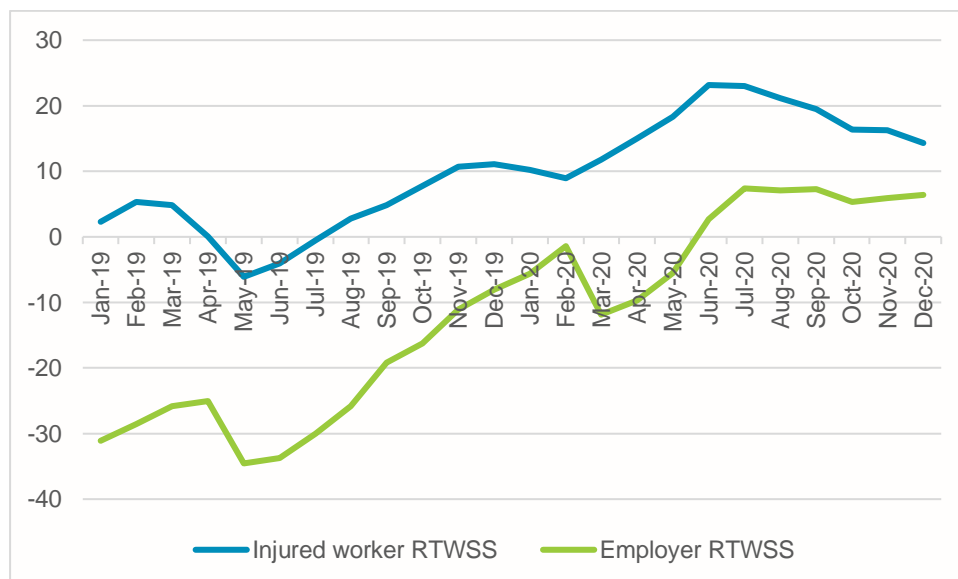
- Under resourcing due to forecasts based on historical data rather than predictive models, and
- High case-loads for case managers with more than three months employment at EML (on the basis of more experience).

Continuing concerns are being discussed between icare and EML to understand and address the staff attraction and retention issues. The staff turnover at EML had a target of 30% annualised and reached 32% in 2020. This is well above the 22.7% annualised turnover documented in the Dore Report, and above the acceptable industry standard which EML suggested would be 20%. This is a costly churn which reduces service consistency and customer confidence.

Stronger operational controls were introduced including leadership training, a balanced scorecard and embedding 'operating rhythms' and governance structures for frontline EML teams. Results from this work may take time to manifest in improved performance. For example, reviews of 6000 claim files identified 1,400 workers being successfully rehabilitated and able to return to work, which represents only a 23% level of success.

EML's NPS reports, shown in Figure 3, demonstrate particular improvements in workers, employers and the grade of service delivered which although small are good early signs.

Figure 3. NPS results for EML January 2019 to December 2020



Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – NPS data supplied 24 February 2021

While the return to work figures are showing some improvements, they are not as timely or as high as needed. SIRA published the industry data at September 2020. Metrics have not

improved markedly and are still below 2017 levels. The AP model provided for the appointment of GIO and QBE along with Allianz to service larger employers but the take up has not been as successful as hoped.

Extension of the EML contract for 12 months under different terms and conditions has set the scene for developing more authority within EML to make claims management decisions.

icare intends to use this time to further refine the claims model and then undertake a competitive market engagement for future claims management provider arrangements. EML has 'skin in the game' by investing \$10m along with icare's \$10m to develop skills and capability in case management. This arrangement may need more than 12 months to properly test and evaluate before going to market.

The work on refining the model was reported to the icare Board in November 2020 and canvasses a number of options which will form the basis of further consultation. Those options include more spreading of risk, enabling healthy competitive behaviour between agents, and the role of an icare claims team. Discussion of these ideas is based on the premise that good infrastructure has been built (Guidewire) but the model can be opened up to more providers rather than the original single provider approach.

All of these will depend on capable and experienced staff availability which icare has acknowledged as one of the model weaknesses confronted by EML from the start of implementation.

3.2.1 Finding

Some improvements in claims management performance are emerging but are not yet consolidated and future stability of systems, controls and experience is essential. Returning to market for service providers within 12 months could exacerbate staff turnover and deplete the key resources needed.

3.2.2 Recommendation

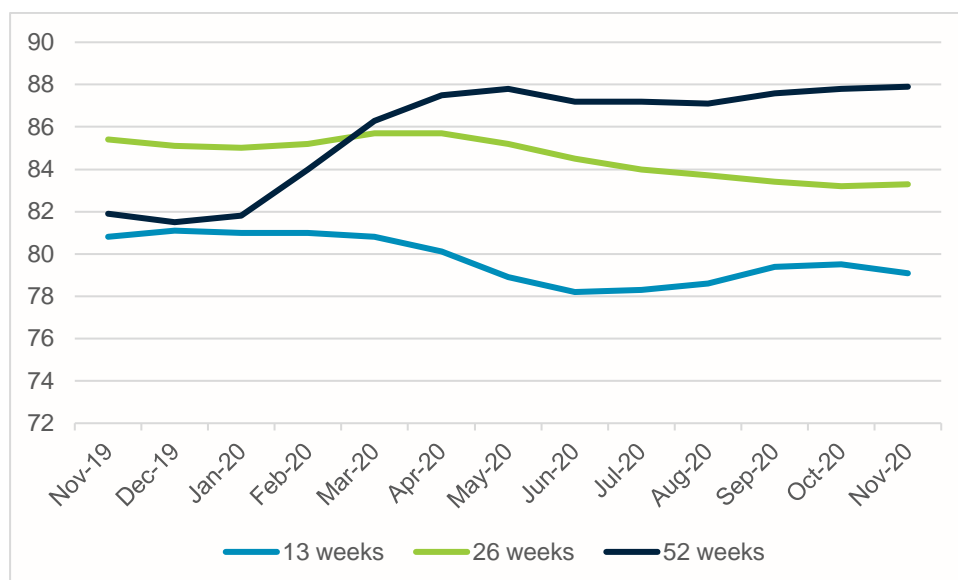
icare to review competitive strategy timing and prioritise stability and performance outcomes.

3.3 Capability issues

icare considers that a fully capable claims manager takes about two to three years to train and develop. This is in stark contrast to the three-month benchmark at EML used to allocate more case load and reinforces the continuing short fall in experience in case managers across the sector.

Contract changes for EML include a reasonable cost model rather than cost plus, a relationship reset due to new key personnel and reduction in direct involvement in claims management by icare.

Figure 4. Nominal Insurer RTW rate at 13, 26 and 52 weeks (3-month rolling average)



Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – RTW data supplied 24 February 2021

There is also an acknowledgment of a shift in culture to be developed by less hands-on involvement by icare. This has seen some marginal improvement across 13, 26 and 52 week durations of 4, 1.5 and 0.4 percentage points respectively according to icare, shown in Figure 4.

Stability in compliance metrics demonstrates an improvement of 5.1 percentage points 15.8 percentage points and 20.5 percentage points across compliance for initial contact made, initial weekly payment made, and subsequent liability determinations. These factors are specifically included as performance requirements in the EML contract.

Capability and staff turnover remain as the key factors to improved performance once data quality is assured. PwC emphasised the importance of data migration as a precursor to further improvement.

3.3.1 Finding

The new contract between icare and EML is an improvement which enables more direct decision making and invests in staff development. The appropriate time for testing the veracity of the arrangement may need more than 12 months given that \$20m is to be jointly invested.

3.3.2 Recommendation

icare to reconsider the potential impacts of a 12-month contract with EML in the context of performance requirements and expectations.

3.4 Addressing deficiencies in the claims service model

Evidence of focused effort by icare to address deficiencies in the claims service model is observed in the NI FY21 Business Plan. Key initiatives include:

- Data quality:
 - Refreshed data strategy focused on uplifting data quality and enabling a 'three lines of defence' model for data governance, with a focus on strong data management and discipline
 - Claims system enhancements that focus on improving data quality
 - A focus on claims regulatory compliance through increased quality assurance and detailed case reviews to ensure sound conduct in NI case management practices and RTW.
- Skills and capacity:
 - Development of claims capability framework to set minimum standard skills and capabilities required of claims frontline roles in four capability streams being technical, injury management, customer focus and case management
 - Enhancing coaching and mentoring and trialling of a new case management success tool being piloted in the Treasury Managed Fund (TMF) environment
 - Capability development for prevention and underwriting with the appointment of two designated staff to train frontline staff for icare and service providers.
- Ongoing sustainability:
 - Focus on organisational performance and financial sustainability through streamlined processes and operations and improving core capabilities, governance, and risk management
 - Renewed focus on RTW outcomes as key to achieving long term sustainability of the scheme.

3.4.1 Finding

Data quality, skills and capacity and ongoing sustainability are recurring points throughout independent studies and previous reviews and so need to be the subject of laser like focus and commitment to outcomes. The strategic imperative is implementation rather than further investigation and analysis.

3.4.2 Recommendation

The three points of data quality, skills and capacity and sustainability be affirmed by icare as essential priority work for management with detailed timelines for achievement.

3.5 Benefits and risks of the claims model

icare has explained the modelling used to forecast claim numbers by both McKinsey and PwC on the basis of SIRA records (Corporate Data Repository) over the preceding five years.

The shortcomings of the modelling in 2017⁵ has been identified by icare as:

1. SIRA Guidelines for Claiming Workers Compensation Introduced on 1 July 2016 but not enforced until 1 July 2017
2. As the modelling was undertaken in early and mid-2017 the data used did not reflect the impact of the changes
3. The changed SIRA requirements arose due to inconsistent application by agents of the “reasonable excuse” provision in s267 of the 1987 Act and consequential lower claims numbers reporting
4. icare states that 30% of claims lodgements were not included in the initial modelling because of that change
5. The model used date of injury rather than date of lodgement
6. The model underestimated caseloads by assuming that workload was consistent throughout the claim when, in fact, it is the first seven days that are the highest
7. Subsequent attempts to reach required resourcing levels suffered due to scarcity of experienced staff, high caseloads and staff turnover at EML, and
8. By mid-2019 the workforce resources had been agreed between icare and EML.

3.5.1 Finding

Critical analysis of the claims model weaknesses is welcomed and, though overdue, should be supported through earlier case management and skills development. As previously stated in 3.4.1, there must be an implementation imperative to achieve improved outcomes.

⁵ icare, *Submission: Claims Operations & Delivery of Recommendations (Dore Response)*, November 2020.

3.6 Future approach to the claims model

There is evidence of a changed approach to management reporting, particularly the acknowledgement of prior mistakes in the claims service model and more transparent reporting of current state performance to the Board.

In October 2020, the icare Board received the results of a Claims Model Review (CMR) undertaken by icare. The purpose of the review was to refine the claims strategy and service and operating model ahead of the expiry of the EML 2018 Service Provider Agreement.

The CMR noted that implementation of the new claims model resulted in a number of material inadvertent consequences, including:

- Implementation of the new model was compromised by insufficient capable resource within the scheme agent partner and claims volumes were higher than forecast creating material operational stability issues
- Additional strain was placed on the model when enabling technology went live, resulting in a period of processing challenges, and
- Deterioration in the relationship between icare and EML that compromised outcomes delivered to employers and injured workers.

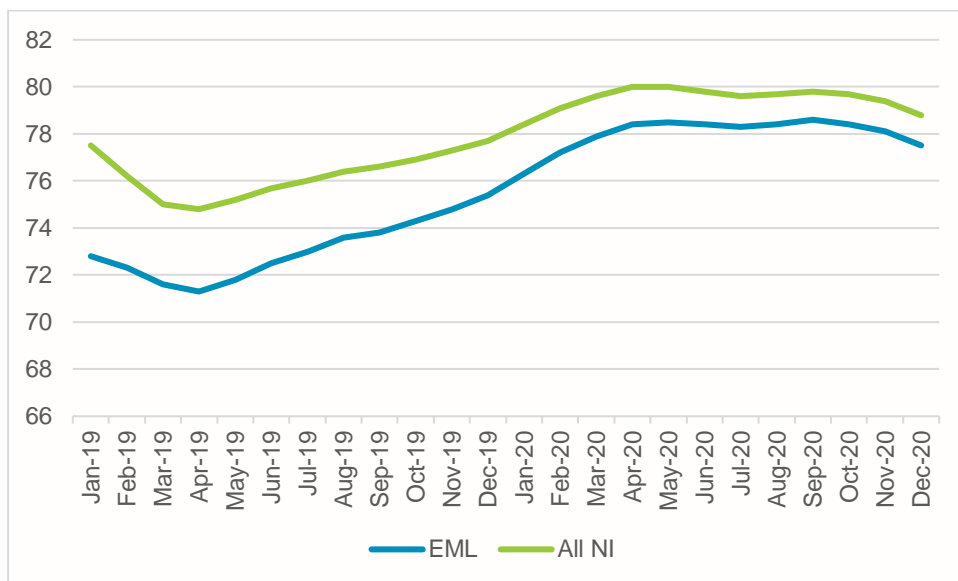
icare acknowledges it had not “...*appreciated the paramount importance of operational stability of the claims operation and adequately manage[d] the implications of the aggressive change program,*”⁶ and further that it:

- Did not appropriately prioritise RTW over customer service
- Overweighted the value of model consistency and technology resulting in under appreciation of the human element in claims management, and
- Tried to implement too much too soon, resulting in a lack of focus and compromising the quality of delivery, destabilising the system.

There is evidence of regular reporting to the icare Board on claims management performance including RTW, customer advocacy and compliance, together with updates on refinement to the claims and operating model. While positive results are reported, there is also an acknowledgement of the need for further improvements, see Figures 5-7.

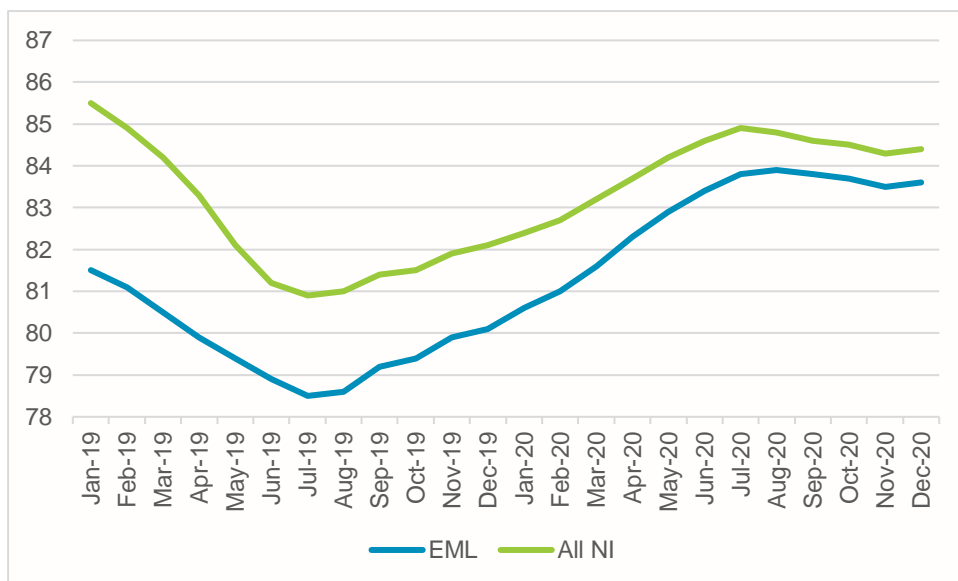
⁶ icare, *Board Briefing – Claims Model Review and Future Approach*, 19 October 2020, 3.

Figure 5. 13-week RTW rate – EML and all NI (EML and APs)



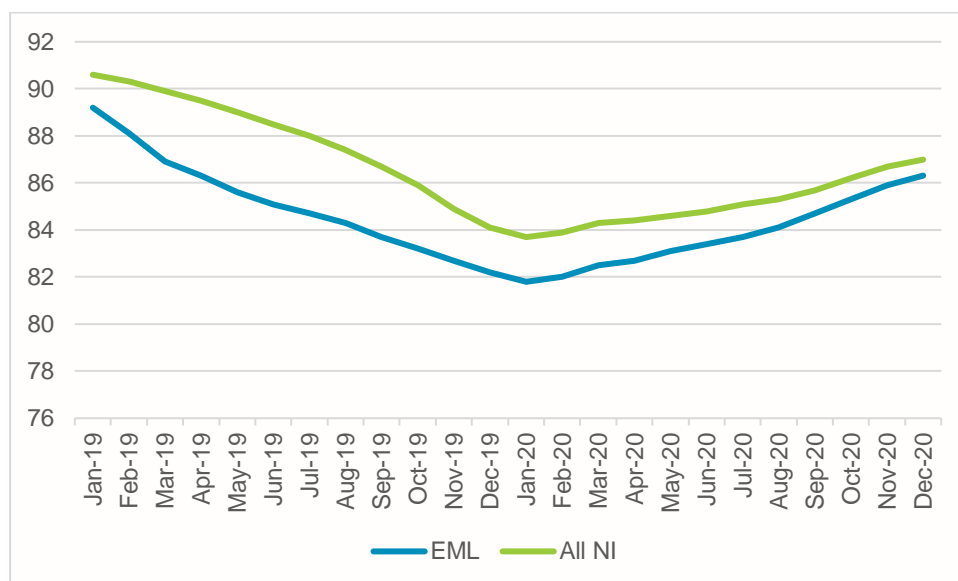
Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – RTW data supplied 24 February 2021

Figure 6. 26-week RTW rate – EML and all NI



Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – RTW data supplied 24 February 2021

Figure 7. 52-week RTW rate – EML and all NI



Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – RTW data supplied 24 February 2021

While conceding to past deficiencies in the claims model, icare is of the view that the service model design requires improvement rather than complete change. That view is sound to the extent that outcomes are the prime driver and the priority outcome is RTW. Fundamentally the design will only succeed with capable and experienced case managers applying early intervention and injury management planning in conjunction with employers.

icare intends to engage and consult with its customers and stakeholders to further refine the target state claims operating and service model strategy. It will do this through feedback from customers and stakeholders, assessment of the model against worker and employer needs or pain points, and testing of the new design with stakeholders and customers to determine whether it meets their needs and expectations. Although consultation is sound practise, the issues have been well known since the Dore Report and amount to the need for focus on best practice claims management.

In the interim, there has been evidence of positive steps being taken by icare and EML to address known issues with the model. This includes, among other things, revising EML’s decision rights to encourage better and faster decisions and evidence of focused efforts by EML to improve capability through the training and coaching of staff.

While the results of stakeholder feedback, which was sought by icare between November 2020 and January 2021, have not been observed as part of this review, and the outcome of changes to the claims model are unknown, the approach taken by icare seems logical. The

status and purpose of the icare Claims Team is unclear and no metrics have been cited to compare performance so no useful comment can be made.

3.6.1 Finding

Future changes to the claims model should be balanced against the need for improved performance.

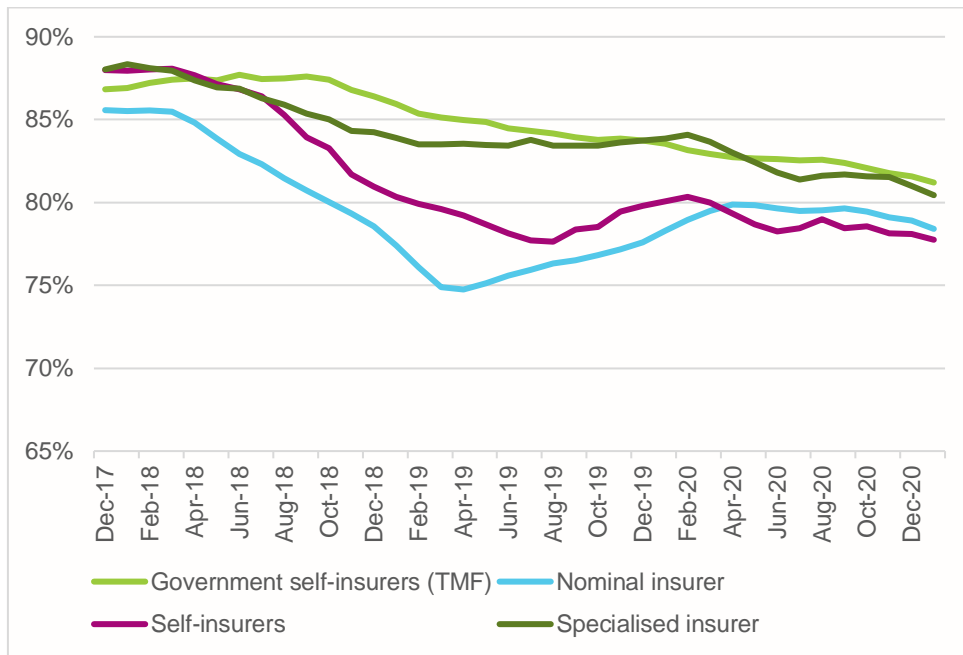
3.7 Claims model performance

While recent reporting to the icare Board acknowledges some marginal signs of improvement in key claims management performance indicators, there is need for further improvement in the following areas:

- RTW – despite earlier signs of improvement, based on icare’s internal metrics it uses to report RTW rates, there was deterioration across all RTW metrics for the six months to June 2020; notably, a decline in 4-week, 13 -week and 26-week measures. icare attribute this to the impacts of COVID-19 which have reduced options available to injured workers to return to work from March 2020 onwards.

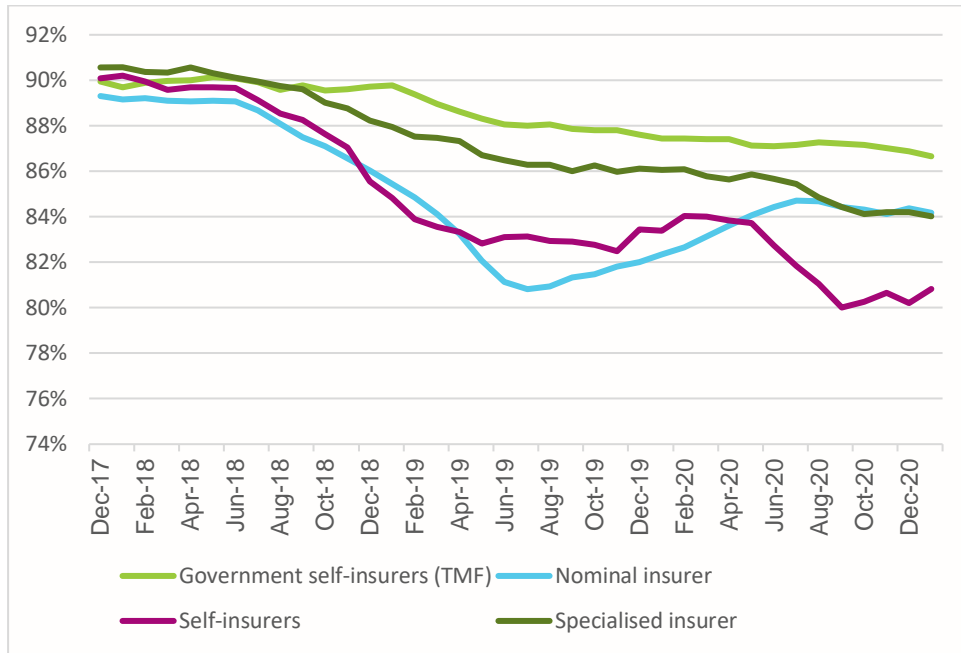
Figures 8-10 illustrate RTW rates based on SIRA’s measure, which has been adopted by icare to publicly report on RTW rates. There is indication of some improvement in 26-week and 52-week RTW rates since June 2020.

Figure 8. Return to work – Market comparison (13 week – 12-month rolling average)



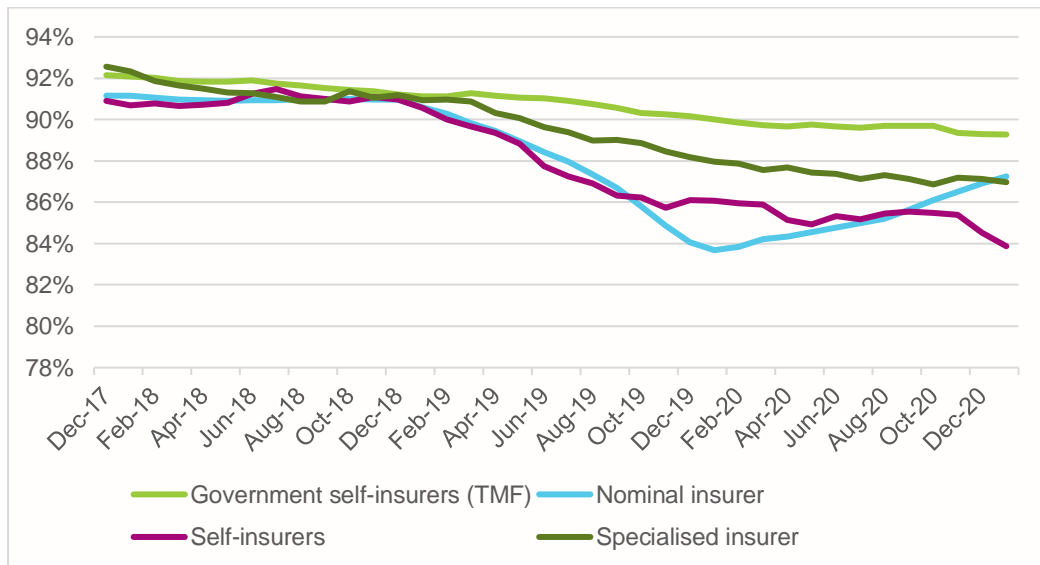
Source: SIRA, Submission to Operational Review & Delivery of Recommendations of the Dore Report - RTW data supplied on 22 February 2021

Figure 9. Return to work – Market comparison (26 week – 12-month rolling average)



Source: SIRA, Submission to Operational Review & Delivery of Recommendations of the Dore Report - RTW data supplied on 22 February 2021

Figure 10. Return to work – Market comparison (52 week – 12-month rolling average)



Source: SIRA, Submission to Operational Review & Delivery of Recommendations of the Dore Report - RTW data supplied on 22 February 2021

- Customer advocacy – a decline in customer advocacy month on month from June to November 2020 is attributed to the impact of COVID-19, case manager resourcing,

an increase in adverse decisions and delays in claims management, together with the impact of recent negative media coverage, see Figure 11. An uptick in performance has been observed since December 2020 across most customer cohorts.

- Compliance - icare made some improvement in legislative compliance for most core SIRA measures relating to timeliness, however there is continued need to improve on matters raised in the quarter 1 claims review including liability determination, injury management planning and payment of weekly benefits.

4 EML

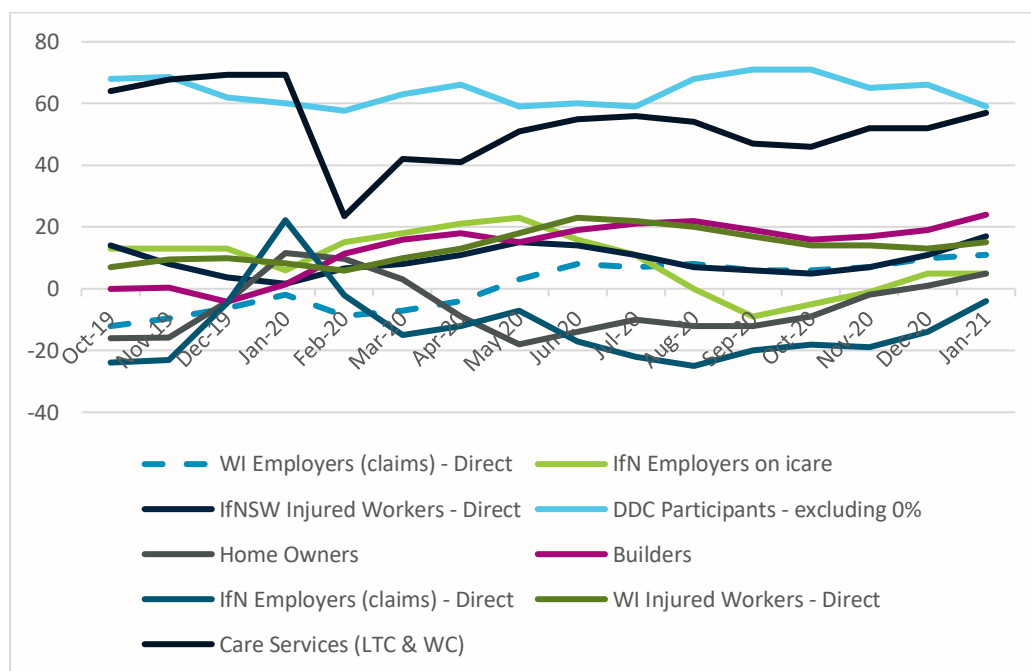
Comments from EML submissions and information reflect themes discussed in previous sections and the revised contractual arrangements provide greater authority for decision making to the service provider. This will need experienced case managers and more than 12 months to assess as mentioned earlier.

5 Customer Advocate

The work of the Customer Advocate (CA) appears to confirm and enhance the existing knowledge of injured workers, employers and treating practitioners' requirements and icare has responded to its recommendations. The CA was established in October 2019 to identify opportunities for icare to enhance its customer service delivery. Its first report in December 2019 covered areas similar to SIRAs 21 Point Plan, however there is no evidence of prioritisation or integration with other work. icare's response is made under four themes – premium management, claims management, customer engagement and governance. These themes correspond with work already underway in improving the CSM and customers are therefore intrinsically involved. It is icare's responsibility to ensure its work in improving these four areas results in better outcomes for customers without the need for additional advice.

icare already has a Customer Insights team which produces detailed reports of customer experience, see Figure 11.

Figure 11. NPS scores by customer cohort



Source: icare, Submission to Operational Review & Delivery of Recommendations of the Dore Report – NPS data supplied 26 February 2021

This detailed information, which also includes Workers Compensation Independent Review Office (WIRO) complaints data, should be sufficient intelligence to guide improvements to the CSM.

5.1.1 Finding

The Customer Advocate confirms known areas for improvement in claims management and icare has sufficient existing internal resources in customer intelligence to support key priority change project areas.

5.1.2 Recommendation

icare should remove the Customer Advocate role in light of existing internal capability to support business change projects.

6 Submissions

Overall, the submissions made to the McDougall Review, which have been considered as part of this review, indicate some early signs of improvements, but they are not effusively confident.

EML is broadly welcoming of the new contract arrangements but recognizes the challenges inherent in “the tail”. Success will depend on the changes enabled in workforce capacity, caseloads and decision rights.

Suncorp is concerned about seeing more competitive tension through more agents and greater authority for SIRA on enforcement and compliance powers.

The Insurance Council of Australia supports more competition and greater clarity of prudential oversight.

Business NSW is critical of the speed of change following the Dore Report and urges clarity on PIAWE, premium calculations, the oversight (Trustee) structure and roles within the system (icare, SIRA, SafeWork NSW and WIRO). It seeks greater involvement as funders of the scheme.

The NSW Teachers Federation Branch of the Australian Education Union highlights difficulties around suitable duties and outcomes.

The Australian Medical Association NSW (AMA) suggests more empowerment for treating doctors and concern about the deteriorating financial status of icare.

Unions NSW has not seen enough progress since the Dore Report and is critical of icare’s board and culture.

6.1.1 Finding

Concerns over the time taken to address many of the improvements required appear valid, notwithstanding the challenges during 2020 of media attention, parliamentary hearings, senior management and Board changes. All of these occurred within the constraints of the COVID-19 pandemic and the ensuing challenges around RTW, particularly suitable duties. Matters about claims management have been the main focus of this report but broader structural issues and ongoing sustainability are also pertinent and discussed in the next section.

7 Sustainability

While noting that the financial sustainability of the scheme will be considered in a separate review commissioned as part of the McDougall Review, the NI FY21 Business Plan submitted by icare to SIRA includes projections for the next 10-year period, some of which appear indicative of a precarious and somewhat optimistic outlook.

7.1.1 Finding

Overall, the NI FY21 Business Plan forecasts substantial financial improvement which, while necessary, is reliant on the underlying assumptions being accurate in the current uncertain outlook.

7.1.2 Recommendation

SIRA and Treasury should 'stress test' the assumptions in icare's NI FY21 Business Plan with icare to verify their veracity.

8 Medical costs

The Dore Report made reference to increases in medical costs and commented "*The level of medical costs inflation experienced since the creation of icare is inconsistent with national trends and trends for other participants in the NSW scheme.*"⁷ Since then, both SIRA and icare have commissioned reports to understand the influences on higher costs.

Quantium prepared a report for icare showing:

- In the NI and TMF schemes between 2016 and 2019, medical costs grew by \$246m(13.6%), while RTW deteriorated
- \$193m (78%) was due to uncontrollable factors
- \$205m (26.5%) of FY19 requires regulatory or legislative changes to reduce perverse incentivisation of procedures, and
- \$67m (8.7%) of FY19 could have been controlled through improved claims management, systems controls, payments integrity and tightening utilisation.

icare believes that utilisation is a major influence on costs together with the need to consolidate coding and revise fee schedules set by SIRA.

SIRA commissioned EY to undertake a benchmarking review of selected fee orders for the NSW Workers Compensation Scheme. In its report of September 2020 EY identified four key findings:

1. Fee structures – NSW was predominantly above or on par with comparator schemes
2. Fee structure – differences in fee granularity; time versus session-based fees and rates by AMA or Medical Benefits Schedule (MBS)

3. Conditions of operating and access – generally similar with variations in registration and training requirements and pre-approval limits, and
4. Fee indexation – variations; some market based, CPI based, or AMA rates.

In February 2021, SIRA announced its intention to change its rates for surgery to align with AMA rates and remove the disparity between NSW and other comparative schemes identified by EY. Significantly the reason for higher fees in NSW is a historical loading above AMA fees for some surgeries. The removal is estimated to save \$40-55m a year.

The issues around consolidation of coding and streamlining of fees, mentioned by both icare and EY also require attention to avoid confusion and embed consistency within the WC system.

8.1.1 Finding

There is justifiable concern amongst scheme stakeholders about rising medical costs and it is not confined to NSW. Heads of WC and Compulsory Third-Party schemes, private insurers and hospitals all have an interest so any analysis could be useful to promote a national agenda for change.

SIRA should continue its work on fee structures, rates, schedules, and basis of increases to provide an improved framework without perverse incentives, whether historical or not.

8.1.2 Recommendation

Heads of WC should consider proposing a nationally convened approach to achieving more consistency in, and application of, health costs founded on value-based health care principles.

8.1.3 Recommendation

SIRA should continue its work on improving fee structures to simplify the framework, eliminate perverse incentives and enable consistency of application for better health outcomes in the WC system.

9 Conclusions

Since the Dore Report a more cooperative relationship has been developed at Board and senior management level between icare and SIRA which is demonstrated by joint working committees such as JCAC. Agreement has been reached on a common RTW measure for external reporting, PIAWE calculation methodology, quarterly reporting and remediation of data quality issues.

These are welcome signs of progress but the key performance outcomes of RTW, accurate PIAWE calculations and financial sustainability are not yet stabilised, consistent or improving significantly.

It is only fair to acknowledge the challenging context of 2020 for icare in striving for performance improvement whilst undergoing disruptive change and external criticism. However, the feedback from SIRA and the Dore Report during 2019 as the work proceeded was consistently about performance outcomes, particularly RTW, and case management principles and skills. More improvements should have been evident by this time.

Adjustments to the CSM have been introduced through the AP service and scope for expansion through lowering thresholds is under consideration. The primary risks are brought about by the complexity of the overall system, cited in the Internal Audit Report on EML as system based, people development, governance activities, and the availability of sufficient skill and experience at the case manager level. These are fundamental management issues for any large organisation and require focus and vigilance by both Board and CEO.

10 Summary of Findings and Recommendations

10.1 Findings

Finding 1 (Reference 2.2.1)

In the first quarter review, EY expressed views that pointed to differentials in skill and capacity of case managers which led to inconsistencies in case management. The second quarter review continued this concern, albeit with improvements but still not markedly different to their initial review in 2019.

This aspect of personal injury management is a critical point. Skills, training, capability and qualifications are essential to ensuring good outcomes through return to work and support. It is a demanding job requiring resilience and understanding of people in a variety of roles and backgrounds. Career development and role attractiveness are not evident.

Finding 2 (Reference 3.1.1)

icare is aware of weaknesses and challenges in basic claims management activities identified through independent assessments. As the control environment has been correctly identified as a mixture of systems and processes overlaid by interdependencies between several organisations, this is a major risk in itself.

Finding 3 (Reference 3.2.1)

Some improvements in claims management performance are emerging but are not yet consolidated and future stability of systems, controls and experience is essential. Returning to market for service providers within 12 months could exacerbate staff turnover and deplete the key resources needed.

Finding 4 (Reference 3.3.1)

The new contract between icare and EML is an improvement which enables more direct decision making and invests in staff development. The appropriate time for testing the veracity of the arrangement may need more than 12 months given that \$20m is to be jointly invested.

Finding 5 (Reference 3.4.1)

Data quality, skills and capacity and ongoing sustainability are recurring points throughout independent studies and previous reviews so do need to be subject of laser like focus and commitment to outcomes. The strategic imperative is implementation rather than further investigation and analysis.

Finding 6 (Reference 3.5.1)

Critical analysis of the claims model weaknesses is welcomed and, though overdue, should be supported through earlier case management and skills development. As previously stated there must be an implementation imperative to achieve improved outcomes.

Finding 7 (Reference 3.6.1)

Future changes to the claims model should be balanced against the need for improved performance.

Finding 8 (Reference 5.1.1)

The Customer Advocate confirms known areas for improvement in claims management and icare has sufficient existing internal resources in customer intelligence to support key priority change project areas.

Finding 9 (Reference 6.1.1)

Concerns over the time taken to address many of the improvements required appear valid, notwithstanding the challenges during 2020 of media attention, parliamentary hearings, senior management and Board changes. All of these occurred within the constraints of the COVID-19 pandemic and the ensuing challenges around RTW, particularly suitable duties. Matters about claims management have been the main focus of this report but broader structural issues and ongoing sustainability are also pertinent.

Finding 10 (Reference 7.1.1)

Overall, the NI FY21 Business Plan forecasts substantial financial improvement which, while necessary is reliant on the underlying assumptions being accurate in the current uncertain outlook.

Finding 11 (Reference 8.1.1)

There is justifiable concern amongst scheme stakeholders about rising medical costs and it is not confined to NSW. Heads of WC and Compulsory Third-Party schemes, private insurers and hospitals all have an interest so any analysis could be useful to promote a national agenda for change.

SIRA should continue its work on fee structures, rates, schedules, and basis of increases to provide an improved framework without perverse incentives, whether historical or not.

10.2 Recommendations

Recommendation 1 (Reference 2.2.2)

Investment in skills and professional development through Personal Injury Education Foundation (PIEF) or other education resources in conjunction with wider insurance industry, to build on icare and EML's current commitments.

Recommendation 2 (Reference 3.1.2)

icare to examine the Internal Audit Report on EML from a major risk perspective to clearly identify actions, timelines and responsibilities for overcoming the shortcomings identified in the report.

Recommendation 3 (Reference 3.2.2)

icare to review competitive strategy timing and prioritise stability and performance outcomes.

Recommendation 4 (Reference 3.3.2)

Icare to reconsider the potential impacts of a 12-month contract with EML in the context of performance requirements and expectations.

Recommendation 5 (Reference 3.4.2)

The three points of data quality, skills and capacity and sustainability be affirmed by icare as essential priority work for management with detailed timelines for achievement.

Recommendation 6 (Reference 5.1.2)

icare should remove the Customer Advocate role in light of existing internal capability to support business change projects.

Recommendation 7 (Reference 7.1.2)

SIRA and Treasury should 'stress test' the assumptions in icare's NI FY21 Business Plan with icare to verify their veracity.

Recommendation 8 (Reference 8.1.2)

Heads of WC should consider proposing a nationally convened approach to achieving more consistency in, and application of, health costs founded on value-based health care principles.

Recommendation 9 (Reference 8.1.3)

SIRA should continue its work on improving fee structures to simplify the framework, eliminate perverse incentives and enable consistency of application for better health outcomes in the WC system.