



New South Wales

Personal Injury
Commission

Annual Review **2020/2021**



Cover image: Judge Gerard Phillips, President, Personal Injury Commission, opens the Personal Injury Commission at the Ceremonial Sitting, 1 March 2021.

This page: Mr Gary Ella delivers the Acknowledgement of Country at the Personal Injury Commission Ceremonial Sitting, 1 March 2021.





Personal Injury Commission

Office of the President

The Hon Victor Dominello, MP
Minister for Digital, Minister for Customer Service
GPO Box 5341
SYDNEY NSW 2001

Dear Minister

I am pleased to submit the 2021 Annual Review for the Personal Injury Commission of New South Wales.

As the Personal Injury Commission commenced operation on 1 March 2021, this review covers the period from 1 March 2021 to 30 June 2021.

The review has been prepared in accordance with s 66 of the *Personal Injury Commission Act 2020* (NSW).

Following the tabling of the review in Parliament, it will be available for public access on the Commission's website at www.pi.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, reading 'Gerard Phillips'.

His Hon Judge G Phillips
President

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1. The Reporting Period in Review



Judge Gerard Phillips
President

President's Report

It is with great pleasure that I present the first annual review for the Personal Injury Commission of New South Wales (the Commission) as required by s 66 of the *Personal Injury Commission Act 2020* (the Act). This review covers the first reporting period required under the Act, being the four months of the Commission's operations from its establishment day of 1 March 2021 until 30 June 2021.

The Commission marked its commencement with a ceremonial sitting on 1 March 2021 at the District Court, John Maddison Tower. After a splendid acknowledgment of country by Mr Gary Ella, speeches were given by the Hon Mark Speakman SC MP, Attorney General, The Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service, Mr Michael McHugh SC, President of the New South Wales Bar Association, and Ms Juliana Warner, President of the New South Wales Law Society. A video recording and speech transcripts of the Ceremonial Sitting can be found on the Commission's website. A consistent theme of all of the speeches was the high hopes that are held for the new Commission's success. The Commission is part of the evolution of personal injury law in this state. It is a significant reform and, as Minister Dominello said in his remarks at the sitting:

And so in August 2020, with the successful passage of the Personal Injury Commission Bill, Australia's newest tribunal was born. The Personal Injury Commission is the next step in delivering a better workers' compensation or motor accident scheme experience for the great people of our State.

It creates a contemporary, multi-scheme Commission, striking the right balance in consolidating the two schemes into the one Commission whilst recognising and preserving their important legal and scheme design differences.

It allows for the Commission to evolve over time and develop greater alignment of processes ...

The Personal Injury Commission is but the first step in attempting to show that two different schemes can benefit from a consistent approach in dealing with their disputes.

It is an approach which puts injured people, employers and insurers, at the centre of the Commission's functions.

Since commencement, it has been the task of the Commission's Members and staff to give life and voice not only to these words but also to the statutory mandate found in the Act.

The commencement of the new Commission, however, will forever be associated with the COVID-19 pandemic, which was current when the legislation was passed and at all times during the planning, construction and opening of the new Commission, and continues as at the date of the release of this report to affect the Commission's operations.

In both divisions, but in particular in the Motor Accidents Division, a significant part of the work of the Commission involves expert medical assessments. When the Commission commenced on 1 March 2021, it inherited a portfolio of work from the former Dispute Resolution Services division of SIRA that included almost 2,000 disputes with in-person medical assessments which had been suspended during the 2020 pandemic lockdowns in NSW. This, in effect, meant that the Commission commenced its operations with a significant backlog of disputes to be resolved.

This was then compounded by lockdowns between late June and late October 2021, when, due to the public health orders, the Commission had to suspend all in-person medical examinations, approximately 110 per week. While psychiatric examinations were in the main successfully converted to audiovisual assessments, the vast majority of the physical

assessments could not be. The Commission, in close consultation with all stakeholders, is working on various strategies to contend with this problem, which will impact the Commission's performance during the 2021/22 financial year. It is to be noted that filings for medical assessments continue to be made in the ordinary course and in the ordinary numbers, meaning that a significant COVID-19 related backlog is being accrued. Added to this is the complication of delaying the passage of matters through the medical assessment process to hearing by a Member. This unfortunately is not surprising given the significant effect the pandemic has had upon our community and the operations of all courts and tribunals.

Notwithstanding the pandemic, cases continue to be heard, resolved or decided. A combination of the Commission's IT platforms and the hard work of Members and staff has meant that online hearings have proceeded on the Commission's audiovisual platform, which has proved very effective. Indeed, so successful has this platform been that it is expected that some of the Commission's work in the future will remain online.

The Act, while it did not affect the benefits payable to injured persons under the two jurisdictions (motor accidents and workers compensation), did introduce some welcome changes. For many years, medical panels in the workers compensation jurisdiction comprised two medical specialists and one of the Commission's Members. This successful approach has now been adopted in the motor accidents jurisdiction. This approach is consistent with tribunal practice which sees panels comprised of persons with different skills from different disciplines. This will enhance the legal integrity of medical panel decisions in motor accidents and is a welcome reform. Another welcome reform pertains to the publication of decisions. Section 58 of the Act mandates the publication of decisions. Previously, motor accident disputes sat within a government department and as such did not have the exemptions from the privacy laws that are typical of court and tribunal practice.

This meant that motor accident decisions which were not made in the mainstream court system were available only to the practitioners involved in the cases. This circumstance has been brought to an end by the Act. Again, this is a welcome reform and means that every practitioner and every claimant or insurer in NSW will have access to the same body of decided cases, an arrangement which can only benefit the preparation and conduct of cases before the new Commission. The publication of decisions is a significant aspect of public accountability and can only enhance confidence in the new Commission's processes. However, as can be appreciated, some claimants and witnesses before the Commission may be particularly vulnerable. The Rule Committee has therefore enacted the Personal Injury Commission Rules (Rules), which enable the de-identification of parties or witnesses, or the redaction of certain evidence in cases where it is in the interests of justice to do so, thus striking the appropriate balance between open justice and protection of the vulnerable. Thus far, s 58 and the protections under the Rules are working as intended, and this has been of great benefit to the motor accidents jurisdiction generally.

In this inaugural review, the Commission sets out the material required by s 66 of the Act. Pleasingly, in the first four months of the Commission's operations there were 5,256 cases filed across the two divisions and 5,041 matters completed, either by way of resolution or decision. All this was achieved with all Members and staff working remotely. In terms of s 66, the Act mandates that this report detail the contribution of each insurance fund to the running of the new Commission. The report therefore describes the formula and approach by which contribution from the three schemes is calculated. This approach has the support and imprimatur of the scheme actuaries. It is to be noted that the 1999 motor accidents scheme is very much in its run-off phase and as a result its contribution is small and decreasing. I commend a close reading of this section of the report.

In her report, Principal Registrar Marianne Christmann describes in further detail the Commission's operations and the restructures which have taken place among the public servants to better align their roles with the structure of the new Commission.

The new Commission has developed a comprehensive set of reference groups, namely:

1. The Stakeholder Reference Group, which is made up of representatives of the NSW Bar Association, the Law Society of NSW, employers and unions representatives
2. The Medical Assessors Reference Group, which comprises representatives of the Commission's expert Medical Assessor group
3. The CTP Insurers Reference Group, which is made up of representatives of the compulsory third party insurers who are licensed in NSW, as well as some interstate insurers, and
4. The Mediator Reference Group, which comprises representatives of the Commission's cohort of Mediators.

The Commission regularly meets with the Presidents of the NSW Bar Association and the Law Society of NSW, as well as the Independent Review Officer (Mr Simon Cohen), the State Insurance Regulatory Authority and icare NSW.

As a result of these initiatives, we have created avenues for every stakeholder to contribute to the development of the Commission.

In addition, the Division Heads and I have given speeches and presentations about the new Commission and its practices and procedures. I have also met with the Presidents of the Royal Colleges, given the importance of the medical profession not only to the Commission but to the insurance schemes operating in both Commission divisions.

The Commission also publishes an online newsletter, the *Personal Injury Commission News*, once or twice a month to keep users and practitioners abreast of the latest developments in the Commission's operations and in particular our various responses to, and strategies for dealing with, the ongoing COVID-19 pandemic.

The development of the Commission is not complete. Notwithstanding the ongoing adverse effects of the pandemic, much work in building out the new Commission continues to be undertaken. In particular, the following matters are underway as at the date of the release of this report:

1. In December 2021 a renovation of the Commission's 1 Oxford Street premises will commence. Not only will the renovation create a new staff floor for the combined Commission but also Members' chambers, further hearing rooms and, most importantly, a set of eight medical suites. The medical suites will be instrumental in addressing the COVID backlog once restrictions are eased.
2. We are working with consultants to determine our preferred IT solution, which will involve the development of a single IT platform for the Commission. Currently both divisions are utilising their legacy IT platforms, neither of which is sufficient to satisfy the Commission's IT needs.
3. We will conduct our first review of the Commission's Rules and other statutory instruments. We will standardise the terms of engagement of all Medical Assessors and undertake recruitment action to increase their number in our high-use specialties. We will continue our education program of Medical Assessors so that they better understand the legal architecture of the matters in which they are called upon to exercise their medical expertise.

4. The Commission will undertake a review of its country venues. It is the Commission's stated aim that it will continue to conduct hearings in person outside of the Sydney metropolitan area in the larger regional centres. Other areas in NSW will be identified and serviced with virtual hearings.
5. We will undertake recruitment of more Members for the Workers Compensation Division, as well as more Mediators.
6. The Commission will consider when to start developing key performance indicators with respect to work in both divisions and in Medical Services. At this moment, with the Commission still in its early days and suffering from the ongoing effects of the pandemic, it is not possible to determine a realistic set of performance indicators.

Finally, this report includes a delightful historical piece from Member Bill Dalley, with reminiscences of 50 years in the law. The piece is not only interesting from an historical perspective but also when one considers the rapid change which the pandemic has visited upon the courts and tribunals and legal practice generally, which has occurred all in the space of the last 18 months. What it proves is that change is constant and the new tribunal we are in the process of building must have the tools to respond to change in a flexible and nimble way in the future.

Judge Gerard Phillips
President



Marianne Christmann
Principal Registrar

Principal Registrar's Report

It was a pleasure to open the Personal Injury Commission on 1 March 2021 and begin offering dispute resolution services to the injured people of NSW.

As you can imagine, the first four months of the Commission were an intensive and challenging, yet rewarding, period for everyone. I would like to personally thank the President and Division Heads for their support, as well as the Members, Merit Reviewers, Mediators and Medical Assessors for coming on board with all the changes involved in setting up a new Commission. I would like to acknowledge the dedication, commitment and hard work of the Commission's staff in seamlessly continuing to deliver dispute services while adjusting to significant changes and new programs of work. Undertaking this exercise while working from home during the COVID-19 pandemic is testament to the resilience of our staff and a strong indicator of the likely future success of the Commission.

My focus in those first four months was not only to ensure business-as-usual operations ran smoothly but to establish and build the fabric of the Commission as a brand-new organisation. This involved creating and stabilising the new structure, smoothing the transition to new ways of working for staff, and beginning to build the organisation's culture. Considerable work was also undertaken to bed down our new Rules and procedures, begin harmonising business processes, establish business support functions and refine our technology platforms. Continued engagement with the Commission's key stakeholders and users was a focus in those early months. Several longer-term projects also commenced in this reporting period which will be vital to the Commission's future operations and success.

The Commission was in the privileged position of commencing with a cohort of talented and experienced staff, with extensive knowledge in dispute resolution, who transitioned from the two legacy organisations into the Commission's new organisational structure.

We recruited the Commission's directors, established a strong and collaborative leadership

team, and bedded down and fine-tuned the operation of the five new directorates. The Commission also implemented the Dispute Resolution Services' restructure management plan to optimise dispute resolution services in the motor accidents area and to harmonise roles and functions with those in the workers compensation area. Many new staff also joined the Commission in those early months.

The biggest challenge from a people perspective, given that the Commission commenced with all staff working remotely during the pandemic, was creating opportunities for staff to get to know one another, build relationships and find their place in the new combined team. Many strategies were employed to enable intra- and cross-team collaboration and socialisation and begin building the organisation's new culture, mostly via our technology platforms. During windows where lockdown restrictions were eased, we brought the whole organisation together to celebrate the Commission's launch, and smaller groups came into the office for training, team-building and collaboration initiatives. We also launched our Wellbeing Program, which has become a hallmark of the new Commission. It is a program our leadership team and staff have actively embraced, and it will remain an ongoing focus.

The Commission commenced with a new 'single front door', including a new website, enquiry telephone line and 'help@pi' email address. Given we were combining two former entities, each with their own long-established practices and procedures, significant work was undertaken by our registry and dispute services teams to harmonise processes and remove duplication as the Commission and its staff settled into new ways of working. Work will continue to fine-tune and embed the Commission's Rules, policies and Procedural Directions in order to deliver better outcomes for injured people in NSW and to further harmonise our dispute management processes.

The Commission also inherited two very different dispute management technology platforms from the legacy organisations, which will move to a single platform during FY2022/23. Each platform was enhanced to incorporate the new Commission's brand and changes necessary to

enable the commencement of our operations. The motor accidents system required rectification and stabilisation during the reporting period to ensure it could effectively support users. I am delighted to report that initial work on the single digital platform commenced in this reporting period. The new single digital platform will provide a user-friendly single entry point to support the Commission to achieve its objectives for the injured people of NSW.

The Commission's Venue Spaces Project also kicked off, with a mission to deliver a single technology platform for the Commission's virtual proceedings. This has been vital during the pandemic-related lockdowns, when all the Commission's interactions with parties have had to occur online or by phone, and will become an ongoing aspect of how proceedings are conducted in the future. More regional venues will also be a feature of our venue strategy.

The President's Report highlighted the Commission's strong focus on our stakeholders and users. Communicating, educating and engaging with stakeholders and users on a regular basis has been key to the Commission's success, and I am pleased we were able to build strong, consistent and effective communication and engagement channels. I am grateful to the legal profession and the insurance industry for their active participation and engagement with the Commission and their willingness to engage in constructive two-way communication with us on an ongoing basis.

Pleasingly, the Commission has concluded its first four months of operation in a strong position and is well placed for continued success in the coming year. By then, our operations will be fully bedded down and humming along, the Commission's Rules and procedures will be further refined, the design and development of our single digital platform will be taking shape, our new premises will be completed, and all our Members, partners and staff can come together to celebrate our one-year anniversary and continue to build the social fabric and culture of the new Commission.

Marianne Christmann
Principal Registrar

2. Achievements in the Commission's First Four Months

Applications



5,256

dispute applications registered



5,041

dispute applications finalised

Dispute Resolution Activity



2,586

telephone conferences held



704

conciliation conferences/arbitration hearings held



2,420

medical assessments held



145

assessment conferences held



587

mediation conferences held

Dispute Resolution Outcomes



91%

of workers compensation disputes resolved without formal determination



72%

of motor accident damages disputes settled without formal determination



73%

of work injury damages cases which proceeded to mediation were settled

Published Decisions



17

Presidential decisions published



249

Member and Merit Reviewer decisions published



108

Workers Compensation Medical Appeal Panel decisions published

Service



9,264

calls to 1800 PIC NSW enquiry line assisted



5,882

emails to help@pi.nsw.gov.au enquiry inbox assisted

Communications and Engagement



17

editions of the *Legal Bulletin* published



9

reference group meetings held with Commission stakeholders



7

editions of *Personal Injury Commission News* published

3. The Work of the Commission

Achieving Outcomes for the Injured People of NSW

The Personal Injury Commission is an independent statutory tribunal within the justice system of NSW. It replaced the State Insurance Regulatory Authority's Dispute Resolution Services and the Workers Compensation Commission when it commenced operations on 1 March 2021.

The Commission's primary function is to resolve disputes between people injured in motor accidents or workplaces in NSW and insurers and employers.

The Commission is committed to resolving disputes justly and efficiently in the shortest timeframe possible and works with all parties (injured persons, insurers and employers, where relevant) to discuss ways of achieving this.

In cases where the parties are not able to reach their own resolution, the Commission will decide the dispute. If a party is not satisfied with a decision of the Commission, they may seek an appeal or review.

The Commission's Objectives

The Commission's objectives, as set out in the *Personal Injury Commission Act 2020*, are:

- (a) to establish an independent Personal Injury Commission of New South Wales to deal with certain matters under the workers compensation legislation and motor accidents legislation and provide a central registry for that purpose,
- (b) to ensure the Commission —
 - (i) is accessible, professional and responsive to the needs of all of its users, and
 - (ii) is open and transparent about its processes, and
 - (iii) encourages early dispute resolution,
- (c) to enable the Commission to resolve the real issues in proceedings justly, quickly, cost effectively and with as little formality as possible,
- (d) to ensure that the decisions of the Commission are timely, fair, consistent and of a high quality,
- (e) to promote public confidence in the decision-making of the Commission and in the conduct of its members,
- (f) to ensure that the Commission —
 - (i) publicises and disseminates information concerning its processes, and
 - (ii) establishes effective liaison and communication with interested parties concerning its processes and the role of the Commission,
- (g) to make appropriate use of the knowledge and experience of members and other decision-makers.

Relevant Legislation

- *Personal Injury Commission Act 2020*
- *Personal Injury Commission Rules 2021*
- *Personal Injury Commission Regulation 2020*
- *Motor Accidents Compensation Act 1999*
- *Motor Accidents Compensation Regulation 2020*
- *Motor Accident Injuries Act 2017*
- *Motor Accident Injuries Regulation 2017*
- *Workers Compensation Act 1987*
- *Workplace Injury Management and Workers Compensation Act 1998*
- *Workers Compensation Regulation 2016.*

“At the heart of this new Commission are people: injured workers, people injured in motor accidents, their families, employers, insurers and legal professionals.”

The Hon Mark Speakman SC MP, Attorney General of New South Wales – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021

4. The Road to the Personal Injury Commission

Why the Personal Injury Commission was Established

The Personal Injury Commission was established as part of the NSW Government's ongoing reform of the motor accidents compulsory third party (CTP) insurance and workers compensation schemes and its focus on improving the customer experience for all users of these schemes.

In 2018 the Legislative Council Standing Committee on Law and Justice found that it could be confusing for people navigating disputes in the CTP and workers compensation schemes, which at the time were managed by the State Insurance Regulatory Authority's Dispute Resolution Services and the Workers Compensation Commission respectively.

The Committee recommended consolidating the workers compensation and CTP dispute resolution systems into a single personal injury commission by expanding the jurisdiction of the Workers Compensation Commission but retaining two streams of expertise.

On 7 August 2019 the Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service, announced that the NSW Government supported, in principle, establishing a consolidated commission with separate workers compensation and CTP insurance divisions.

The new, independent Personal Injury Commission, when established, would be accessible and responsive to the needs of all users, encourage early dispute resolution, and resolve the real issues between parties justly, quickly, cost-effectively and with as little formality as possible. It would also reduce the 'process trauma' experienced by injured people involved in insurance disputes by:

- Providing a 'one-stop shop' for dispute resolution services
- Removing confusion for injured people about where to go to access dispute resolution services
- Reducing forms and complexity, harmonising processes and providing better access to dispute resolution across all schemes
- Enabling more streamlined and efficient dispute resolution services.

Creation of the Commission would also deliver operational benefits for the NSW Government by combining and streamlining the services that were provided by different agencies, achieving economies of scale and establishing a sound foundation to grow and respond to future changes and demands.

“The Government’s focus is to improve the customer experience for all users of the system and reduce any process trauma for injured people navigating disputes in the workers compensation and motor vehicle accidents schemes.”

The Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service – Second Reading Speech for the Personal Injury Commission Bill 2020, Legislative Assembly, 3 June 2020

How the Commission's Legal Instruments were Established

A comprehensive suite of legislation and legal instruments was developed to establish the Commission and govern its operations.

Personal Injury Commission Act 2020

The *Personal Injury Commission Act 2020* (the Act), establishing the Personal Injury Commission, was assented to in August 2020. The Act broadly maintained the existing workers compensation and motor accidents dispute resolution pathways and placed them into specialised workers compensation and motor accident divisions. No changes were made to the underlying substantive law concerning entitlements of injured people to damages or other compensation or assistance under the workers compensation legislation and the motor accidents legislation.

In developing the model for the Commission, the Department of Customer Service consulted with key stakeholders in the CTP and workers compensation schemes, including insurers, peak legal profession bodies, the medical profession, decision-makers in the existing schemes, injured parties and relevant government agencies. Stakeholders strongly preferred a model with minimal changes to current dispute resolution processes and limited disruption to the schemes, which was reflected in the legislation.

Personal Injury Commission Regulation

The Act allowed for regulations to be made about certain matters set out in the Act.

Two regulations needed to be made to facilitate establishment of the Commission:

- The Personal Injury Commission Regulation
- An amending regulation that made changes to the CTP and Workers Compensation Regulations (scheme regulations) that were consequential to the Act.

Extensive consultation was undertaken in the development of the regulation and regulation amendments to ensure that the Commission's stakeholders had the opportunity to provide feedback before finalisation.

Personal Injury Commission Rules

The Personal Injury Commission Rules 2021 (Rules) were developed by the Personal Injury Commission Rule Committee and commenced on 1 March 2021 when the Commission was established. The Rules provide operational direction to the Commission, covering matters of practice and procedure in proceedings.

Consultation with industry representatives and stakeholder cohorts that engage with the Commission's services was an important aspect of the development and finalisation of the Rules.

Personal Injury Commission Procedural Directions, Policies and Delegations

The Commission's Procedural Directions, Policies and Delegations were also developed in the lead-up to the Commission's launch to provide the fine-grain detail of how the Commission operates.

The Procedural Directions provide a detailed explanation of the Personal Injury Commission's procedures. The Policies set standards of practice for the Commission and the people who use its services. The Delegations indicate how functions under the Act, the Personal Injury Commission Regulation 2020, the scheme regulations and the Rules are delegated.

How the Commission was Established

Shortly after the Act was assented to in August 2020, the Personal Injury Commission Implementation Program was established to meet the exciting challenge of building and setting up the Commission as a new organisation within the Customer Service cluster and having it ready to launch on 1 March 2021. The Personal Injury Commission Implementation Program team – comprising leaders and staff from Dispute Resolution Services and the Workers Compensation Commission, the Commission's Principal Registrar (who was employed in late October to help set up the Commission) and a handful of consultants – was tasked with establishing all aspects of the new organisation across multiple streams of work. The complex, multifaceted and interconnected portfolio of activities included the following.

Legal and Policy

- Establishing the Rule Committee to create the Rules
- Working with the Department of Customer Service to support the development of and consultation for the Act and associated Regulations
- Developing, managing consultation for and publishing the legal instruments required, including the Rules, Procedural Directions, Policies and Delegations.

Members and Service Partners

- Recruiting, appointing and inducting the Motor Accidents Division's full-time and sessional Members
- Transitioning and inducting Members, Mediators, Merit Reviewers and Medical Assessors from the former organisations into the new Commission
- Obtaining ministerial approval for remuneration rates for Mediators, Merit Reviewers and Medical Assessors, and for special Statutory and Other Offices Review Tribunal (SOORT) determinations.

People and Change

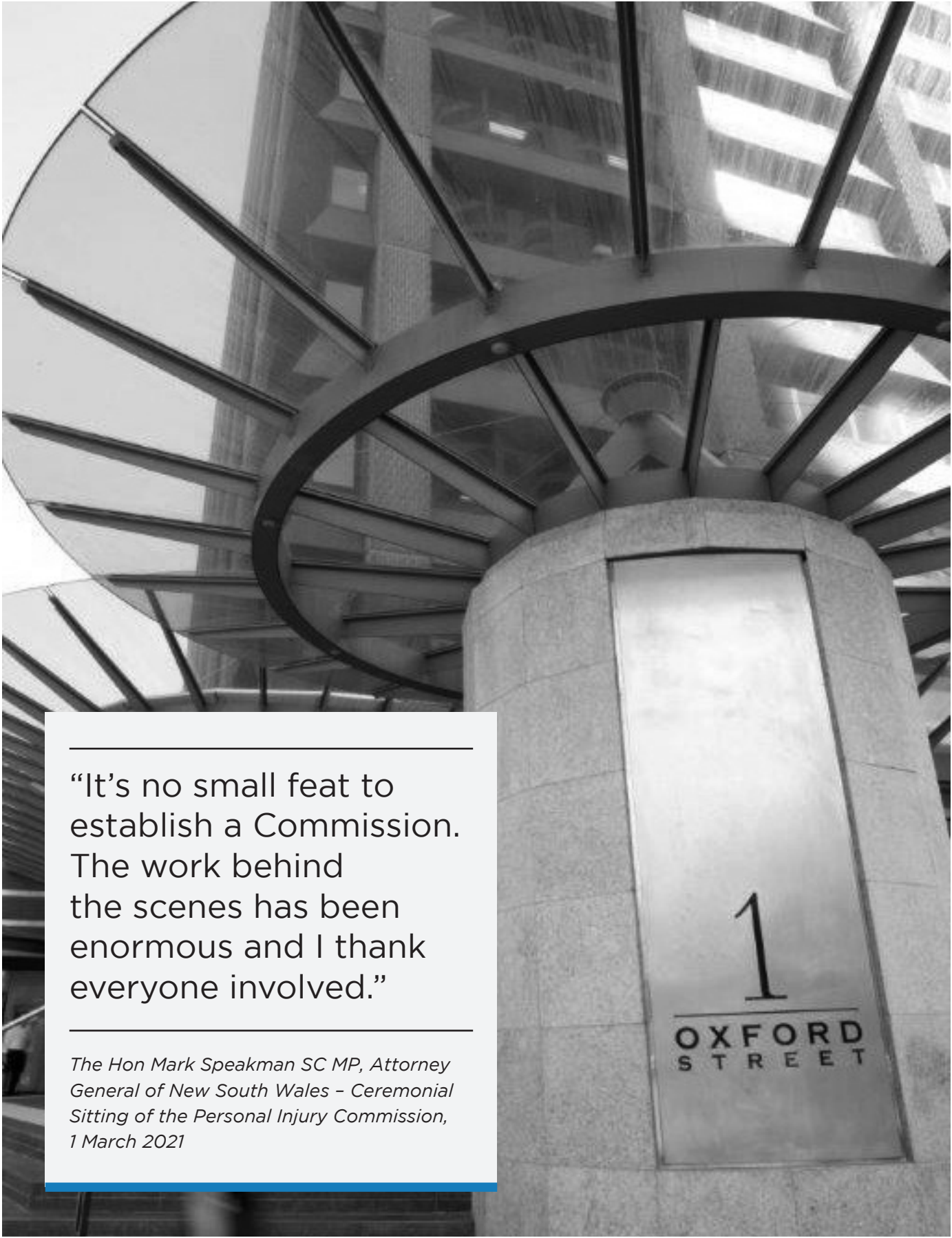
- Establishing the executive and organisation structures for the Commission, recruiting and appointing the Principal Registrar and Directors, and reappointing staff from Dispute Resolution Services and the Workers Compensation Commission to the new structure
- Communicating extensively with the staff of Dispute Resolution Services and the Workers Compensation Commission about the transition to the Commission and its impact on them, and conducting education and training to prepare them to work with the Commission's new procedures
- Establishing the new brand for the Commission and creating all related design artefacts.

Operational

- Creating and operationalising a 'single front door' for the Commission, including a website, enquiry telephone line and enquiry email address
- Working with multiple stakeholders and teams in the State Insurance Regulatory Authority to complete the separation of Dispute Resolution Services from a process, policy, data, technology and communication perspective
- Collaborating with Service NSW to update all references in online platforms to point to the Commission.

Technology

- Managing the establishment of the technology platforms required to run the Commission, including updates to the legacy systems from Dispute Resolution Services and the Workers Compensation Commission, which were adopted by the Commission
- Moving all staff into a new Commission operating environment, with new computer hardware and email addresses.



“It’s no small feat to establish a Commission. The work behind the scenes has been enormous and I thank everyone involved.”

The Hon Mark Speakman SC MP, Attorney General of New South Wales – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021

Communications and Stakeholder Engagement

- Establishing reference groups for the Commission's stakeholders
- Conducting an extensive promotion and education campaign for the Commission's users and stakeholders about its purpose, launch date, contact details, and policy and procedure changes
- Managing all aspects of the Ceremonial Sitting to launch the Commission, including liaising with the District Court of NSW, the offices of the Attorney General and the Minister for Customer Service, the NSW Bar Association and the Law Society of NSW.

Finance

- Establishing the 'back of house' administrative and financial structures for the Commission, including the ABN, cost centres, changes to the HR system, changes to HR, administration and financial delegations, budget forecasts and the creation of fee schedules for service partners.

The Implementation Program team delivered on its comprehensive brief in only six months, enabling the Commission to open as planned on 1 March 2021. The successful establishment of the Commission is thanks to the dedication and diligence of all involved, many of whom contributed their time, knowledge and effort in parallel to their business-as-usual activities and while working remotely.

The successful establishment of the Commission was also testament to the goodwill, collaboration and assistance of many areas of the NSW Government, including the offices of the Attorney General and the Minister for Customer Service, the Parliamentary Counsel's Office, the Department of Customer Service, the State Insurance Regulatory Authority and Service NSW.

The Commission is also grateful to the Presidents of the NSW Bar Association and the Law Society of NSW for providing us with experienced members to help with the Rules, recruitment and other establishment activities.



Left to right: Marianne Christmann, Principal Registrar, Personal Injury Commission; Judge Gerard Phillips, President, Personal Injury Commission; Emma Hogan, Secretary, Department of Customer Service; Carmel Donnelly, Chief Executive, State Insurance Regulatory Authority

5. Launching the Personal Injury Commission

Official Opening of the Commission

The Commission was officially launched on 1 March 2021 with a Ceremonial Sitting of the Commission at the District Court of NSW, presided over by Judge Gerard Phillips, President.

The Ceremonial Sitting featured addresses from the Hon Mark Speakman SC MP, Attorney General of New South Wales, the Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service, the President of the New South Wales Bar Association, Mr Michael McHugh SC, and the President of the Law Society of New South Wales, Ms Juliana Warner.

The speeches provided excellent context regarding how and why the Commission was established and reflected the positive expectations the NSW Government and the legal profession have regarding the Commission's purpose and the role it will play in delivering dispute resolution services for the injured people of NSW.

A video recording and speech transcripts of the Ceremonial Sitting are available to view on the Commission's website, www.pi.nsw.gov.au

“This is a major reform in personal injury dispute resolution in New South Wales and under the leadership of Judge Phillips is a major step forward for the delivery of better services to the people of our great State.”

The Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021



Left to right: The Hon Victor Dominello MP, Minister for Digital, Minister for Customer Service; Judge Gerard Phillips, President, Personal Injury Commission; the Hon Mark Speakman SC MP, Attorney General of New South Wales.



*The Hon Victor Dominello MP, Minister for Digital,
Minister for Customer Service, addresses the
Ceremonial Sitting.*

Successfully Commencing Operations

The Commission opened on schedule on 1 March 2021, with everything in place to commence operating as the new, independent Commission. It began receiving and managing dispute applications from the injured people of NSW on that date. The Commission's new 'front-of-house' features, including a website, help line and central email address, were established, the legal instruments that govern the Commission's operations were published and in place, and the IT systems required to receive and manage dispute applications were set up.

The staff from Dispute Resolution Services and the Workers Compensation Commission had successfully transferred to the new Commission organisational structure, and the Commission's partners, including Members, Mediators, Merit Reviewers and Medical Assessors, had been transitioned into the Commission.

The successful launch was testament to the effective collaboration and cooperation displayed across multiple NSW Government agencies and departments.

Promoting the Personal Injury Commission

A comprehensive and multifaceted stakeholder engagement and communications campaign was implemented in advance of and after the launch of the Commission. The campaign ensured that injured people, staff, service partners, NSW Government agencies, the insurance industry and the legal profession were aware of the Commission's purpose, establishment, commencement, contact details and processes and procedures.

The campaign included a regular e-newsletter to future Commission stakeholders, called *Towards the PIC*, which was issued from August 2020 to February 2021, before being rebranded as *Personal Injury Commission News* when the Commission was established.

An extensive calendar of information sessions and presentations to industry forums and conferences was also rolled out. The Commission President and Division Heads presented to hundreds of representatives from the insurance industry, the legal profession, the State Insurance Regulatory Authority, the Independent Review Office and the Department of Customer Service across many months.

Additional e-communications were delivered via the State Insurance Regulatory Authority, Service NSW and Workers Compensation Commission websites and publications, as well as the websites and online newsletters issued by industry and peak body organisations such as the NSW Bar Association and the Law Society of NSW.

Marketing communications were delivered to injured people with active dispute applications before Dispute Resolution Services and the Workers Compensation Commission to advise them that their applications would transition to the Commission on 1 March 2021.

Thorough engagement and communication with the staff of Dispute Resolution Services and the Workers Compensation Commission was conducted across multiple communication channels during the transition window to educate and prepare them for their move into the Commission.

6. How the Commission Delivers its Services

Our Role

The Commission resolves disputes between people who are injured in motor accidents or in their workplaces in NSW, insurers and employers. It is mandated under the *Personal Injury Commission Act 2020* to encourage the early resolution of disputes and resolve the real issues in proceedings justly, quickly, cost-effectively and with as little formality as possible.

Dispute Resolution Pathways

The Commission deals with a wide range of disputes every day. Disputes lodged with the Commission will follow slightly different pathways depending on the scheme and legislation under which they are lodged, as outlined below. The Commission will work to harmonise these pathways in future years, acknowledging the current differences in enabling legislation.

Workers Compensation

Workers compensation disputes are triaged according to the type of claim, the amount of compensation, and/or the intended remedy. There are four main dispute pathways:

Expedited Assessments – Disputes for past 10 weeks and future 12 weeks of weekly compensation benefits and/or past medical expenses incurred up to \$9,722.00 (as at 30 June 2021) are fast-tracked to a teleconference before a delegate of the President. Disputes regarding work capacity and injury management are also expedited in this way. If the parties are unable to resolve the dispute, the delegate will determine the issues and make an interim direction.

Legal Disputes – Disputes for weekly compensation exceeding 12 weeks, past and future medical and related expenses exceeding \$9,722.00 (as at 30 June 2021) and all other compensation types are heard by a Member and are usually resolved by informal conciliation conferences conducted by telephone and/or in person. If a dispute cannot be resolved by conciliation, the Member will hold a formal arbitration hearing and will decide whether a claim should be paid and the extent of any entitlement to workers compensation benefits.

Medical Disputes – Medical disputes concern liability for and the extent of permanent impairment resulting from an injury and past and future medical expenses and are generally referred to a Medical Assessor for assessment. In certain circumstances, a dispute in relation to the degree of permanent impairment may be referred to a Member for conciliation and/or determination.

Work Injury Damages Disputes – Mediation of work injury damages disputes by a Commission-appointed Mediator is mandatory before an injured worker can commence court proceedings. The Mediator must use their 'best endeavours' to bring the worker and employer to agreement. If the parties are unable to reach an agreement at mediation, the injured worker may then commence court proceedings. The Commission is also responsible for resolving pre-trial disputes relating to threshold disputes for entitlement to work injury damages, defective pre-filing statements, directions for access to information and premises, and pre-filing strike-out applications.

Appeals – A party to a dispute about compensation may appeal against a Member’s decision. An appeal is limited to the determination of whether the Member’s decision is affected by an error of fact, law or discretion and to the correction of any such error. The appeal is referred to the President or a Deputy President of the Commission for determination. A party may also appeal against a medical assessment concerning permanent impairment. If the President’s delegate is satisfied, on the face of the application and submissions, that a ground of appeal has been made out, the matter is referred to a Medical Appeal Panel.

Motor Accidents

Motor accident dispute pathways are dependent on the scheme and legislation under which the application is lodged, namely the *Motor Accidents Compensation Act 1999* or the *Motor Accident Injuries Act 2017*.

1999 Scheme

Medical Disputes – Medical disputes include whether the degree of permanent impairment resulting from an injury caused by the motor accident is over 10% or whether the treatment provided or to be provided is reasonable and necessary and related to the injuries caused by the accident. Such disputes are determined by a Medical Assessor and are generally determined before, or concurrent with, the assessment of the damages claim. A binding certificate is issued to the parties.

Medical Reviews – Reviews are available to parties who consider the certificate issued by the Medical Assessor is incorrect in a material respect. A delegate of the President determines whether the review application can proceed. If it can proceed, a Medical Review Panel may consider the dispute by way of a fresh examination, or, if suitable, ‘on the papers’ (i.e. reviewing the relevant documents without the need for a physical examination). A new certificate will be issued which will either confirm the certificate of assessment of the single Medical Assessor or revoke that certificate.

Further Medical Assessment – If parties have new material or further injuries and can demonstrate that these will make a material difference to the original assessment, an application may be made for a further medical assessment. A delegate of the President determines whether the further medical assessment application can proceed. If it can proceed, a Medical Assessor, the same who conducted the original assessment if possible, will consider the dispute by way of a fresh examination, or, if suitable, on the papers. A new certificate will be issued.

Special Assessment of Certain Disputes in Connection with a Claim – These disputes include whether a late claim can be made, whether there has been due search and enquiry to establish the identity of the motor vehicle, or whether a claim is taken to have been withdrawn. The dispute is determined by a Member.

Exemption of a Claim from Assessment – A mandatory exemption application is determined by the President, who, if satisfied, may issue an exemption certificate which allows the parties to proceed to the District Court (the Court) for determination of the claim. A Member may make a recommendation to the President in regard to whether a claim is unsuitable for assessment. If the President approves the Member’s recommendation, an exemption certificate will be issued which allows the parties to proceed to the Court for determination of the claim.

Damages Assessment – A Member will assess the issue of liability and the amount of damages for that liability. A certificate of assessment and reasons are issued by the Member.

Further Damages Claims Assessments – A claim for damages may be remitted by the Court to the Member who determined the matter if the Court considers that evidence provided in the proceedings may have materially affected the assessment made by the Member if it had been made available to the Member when the initial claims assessment was made. A further certificate of assessment and reasons are issued by the Member.



2017 Scheme

Medical Disputes – As with the 1999 scheme, disputes may concern permanent impairment and/or treatment matters. Disputes under this scheme also arise in relation to whether an injury is a ‘minor injury’. Such disputes are determined by a Medical Assessor and are generally determined before, or concurrent with, the assessment of the damages claim. A binding certificate is issued to the parties.

Medical Reviews – Reviews follow the same pathway as under the 1999 scheme.

Further Medical Assessment – As with the 1999 scheme, applications can be made if parties have new material or further injuries and can demonstrate that these will make a material difference to the original assessment. A limit of one further assessment per medical dispute is imposed by the 2017 scheme, and the process is the same as under the 1999 scheme.

Miscellaneous Claims Assessment – A variety of disputes may be referred to the Commission for assessment by a Member. These include whether the accident was caused by the fault of another person, whether the accident was mostly caused by the injured person, whether the insurer is entitled to reduce the statutory benefits payable in respect of the motor accident, and whether a late claim can be made.

Damages Assessments and Exemption of a Claim from Assessment – These disputes follow the same pathway as under the 1999 scheme.

Damages Settlement Approvals – A Member must approve the settlement of any matter in which a claimant is not represented by an Australian legal practitioner. A Member will consider the proposed settlement and, if satisfied that the amount of compensation is appropriate, will issue a certificate approving the settlement.

Merit Reviews – Parties may seek a merit review of certain decisions made by the insurer if they consider the decision was incorrect. The decision must first be the subject of an internal review by the insurer. The types of disputes that can be considered for review include the amount of statutory benefits payable, whether the cost of treatment and care is reasonable and necessary, and whether the insurer has given the required notice before suspending or ending weekly payments. The review is undertaken by a Merit Reviewer.

How Disputes are Resolved

The Commission employs a combination of informal alternative dispute resolution methods, such as conciliation and mediation, and more formal hearings to reach outcomes for the parties to disputes. Many of the Commission's disputes are resolved by alternative dispute resolution without the need to proceed to formal hearings. Medical assessments are utilised for disputes about the nature and extent of injuries or impairment.

Teleconferences

Using teleconferencing to discuss disputes with the parties is one of the quick and simple methods the Commission employs for disputes that involve legal issues, and a teleconference is usually the first step in the dispute pathway. The teleconference is conducted by a Member, who uses their skills to help the parties to identify the real issues in the dispute, explore settlement options and outcomes, and attempt to find a solution acceptable to all parties.

Conciliation and Assessment Conferences

If a legal dispute has not been resolved at the initial teleconference, the parties will meet again at a conciliation conference in the Workers Compensation Division or assessment conference in the Motor Accidents Division. These are held face to face, via audiovisual platforms or via a further teleconference. A Member, usually the same Member who held the initial teleconference, tries to assist the parties to reach a resolution. Each party can split off to separate rooms to discuss settlement options and explore ways to resolve the dispute privately with their lawyers. The Member is neutral and does not communicate with one party without the other party also being present.

Hearings

If a dispute is not resolved through conciliation in the Workers Compensation Division, the Member will make a binding determination following an arbitration hearing. In the Motor Accidents Division, the Member will conduct an assessment hearing and then determine the dispute, issuing reasons and a certificate.

Mediation

The Commission's Mediators conduct mediations to assist the parties to reach a settlement in work injury damages disputes. The Mediator's role is to facilitate discussion between the parties to reach a resolution, not to give advice or make decisions. The Mediator will have separate private conversations with each of the parties if necessary, as this can help in resolving deadlocks in the negotiations. If the parties are unable to reach an agreement at mediation, the injured worker may then commence court proceedings.

Medical Assessments

Medical assessments usually involve a Medical Assessor conducting an examination of the injured person to gain an understanding of the circumstances and extent of their injury, their medical history and treatments they may have received. A Medical Assessor reviews the medical reports from the doctors who have provided opinions for the insurer and the injured person, as well as any investigations such as X-rays, MRIs, ultrasounds, CT scans and other documents that may help them to get a full picture of the injury and its effects. In some circumstances, the assessment may be conducted on the papers. After completing their assessment, a Medical Assessor prepares a certificate that sets out their opinion, and the dispute is then resolved based on that assessment.

How the Commission Ensures Excellence in Decision-Making

Excellence in decision-making is a high priority for the Commission in delivering its services for the injured people of NSW. The *Personal Injury Commission Act 2020* requires the Commission to:

- Ensure that the decisions of the Commission are timely, fair, consistent and of a high quality
- Promote public confidence in the decision-making of the Commission and in the conduct of its Members, and
- Make appropriate use of the knowledge and experience of Members and other decision-makers.

The Commission employs multifaceted strategies to achieve these objectives, including the following.

Recruiting and Retaining the Right People

The Commission recruits and retains highly skilled decision-makers who are selected using rigorous and competitive merit-based appointment practices and are retained based on performance reviews conducted in advance of reappointment.

Responding to the Changing Environment

The Commission, like many tribunals, has increased its use of online hearing venues during the pandemic and will continue to use online venues to varying extents after the pandemic. The Commission has trained and supported its decision-makers to ensure their efficient and effective use of technology and the continued delivery of excellent decisions in challenging circumstances.

Building a Culture of Excellence

The Commission is building a culture that demands the ongoing development and maintenance of core decision-making skills. This includes not only formal training and instruction about hearing processes, evidence and principles of administrative law but also continuing updates on developments in law and policy within the Commission and its jurisdictions.

The Commission requires its decision-makers to continuously improve their decision-making processes in relation to such matters as timing issues, the formal requirements of a decision, burden and standard of proof, using Commission knowledge, structuring decision-making, making findings of fact, assessing credibility, evaluating expert information, weighing evidence, exercising discretion, and providing reasons.

Ensuring Consistency

Consistency in decision-making is critical to the Commission meeting its objective of being open and transparent about its processes. Consistency in decision-making means that similarly situated claimants and workers receive similar treatment and outcomes. This in turn means that parties with comparable disputes experience the similar range of procedural treatment, from case management broadly to conciliation and different forms of hearing processes more specifically.

Consistency is promoted through providing tools such as style guides and through encouraging interaction between Members, which is assisted by electronic document management. However, consistency does not mean that all Members share identical views and perspectives on all issues. Rather, the Commission is comprised of Members who represent the diverse and varied backgrounds for which it is responsible. The Commission understands that consistency is not solely obtained by requiring Members to observe certain protocols. The Commission is building a culture that values consistency, coupled with support for the robust exchange of different views.

Managing Community Expectations

Community expectations are managed through written formal communications such as the Rules, Procedural Directions, newsletters and manuals. If the parties and their representatives have a clear set of expectations around process and issues of law and policy, these expectations will be expressed in the way in which cases are prepared and presented to Members.

Publishing Decisions

The Commission is required to publish the details of its decisions under s 58 of the *Personal Injury Commission Act 2020*, subject to any successful application for de-identification or redaction of publishable decisions. Publication of decisions promotes open justice and helps to ensure the Commission is open and transparent about its processes, as specified in the Act.

The Commission is committed to open justice because it is a fundamental attribute of a fair hearing.¹ The High Court has said that “the rationale of the open court principle is that court proceedings should be subjected to public and professional scrutiny, and courts will not act contrary to the principle save in exceptional circumstances”.²

The Commission also promotes awareness of its decisions by giving easy access to decisions through the weekly publication of the *Legal Bulletin*, which provides links to the Commission’s latest decisions. Stakeholders are encouraged to subscribe to the *Legal Bulletin*.

“Ultimately this Commission will be judged by the quality of its decision making, the fairness of how cases are heard and conducted, or resolved. This is how it should be and how the Commission will be accountable to those whom it serves.”

Judge Gerard Phillips, President, Personal Injury Commission – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021

¹ *John Fairfax & Sons Limited v Police Tribunal of NSW* (1986) 5 NSWLR 465, [476]–[477] (McHugh JA, Glass JA agreeing)

² *Commissioner of the Australian Federal Police v Zhao* (2015) 316 ALR 378, [44] (French CJ, Hayne, Kiefel, Bell and Keane JJ)

7. How the Commission Supports and Engages its Communities

The Commission has convened multiple reference groups with representatives of its key stakeholder cohorts and meets with them regularly to provide updates, consult on key issues, gather feedback and answer questions. The reference group members participate on behalf of the cohorts they represent and serve as a conduit for their cohorts' views. The reference group members are very important to the Commission and we are very grateful for their participation and collaboration.

The reference groups are:

- [Stakeholder Reference Group](#), with representatives from insurance industry and legal profession peak bodies, unions, the State Insurance Regulatory Authority, icare and the Department of Customer Service
- [CTP Insurer Reference Group](#), with representatives from multiple CTP motor accident insurance companies, their legal representatives, and the insurance industry peak body
- [Medical Assessor Reference Group](#), with representatives from the Commission's Medical Assessor panel
- [Mediator Reference Group](#), with representatives from the Commission's cohort of Mediators.

Reference group membership as at 30 June 2021 is shown in Appendices G–J.

The Commission also consults regularly with the New South Wales Bar Association and the Law Society of New South Wales and values their collegiate engagement and support.

In addition, the Commission has established a suite of communication channels that it uses to provide regular updates to its stakeholders regarding the Commission's operations. These include roadshows that the Commission's Division Heads conduct with the insurance industry and legal profession on a regular basis.

An education program is also in place to support the Commission's Members, Medical Assessors, Mediators and Merit Reviewers.

“The legal profession at its core is a profession of public service and we look forward to continuing to work with the Commission to serve the community of New South Wales.”

Mr Michael McHugh SC, President, NSW Bar Association – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021

8. The Commission's People

Executive Leadership Team

President

Judge Gerard Phillips is the inaugural President of the Personal Injury Commission and a Judge of the District Court of NSW. The President is appointed by the Minister under the *Personal Injury Commission Act 2020*. The President works closely with the Principal Registrar and Division Heads to provide strategic leadership to the Commission.

The President is responsible for appointing Medical Assessors, Merit Reviewers and Mediators, determining novel or complex questions of law, issuing procedural directions, and other administrative and legal tasks. Additionally, the President exercises a variety of functions under the Commission's legislation, which can be delegated to Members of the Commission or staff. The President also hears appeals against decisions made by Members in the Workers Compensation Division.

Division Heads

Mr Rodney Parsons and Ms Marie Johns are the Division Heads of the Workers Compensation Division and Motor Accidents Division respectively. The Division Heads are responsible for managing the business of the Commission in their respective divisions under the President's ultimate direction. They play an important role in ensuring there is specialised jurisprudence, knowledge, practice and procedures appropriate to the divisions.

The Workers Compensation Division Head is responsible for the Workers Compensation Members and Mediators. The Motor Accidents Division Head is responsible for the Motor Accidents Members and Merit Reviewers.

Principal Registrar

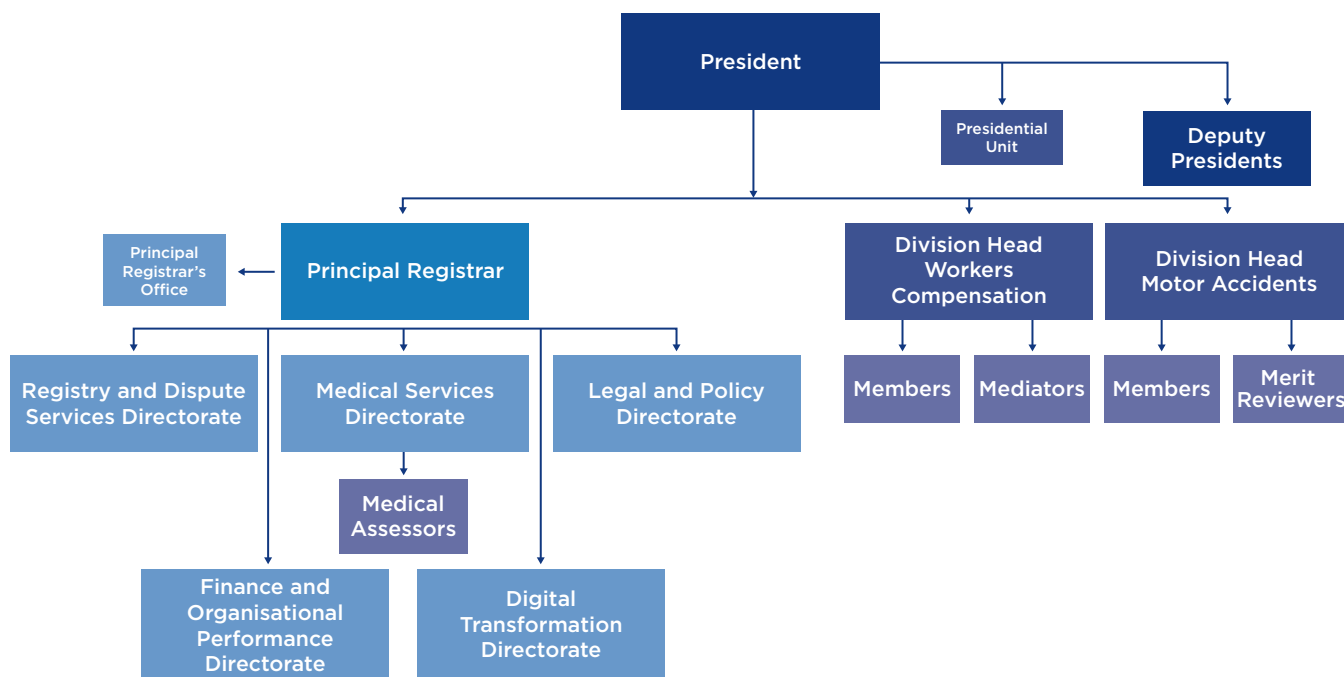
Ms Marianne Christmann is the Commission's Principal Registrar and is employed in the public service to assist the President in managing the business affairs of the Commission and to provide leadership and strategic direction to deliver the Commission's dispute resolution services.

The Principal Registrar leads the Commission's public servants and is responsible for the Commission's Registry, operations and administrative functions. The Principal Registrar also focuses on strategic and operational planning, governance, and evaluation of service delivery performance.

Organisational Structure

The Commission's structure reflects two streams:

- The two divisions, led by the Division Heads and comprising the Members, Mediators and Merit Reviewers, and
- The Registry, led by the Principal Registrar and comprising the Commission's public servants and the Medical Assessors.



The Commission had a total of 469 Members, staff and partners as at 30 June 2021, comprising:

- 57 Members (including the President, Deputy Presidents and Division Heads)
- 24 Mediators
- 37 Merit Reviewers
- 193 Medical Assessors
- 158 staff (including the Principal Registrar).



Left to right: Ms Melodi Gorevski, Program Manager; Mr Rushdi Gamielien, Director, Registry & Dispute Services; Ms Christine Baird, Director, Medical Services; Ms Marianne Christmann, Principal Registrar; Ms Christine Fitzgerald, A/Director, Finance & Organisational Performance; Ms Nyomi Gunasekera, Program Manager; Mr Paul Van Klooster, A/Director, Digital Transformation.

Members of the Commission and Partners

Deputy Presidents

The Deputy Presidents are Presidential Members who are appointed by the Minister under the *Personal Injury Commission Act 2020*. They hear appeals against decisions made by Members in the Workers Compensation Division.

See Appendix B for a list of the Commission's Deputy Presidents as at 30 June 2021.

Members

Members are experienced, independent decision-makers who are appointed to resolve disputes. The Commission's membership comprises Presidential Members, Principal Members, Senior Members and General Members. Members have a detailed understanding of the motor accidents and/or the workers compensation jurisdiction.

Members aim to conduct Commission proceedings in a way that is fair to all parties. At each stage, the Member will encourage and assist parties to resolve their dispute by finding a solution that is agreeable to everyone involved. If the parties cannot agree on a solution, the Member will decide the dispute after hearing the submissions of the parties and considering the evidence filed.

Members also sit on Appeal Panels and Review Panels, which determine appeals and reviews of decisions made by Medical Assessors and Merit Reviewers.

See Appendix B for a list of the Commission's Members as at 30 June 2021.



Left to right: Ms Marie Johns, Division Head, Motor Accidents Division; Judge Gerard Phillips, President; Ms Josephine Bamber, Principal Member; Mr Rodney Parsons, Division Head, Workers Compensation Division; Mr Michael Snell, Deputy President; Ms Elizabeth Wood, Deputy President; Mr John Harris, Principal Member; Mr Geoffrey Parker SC, Acting Deputy President.

Merit Reviewers

The Commission's Merit Reviewers are appointed by the President to determine statutory benefits disputes under Schedule 2(1), Merit Review Matters, of the *Motor Accident Injuries Act 2017*.

Some Merit Reviewers also hold a dual appointment as a Member of the Motor Accidents Division.

See Appendix C for a list of the Commission's Merit Reviewers as at 30 June 2021.

Mediators

The Commission's Mediators are appointed by the President to exercise functions in the Workers Compensation Division. They assist parties to resolve work injury damages disputes.

See Appendix D for a list of the Commission's Mediators as at 30 June 2021.

Medical Assessors

Medical Assessors are highly experienced medical and allied health practitioners who are qualified in a range of specialties. They conduct medical assessments to determine certain aspects of a dispute, such as assessing the degree of permanent impairment resulting from an injury. They can also provide decisions about an injured person's medical condition, such as whether an injury is a minor injury, for the provision of medical treatment and their fitness for employment.

Medical Assessors are engaged directly by the Commission and are independent of any party to a dispute. They are appointed to provide independent assessments and do not give clinical advice or provide treatment to the injured person.

Medical Assessors also sit on Medical Appeal Panels and Medical Review Panels. Medical Assessors may be appointed to one or both divisions of the Commission.

See Appendix E for a list of the Commission's Medical Assessors as at 30 June 2021.

“Longevity of public institutions is an important aspect of the necessary trust and confidence that the public must have in how the tribunal goes about its work. Such trust and confidence of the public and indeed the legal profession cannot be simply claimed it must be earned. This is the task that all of the members and medical specialists of the new tribunal are committed to achieving.”

Judge Gerard Phillips, President, Personal Injury Commission – Ceremonial Sitting of the Personal Injury Commission, 1 March 2021

Staff

The staff of the Commission report to the Principal Registrar through five directorates and two support offices, as described below.

Registry and Dispute Services Directorate

The Registry and Dispute Services Directorate is the Commission's largest directorate and is the 'front door' of the Commission. The team:

- Provides front-line services to tribunal users, including claimants, legal representatives and insurers, via the Commission's reception, telephone enquiry line and email enquiry inbox
- Registers applications, processes documents received through digital systems, and triages applications to the appropriate area of the Commission for case management
- Case-manages Motor Accidents Division claims and merit disputes and all Workers Compensation Division disputes
- Supports Members and internal stakeholders throughout the life of proceedings to facilitate the fair, timely and cost-efficient disposition of matters.

Medical Services Directorate

The Medical Services Directorate oversees the Commission's medical disputes and Medical Assessor panel. The team:

- Provides case management services to support the delivery of timely medical decisions in the Motor Accidents Division
- Collaborates with the Registry and Dispute Services Directorate to coordinate with the Workers Compensation Division medical disputes pathway
- Leads the engagement and support of the Commission's Medical Assessors to deliver high-quality medical decisions in both divisions, including as review and appeal panellists
- Provides education, training, performance management and continuous improvement of the Medical Assessor panel to ensure high-quality and robust single medical, Medical Review Panel and Appeal Panel decisions.

Legal and Policy Directorate

The Legal and Policy Directorate is the legal 'core' of the Commission. The team:

- Delivers dispute resolution services, including legal decision-making and conciliation services
- Provides secretariat support to the Commission's Rule Committee and supports Members, Medical Assessors and Merit Reviewers through editorial review and publication services to ensure high-quality published decisions
- Delivers legal advice to the Commission and its directorates as it relates to the Commission's enabling legislation and its operations, and manages relationships with expert external legal advisors
- Delivers legal policy services, including identifying issues, understanding stakeholders, planning, creating options and producing policy outcomes
- Supports training of and knowledge transfer to Medical Assessors, working with the Medical Services Directorate and Division Heads.

Finance and Organisational Performance Directorate

The Finance and Organisational Performance Directorate manages an important and diverse group of whole-of-Commission functions, including finance, organisational performance reporting and business support functions. The team:

- Maintains a robust, accurate and compliant finance function for the Commission and provides accurate financial and organisational performance reporting, internally and externally
- Creates and maintains processes and procedures, identifies continuous improvement opportunities, and oversees compliance functions
- Manages communications, stakeholder engagement, events, and media liaison
- Supports and enables the divisions and directorates of the Commission to achieve their business outcomes.

Digital Transformation Directorate

The Digital Transformation Directorate drives strategic and operational digital and IT outcomes for the Commission. The team:

- Leads the digital transformation strategy for the Commission, including the design, development, and implementation of the new single digital case management platform
- Ensures the stability, performance and data integrity of the Commission's core technology systems and manages governance of all data and system changes
- Provides timely support for end users of the Commission's systems and ensures support requirements are met using appropriate channels and processes
- Collaborates with the Commission's divisions and directorates to ensure service levels, systems and processes meet business needs.

Presidential Unit

The Presidential Unit is a small specialist unit that supports the Commission's Presidential Members. The team conducts legal research, case-manages appeals and other matters, and supports the President in his leadership functions.

Principal Registrar's Office

The Principal Registrar's Office provides executive support functions for the Principal Registrar to enable the effective operations of the Commission as a whole. The team manages liaison with the Minister's Office, the Department of Customer Service and other government agencies, coordinates and prepares stakeholder correspondence, and project-manages Commission-wide projects.

9. The Commission's Operations – Section 66 Requirements

Section 66 of the *Personal Injury Commission Act 2020* prescribes not only the timetable for the provision of this Annual Review but details (sub-section 4) four metrics that must be reported on in the Annual Review:

- a) The number and type of proceedings instituted in each Commission Division during the year
- b) The sources of those proceedings
- c) The number and type of proceedings that were made during the year but not dealt with
- d) The extent to which the operations of the Commission are funded by each operational fund.

This section reports on the above requirements to meet our obligations under the Act while section 10 reports more fully on the Commission's performance in handling dispute applications.

Operational Funds

The Commission resolves dispute applications which are funded from three operational funds:

- a) The Motor Accidents Operational Fund (the SIRA Fund) under the *Motor Accident Injuries Act 2017*
- b) The Motor Accidents Operational Fund under the *Motor Accidents Compensation Act 1999*
- c) The Workers Compensation Operational Fund under the *Workplace Injury Management and Workers Compensation Act 1998*.

The *Motor Accidents Compensation Act 1999* scheme is in its run-off stage, and over the next 18 months to two years cases from this scheme are expected to cease.

The Commission must demonstrate how much of its operations are funded by each operational fund. This is because, under the enabling legislation, money from these funds can be used only for a fund purpose.

Cost Distribution Methodology

The Commission has developed a cost distribution methodology which drives funding allocation and cost distribution to meet its reporting obligations under s 66(4)(d). The methodology has been subject to external actuarial review and found to be reasonable by Ernst & Young, who are the NSW scheme actuaries.

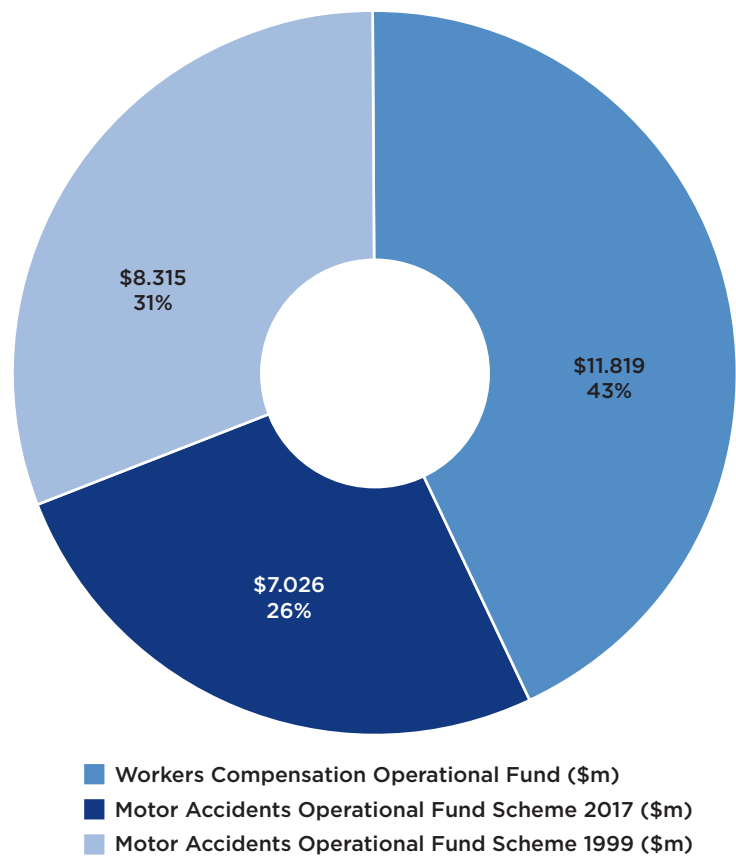
With rises and falls in filing across the schemes and pandemic-induced delays, the contribution is a changeable figure depending upon the point in time it is observed. However, the formula under which the methodology is based is a reasonable and appropriate means of calculating each scheme's contribution.

Wherever possible, when an expenditure is incurred it is accounted for in either a Workers Compensation or Motor Accident scheme cost centre. Other shared costs are isolated in general cost centres and distributed between the three schemes, based on the proportion of matters finalised within each.

Contributions by Operational Fund

In the four months from 1 March to 30 June 2021, 43% (\$11.819m) of the total cost (\$27.160m) was attributed to the Workers Compensation Operational Fund (WCOF), 31% (\$8.315m) to the Motor Accidents Operational Fund Scheme 1999 (MAOF Scheme 1999), and 26% (\$7.026m) to the Motor Accidents Operational Fund Scheme 2017 (MAOF Scheme 2017).

Cost Distribution



Details of the operating expenses and income related to each operational fund are shown below. It is important to note that these figures may not be indicative of an entire year’s financial performance as they incorporate one-off establishment costs, some costs carried forward from our legacy institutions, and other variations in a new reporting entity.

Operating Expenses and Income Related to Each Operational Fund

Personal Injury Commission	From 1 March 2021	WCOF	MAOF Scheme 2017	MAOF Scheme 1999
Expenses	\$'000	\$'000	\$'000	\$'000
Personnel services				
Salaries and allowances ¹	10,020	4,330	2,606	3,084
Other ²	417	209	95	113
Total personnel services	10,437	4,539	2,701	3,197
Other operating expenses				
Accommodation expenses	864	406	210	248
Payments to service partners ³	9,092	4,204	2,239	2,649
Software expenses ⁴	2,057	326	793	938
Other miscellaneous expenses ⁵	4,710	2,344	1,083	1,283
Total other operating expenses	16,723	7,280	4,325	5,118
Total expenditure⁶	27,160	11,819	7,026	8,315
Income				
Contributions (MAOF Scheme 2017)	7,026	–	7,026	–
Contributions (MAOF Scheme 1999)	8,315	–	–	8,315
Contributions (WCOF)	11,819	11,819	–	–
Total income	27,160	11,819	7,026	8,315
Net result	–	–	–	–

Notes

1. The Commission transitioned personnel from Dispute Resolution Services and the Workers Compensation Commission into its organisational structure on 1 March 2021. The motor accident operational funds contributed more towards personnel services than the Workers Compensation Operational Fund as higher numbers of staff were required to manage the motor accidents portfolio. This is a true reflection of the personnel engaged in activities for their respective funds.
2. 'Other personnel services' are contractor expenses.
3. Payments to service partners comprise those to Sessional Members, Medical Assessors, Mediators and Sessional Merit Reviewers.
4. The case management systems and supporting software packages originally owned by Dispute Resolution Services and the Workers Compensation Commission were transferred to the Commission on 1 March 2021 and will remain in place until the Commission implements its new single digital platform in 2022/23. The Dispute Resolution Services system is relatively new and complex and has higher software expenses to support its multifunctional capabilities than the Workers Compensation Commission system, which has lower operating costs.
5. 'Other miscellaneous expenses' represent other operating expenses incurred, including one-off establishment costs.
6. The Commission assumed the outstanding liabilities of the preceding entities (Dispute Resolution Services \$0.3m and Workers Compensation Commission \$2.4m). Most of these liabilities were settled in this financial year, impacting each expense line item reported. This, combined with the costs incurred to establish the Commission (\$2.6m), has resulted in a high cost base.

Section 66(4)(a), (b) and (c) Reporting Obligations

The following tables summarise the number and type of proceedings instituted in each Division during the year, the number and type of proceedings that were made during the year but not dealt with (in-progress), and the sources of those proceedings.

Motor Accident Proceedings FY2020/2021			
Legislation	Jurisdiction	Instituted	In Progress
1999 MACA	Medical Assessment Service	360	1,691
1999 MACA	Claims Assessment & Resolution Service	148	1,547
1999 MACA	Total	508	3,238
2017 MAIA	Medical	1,121	2,517
2017 MAIA	Merit Review	111	208
2017 MAIA	Claims Assessment	733	962
2017 MAIA	Misc. Claims Assessment	100	155
2017 MAIA	Total	2,065	3,842
Total		2,573	7,080

Workers Compensation Proceedings FY2020/2021

Application type	Instituted	In Progress
Application to Resolve a Dispute (Form 2)	1,762	1,403
Application for Expedited Assessment (Form 1)	81	19
Workplace Injury Management Dispute (Form 6)	6	1
Application for Assessment of Costs (Form 15)	1	4
Registration of Commutation (Form 5A)	10	5
Application for Mediation (Form 11C)	627	205
Application to Cure a Defective Pre-filing Statement (Form 11B)	2	4
Application for Assessment by a Medical Assessor (Form 7)	52	46
Arbitral Appeal (Form 9)	22	35
Medical Appeal (Form 10)	120	108
Total	2,683	1,830

The Source of Proceedings by Division

Source of proceedings	Workers Compensation	Motor Accidents
Legally represented claimant	98.05%	83%
Unrepresented claimant	0.34%	4%
Insurer	1.61%	13%

10. The Commission's Performance

How Performance is Reported

The Commission's performance data reflects its performance in its first four months of operation, from its establishment on 1 March 2021 to 30 June 2021.

Data is presented for the Commission as a whole and for its two distinct operation areas, the Motor Accidents Division, which resolves motor accidents disputes, and the Workers Compensation Division, which resolves workers compensation disputes.

When it commenced operations, the Commission inherited the in-progress caseloads of Dispute Resolution Services and the Workers Compensation Commission. As such, the Commission's Motor Accidents Division began operating with 6,680 applications on hand and the Workers Compensation Division began operating with 2,015 applications on hand.

The Commission began receiving new dispute applications on 1 March 2021.

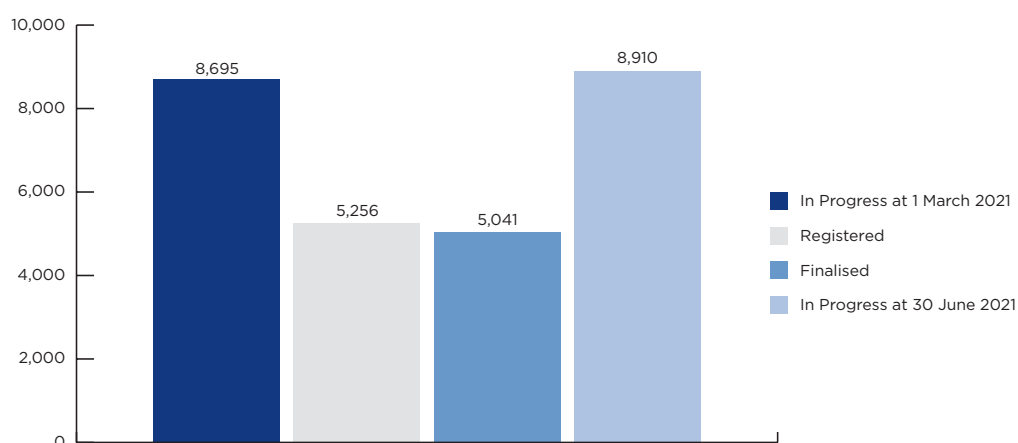
The performance data reflects the Commission's management of both the legacy applications and those received since 1 March 2021.

Dispute Applications Registered, Finalised, and In Progress

The Commission as a whole:

- Commenced operations on 1 March 2021 with 8,695 in-progress dispute applications from the legacy organisations
- Registered 5,256 dispute applications
- Finalised 5,041 dispute applications
- Had 8,910 in-progress dispute applications on hand at 30 June 2021.

Dispute Applications Registered, Finalised and In Progress



Finalisations kept pace with dispute applications registered from 1 March 2021.

In the Motor Accidents Division, finalisation timeframes were impacted by the inherited backlogs and the pandemic. Overall, 65% of dispute applications were resolved within 12 months.

In the Workers Compensation Division, the Commission maintained strong performance in relation to the timely resolution of workers compensation disputes. Decisions made by Members and assessments made by Medical Assessors proved to be durable, with low revocation rates. Overall, 98% of dispute applications were resolved within 12 months.

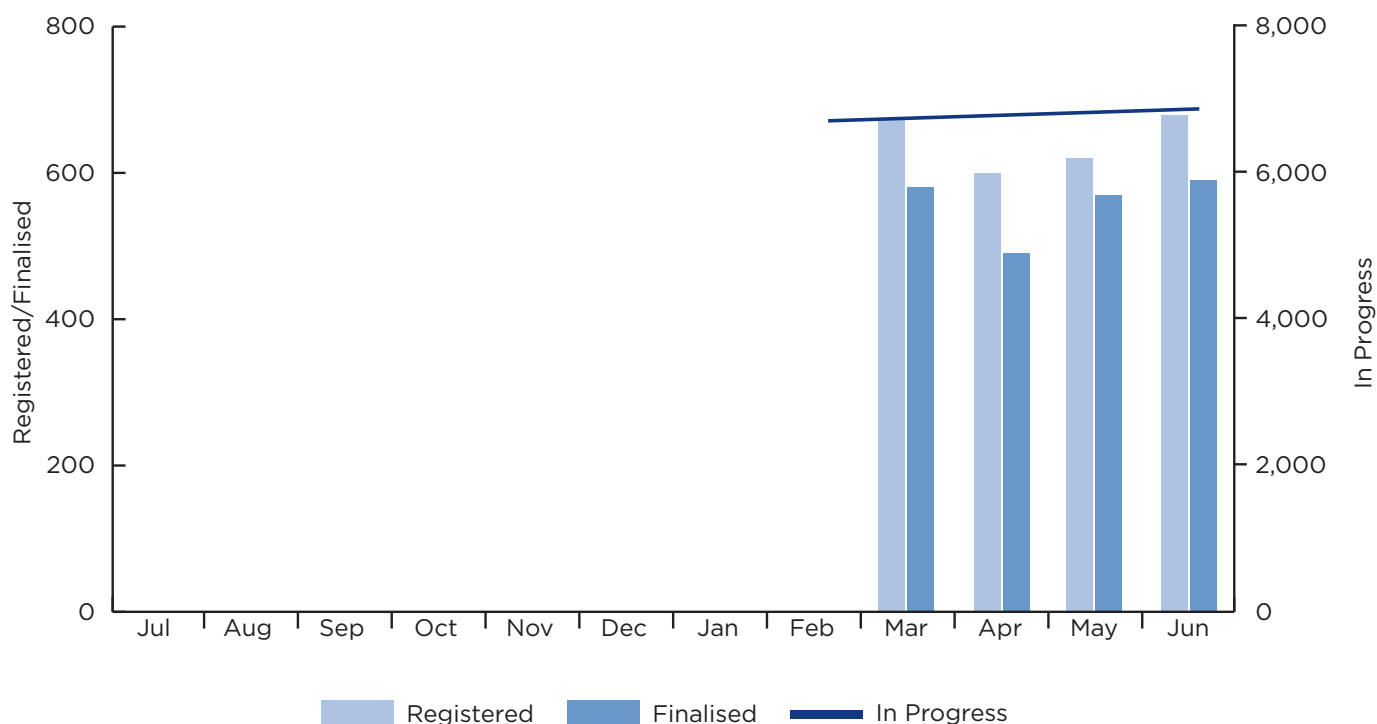
Motor Accidents Division

In the Motor Accidents Division, the majority of disputes registered related to claims under the *Motor Accident Injuries Act 2017* (80%). Disputes registered in relation to claims under the *Motor Accidents Compensation Act 1999* continue to decline and now only account for 20% of all dispute registrations.

Registrations and finalisations both increased. Finalisations were less than registrations by almost 16%. The volume of in-progress disputes increased, and as at 30 June 2021 there were 7,080 motor accident disputes in-progress, as shown below.

Motor Accidents Dispute Applications – 4 months 2020/2021				
Legislation	Jurisdiction	Registered	Finalised	In Progress
1999 MACA	Medical Assessment Service	360	703	1,691
1999 MACA	Claim Assessment & Resolution Service	148	439	1,547
1999 MACA	Total	508	1,142	3,238
2017 MAIA	Medical	1,121	688	2,517
2017 MAIA	Merit Review	111	77	208
2017 MAIA	Claims Assessment	733	218	962
2017 MAIA	Misc. Claims Assessment	100	48	155
2017 MAIA	Total	2,065	1,031	3,842
Total		2,573	2,173	7,080

Dispute Applications Registered, Finalised and In Progress (Month-on-Month Performance)



Workers Compensation Division

Most of the workers compensation dispute applications registered in the Commission are Applications to Resolve a Dispute (Form 2).

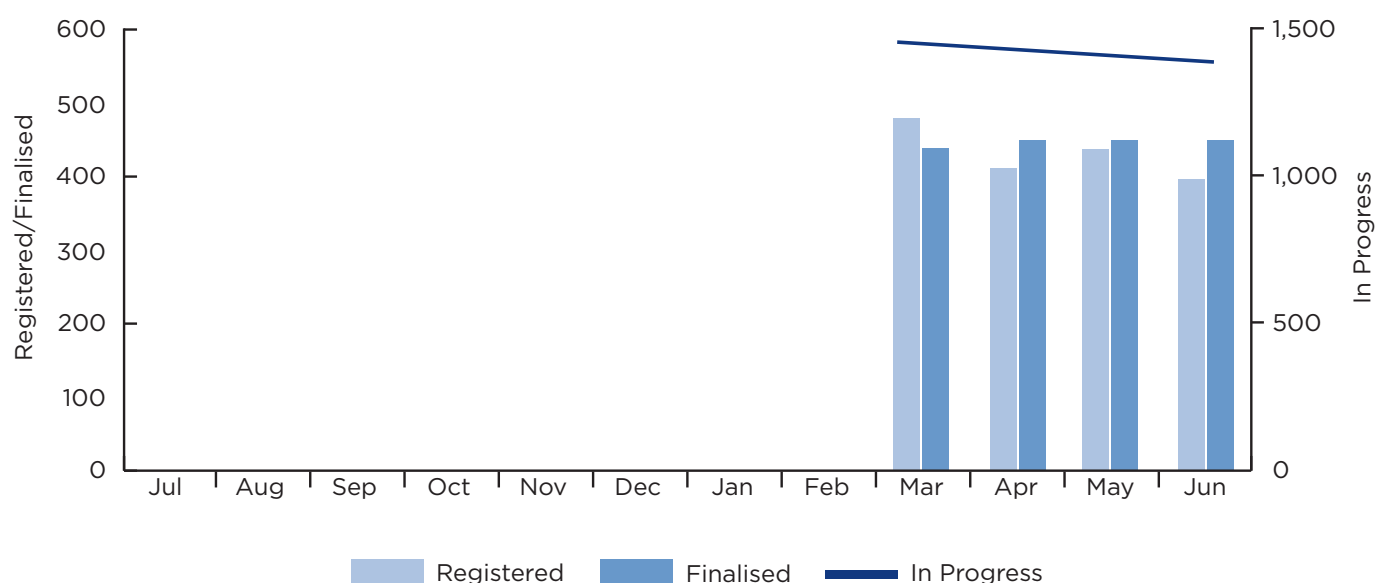
An average of 441 Form 2 dispute applications were registered per month, and an average of 467 were finalised per month.

Workers Compensation Dispute Applications – 4 months 2020/2021

Application type	Registered	Finalised	In Progress
Application to Resolve a Dispute (Form 2)	1,762	1,866	1,403
Application for Expedited Assessment (Form 1)	81	82	19
Workplace Injury Management Dispute (Form 6)	6	8	1
Application for Assessment of Costs (Form 15)	1	4	4
Registration of Commutation (Form 5A)	10	10	5
Application for Mediation (Form 11C)	627	667	205
Application to Cure a Defective Pre-filing Statement (Form 11B)	2	2	4
Application for Assessment by a Medical Assessor (Form 7)	52	77	46
Arbitral Appeal (Form 9)	22	18	35
Medical Appeal (Form 10)	120	134	108
Total	2,683	2,868	1,830

Month-on-month performance for Application to Resolve a Dispute (Form 2) processing is shown in the figure below. As at 1 March 2021, there were 1,507 in-progress Form 2 dispute applications on hand, and as at 30 June 2021 there were 1,403.

Form 2 Dispute Applications Registered, Finalised and In Progress (Month-on-Month Performance)



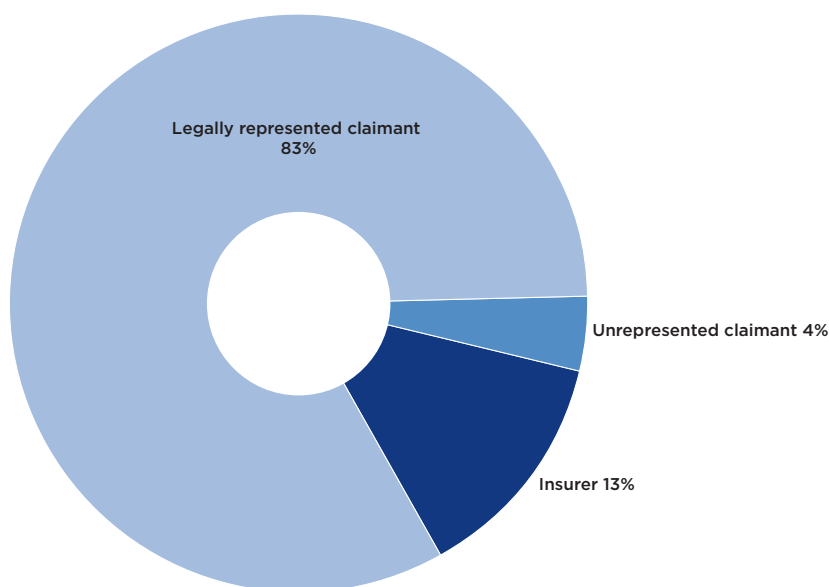
Source of Dispute Application Registrations

The Commission receives dispute application registrations from a combination of legally represented motor accidents claimants and workers, unrepresented claimants and workers, and insurers.

The sources of registrations by operational division are detailed below.

Source of Applications in Motor Accidents Division and Workers Compensation Division

Source of Applications – Motor Accidents



Source of Applications – Workers Compensation



In the Motor Accidents Division, 83% of dispute applications were registered by claimant legal representatives. Unrepresented claimants registered 4% of applications, and insurers registered 13% of applications; 36% of applications for panel review of a single medical assessment were registered by insurers.

In the Workers Compensation Division, 98% of dispute applications were registered by legal representatives of injured workers. Unrepresented workers accounted for less than 1% of applications. The remaining 1.6% of applications were registered by insurers. Arbitral appeals and medical appeals had higher percentages of applications registered by the insurers, at 24% and 28% respectively.

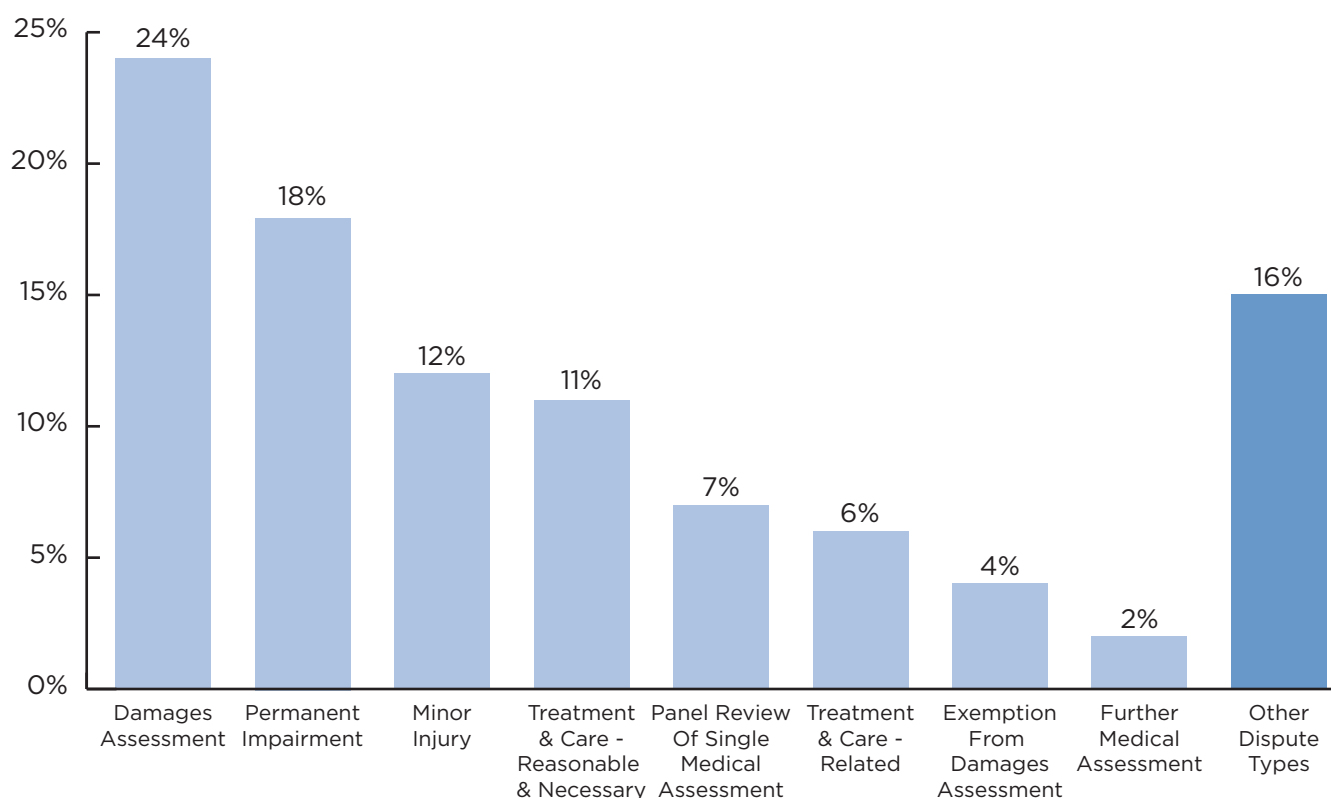
Dispute Application Types and Outcomes

Motor Accidents Division

Medical disputes across the two schemes account for about 58% of all motor accident disputes registered, with disputes about permanent impairment, minor injury, and treatment and care being the most common.

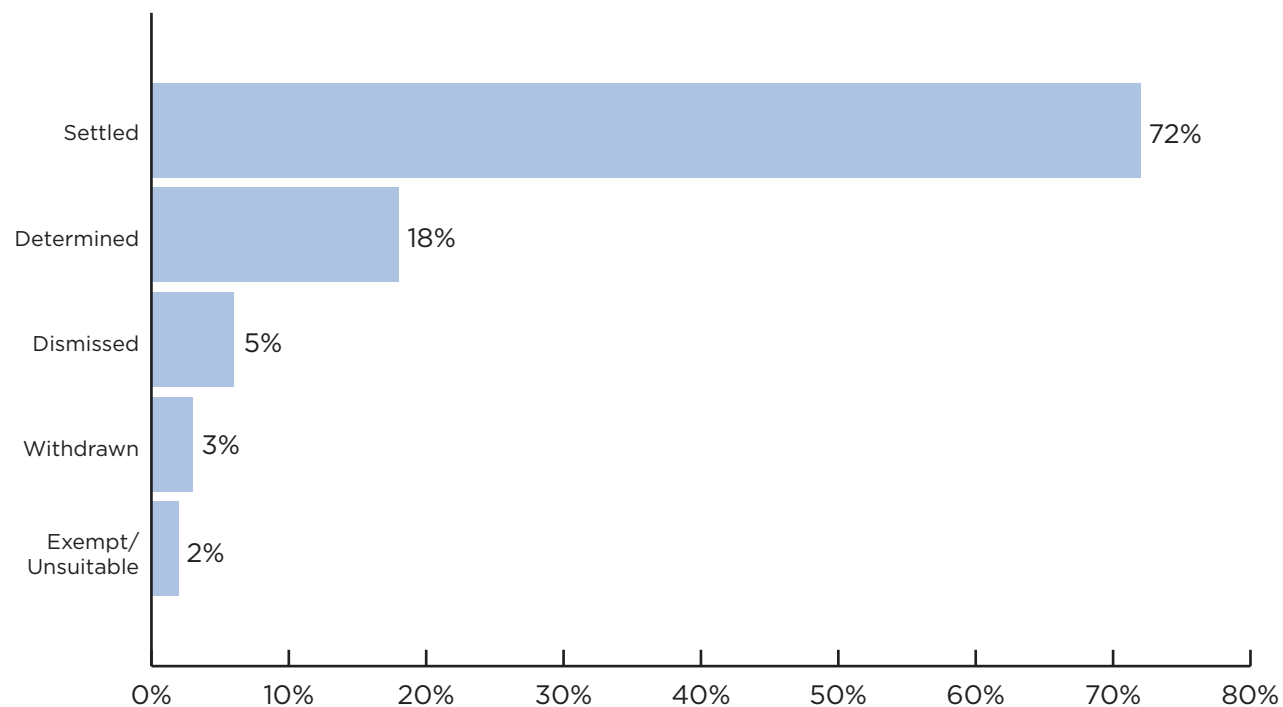
Damages assessments were the most commonly registered dispute type, making up 24% of all disputes registered.

Dispute Types Lodged



Many damages assessments were resolved prior to a decision being made. Of the damages assessments finalised, 72% were settled by the parties and 18% were determined.

Damages Assessment Outcomes



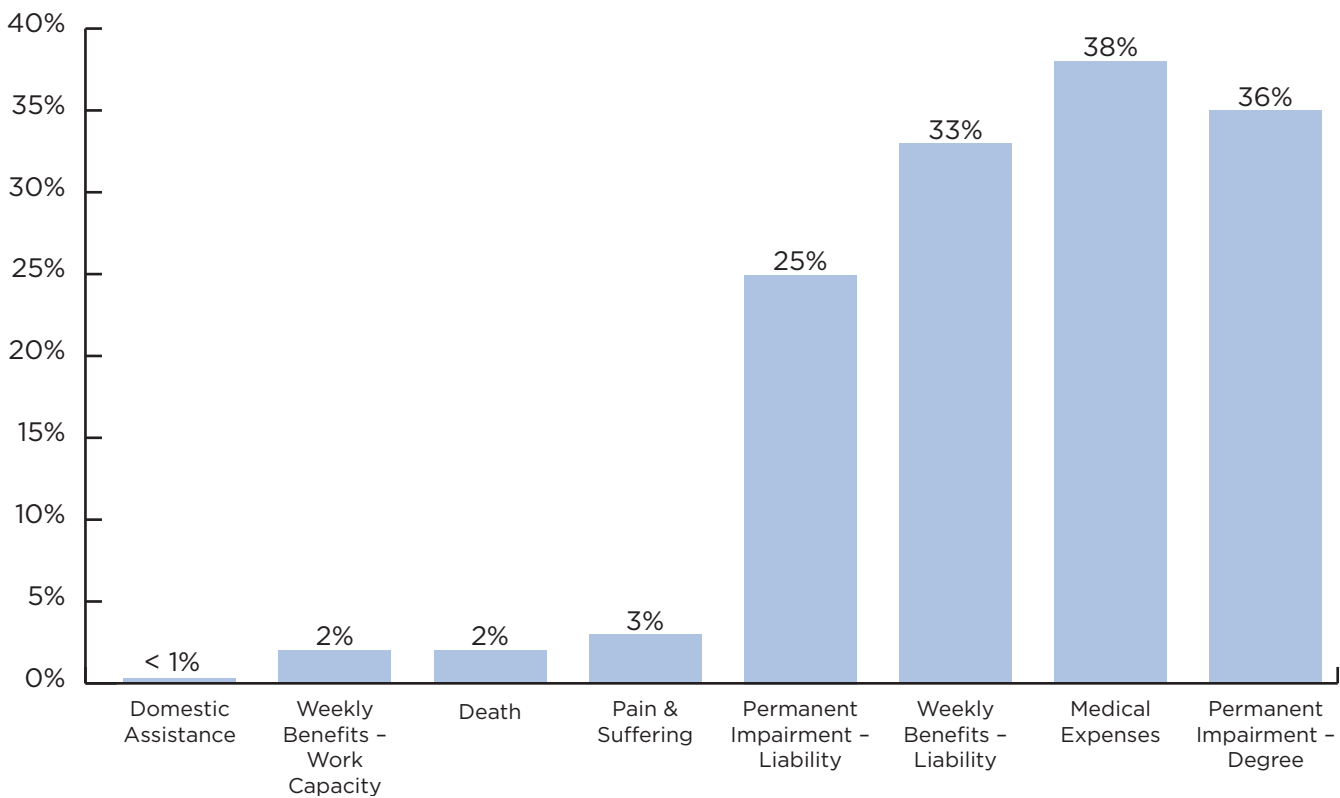
Workers Compensation Division

Most of the workers compensation dispute applications registered in the Commission are Applications to Resolve a Dispute (Form 2).

Most Form 2 dispute applications involve claims for more than one type of compensation benefit.

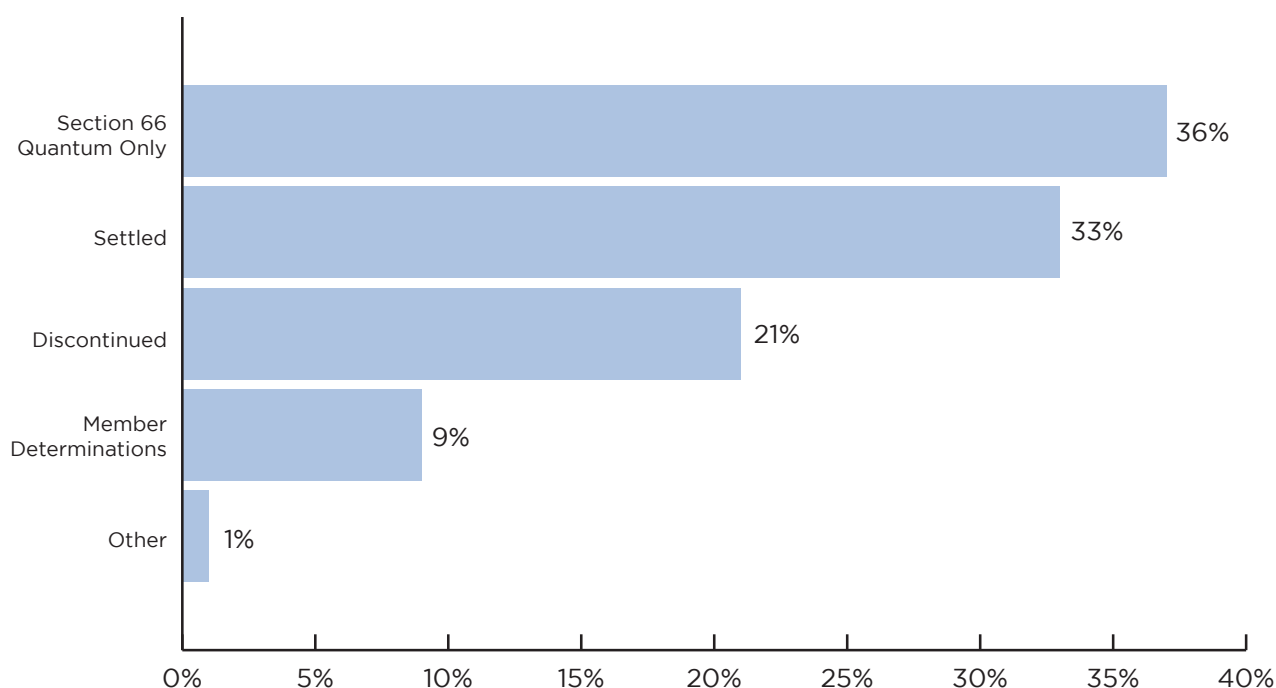
Weekly payments compensation, medical and related expenses compensation and permanent impairment compensation make up most of the disputed compensation types.

Form 2 – Compensation in Dispute 2020/2021



Disputes limited to the degree of permanent impairment (quantum only) made up 36% of all resolutions for Form 2 dispute applications. Settlements accounted for 33% of all resolutions. Members were only required to determine 9% of disputes finalised.

Form 2 Outcomes



The Commission also plays a significant role in resolving work injury damages claims through pre-trial case management and mediation services.

A total of 627 Applications for Mediation to Resolve a Work Injury Damages Claim (Form 11C) were registered by the Commission.

Mediation conferences were held in 587 matters, of which 429 (73%) were settled.

Appeals

Motor Accidents Division

Medical Reviews

There were:

- 1,136 reviewable Medical Certificates issued
- 204 Applications for Panel Review of single medical assessment made
- 92 Applications for Panel Review of single medical assessment finalised.

Judicial Review of Decisions

From 1 March 2021 to 30 June 2021, 10 applications for judicial review of motor accident decisions were registered in the Supreme Court of New South Wales.

In the same period, eight applications for judicial review of motor accident decisions were finalised, of which:

- Three applications were dismissed
- Four applications set aside the original decision, and
- One application was discontinued.

As at 30 June 2021 there were 29 applications for judicial review pending determination.

Workers Compensation Division

Member Appeals

A total of 22 Applications to Appeal Against a Decision of a Member (Form 9) were registered, and Presidential Members determined 17 appeals.

Overall, 4% of appellable decisions by Members were revoked on appeal.

Medical Appeals

There were:

- 912 appellable Medical Assessment Certificates issued
- 120 Applications to Appeal Against Decision of Approved Medical Specialist (Form 10) registered
- 134 medical appeals finalised.

Judicial Review of Registrar and Medical Appeal Panel Decisions

Ten applications for judicial review of workers compensation decisions were registered in the Supreme Court of New South Wales. Of those matters, nine were against the decisions of Medical Appeal Panels and one was against a decision of a delegate of the Registrar of the Workers Compensation Commission.

In the same period seven applications for judicial review of workers compensation decisions were finalised, of which:

- Three appeals were dismissed
- One decision set aside the original decision, and
- Three decisions were quashed and remitted for redetermination.

Appeals to the Court of Appeal from Presidential Decisions

The Court of Appeal disposed of one appeal against a Presidential decision by upholding the decision of the Presidential Member.

Time Taken to Resolve Disputes

The Commission aims to resolve disputes as quickly, efficiently and cost-effectively as possible. As a whole, the Commission took on average 199 days to resolve a dispute application. In the Motor Accidents Division, 65% of dispute applications were resolved within 12 months. In the Workers Compensation Division, 98% of dispute applications were resolved within 12 months.

Motor Accidents Division

Timeliness	2020/2021 - 4 months
% of Dispute Applications resolved within:	
3 months	14%
6 months	30%
9 months	49%
12 months	65%
Average days to resolution for Dispute Applications	326

Workers Compensation Division

Timeliness	2020/2021 - 4 months
% of Dispute Applications resolved (no appeal) within	
3 months	56%
6 months	90%
9 months	97%
12 months	98%
Average days to resolution for Dispute Applications with no appeal	102

Timeliness	2020/2021 - 4 months
% of Dispute Applications resolved (with appeal) within:	
3 months	57%
6 months	83%
9 months	92%
12 months	96%
Average days to resolution for Dispute Applications with an appeal	122

Durability	2020/2021 - 4 months
% of determined Dispute Applications revoked on appeal ¹	4%
% of Medical Assessment Certificates revoked on appeal ²	6%

1. This measure represents the number of Member decisions revoked, expressed as a percentage of the total number of appellable non-Presidential Member decisions (i.e. excluding s 66 determinations).

2. This measure represents the number of Medical Assessment Certificates revoked by a Medical Appeal Panel expressed as a percentage of the total number of Medical Assessment Certificates issued.

11. The Commission's Place in Dispute Resolution History

The Annual Review of the Workers Compensation Commission, published in the midst of the horrendous plague year, 2020, contained an item appropriately entitled "A Memoir of the First Workers Compensation Commission" by the Honourable J. L. O'Meally AM RFD, a former judge of the original Workers Compensation Commission and its successor, the Compensation Court, and, ultimately, President of the Dust Diseases Tribunal. His Honour provided a lively recollection of some of the numerous personalities that enlivened the work of the original Commission and, subsequently, the Court.

Since that Annual Review there has been a relatively seamless transition to the Personal Injury Commission. That transition was achieved in the teeth of the most severe restrictions on social and business interaction imposed since houses were nailed up during the Black Death in the 14th century. The ability of the Commission to keep in place a successful dispute resolution service is largely due to the willingness of all concerned to make use of technology which would have been undreamed of not only in 1926 when the first Commission was established but as late as 2002, at the time of the more recent iteration of the Commission.

The current work of the Workers Compensation Division of the Personal Injury Commission makes use of sophisticated videoconferencing platforms that provide a strong contrast to the practice of dispute resolution at the time when I was admitted as a practitioner just over 50 years ago.

The President of the Personal Injury Commission has invited me to build upon Judge O'Meally's memoir by reflecting upon the practice of personal injury litigation as it was at the time of my admission in 1971. Certainly, consideration of

the way in which law was practised in NSW at that time highlights the progress that has been made in dispute resolution since that time.

In order to qualify for practice as a solicitor at that time you had to enter into Articles of Clerkship, a written agreement which provided that your Master Solicitor would provide training in the practice of law provided that you did not disclose the secrets of the firm nor steal the stamps. That agreement was solemnly entered into in the presence of the Prothonotary of the Supreme Court, who delivered a brief homily which included a reference to not stealing the stamps.

Once Articles of Clerkship were successfully completed, you had completed your degree or the Solicitors Admission Board course, and had retained your good character, you became entitled to be admitted as an Attorney, Solicitor and Proctor of the Supreme Court of New South Wales "with all rights and privileges thereunto belonging or appertaining".

As an Articled Clerk I learned that solicitors' offices were closed for Bank Holiday, since the trust account rules provided that cash received on behalf of a client had to be banked forthwith to the trust account, which could not occur if the bank was shut. Cheques were the main form of financial transaction. Stamp duty requirements could be satisfied by purchasing adhesive duty stamps and affixing them to the document. It is my recollection that you had to place your initials or write your name across the duty stamp so that it could not be reused.

In the late 1960s and early 1970s the legal profession was still largely a male domain. Elizabeth Evatt was appointed as Chief Justice of the Family Court of Australia when it commenced in 1976, but it would not be until 1980 that Jane

Matthews was appointed to the District Court as the first female judge in New South Wales.

The University of Sydney had only recently removed the requirement that a student's matriculation should include the study of Latin. Although legal practice was liberally sprinkled with Latin phrases, the lack of study of the language was no impediment to practice because the Latin phrases so freely made use of in the legal system bore little relationship to the language of Julius Caesar or Marcus Tullius Cicero. For instance, in order to have the sheriff eject a trespasser, you would apply to the Supreme Court for a 'writ of ha fa' (pronounced 'hay fay', short for *habiri facias possessionem*). This was not to be confused with a 'writ of fi fa' (*fieri facias*), which directed the sheriff to seize the goods of a judgment debtor for sale in satisfaction of the judgment. These writs would be abolished in 1972, together with the prerogative writs – *habeus corpus*, *mandamus*, *prohibition* and *certiorari* – which were replaced by a process of judicial review.

At the centre of legal practice in those days were books. The Law Library in the old, old Law School in Phillip Street, Sydney (the predecessor to the law school in King Street), occupied a space extending over two floors, the upper level having the floor removed. Access to the higher shelves was obtained by metal circular stairways that opened onto catwalks allowing access at various heights.

Every legal office contained bound collections of statutes, digests and textbooks. The pace of change was more leisurely at that time. The first edition of Mills' *Workers Compensation (New South Wales)* appeared as a bound volume in 1969 and the second edition a decade later, again in the form of a bound volume. Loose-leaf services still lay in the future.

The 'Digests' occupied an entire wall to themselves. If the bound statutes and law reports constituted our database, the Digests constituted our search engine.

Every conceivable topic was listed alphabetically in a series of volumes with the appropriate statutory and case references. There followed a further series of volumes, 'Australian Case Citator Monthly', which collected the monthly supplements. The Digests appeared to have vanished at some stage in 2012.¹

Among the red bindings of the New South Wales statutes, the green bindings of the Commonwealth statutes and Halsbury's 'Laws of England (Australian Supplement)', there would be a tattered copy of Bullen and Leake's *Precedents of Pleading* (third edition, 1868), without which common law litigation could not be conducted, because the state of New South Wales had continued to rely on the 'forms of action' of common-law pleading, which had been abolished in England in 1875.

The ponderous system of pleading at that time depended upon identification of the correct cause of action which was required to be pleaded with the appropriate form of words. In a claim for damages for injury suffered in a motor vehicle accident, the plaintiff would allege words to the effect of the following:

The defendant so carelessly, negligently and unskilfully drove, managed and conducted his motor-vehicle upon a public street that the same was driven and forced against the plaintiff and the plaintiff was thereby thrown to the ground and was injured and suffered great pain of body and mind and was otherwise greatly damnified.²

¹ The Digests still appear in the Thomson Reuters catalogue with the notation 'Price on Application'.

² A separate document, 'Particulars', was also filed which identified the actual time and place of the accident, the identity of the vehicle and the injuries sustained.

Action was commenced by way of a Writ, which commanded the defendant, in the name of the Sovereign, to file an Appearance. The defendant having appeared in the proceedings, the plaintiff filed a Declaration, to which the defendant entered a Plea.³

The pleadings could then continue by way of a rejoinder, surrejoinder, rebutter and surrebutter. Equity was a separate jurisdiction and had separate, different procedures. Escheat of felony deprived an injured plaintiff of their common-law rights if they⁴ were convicted of a felony.

Clearly, it was something of a relief to conduct a matter in the Workers Compensation Commission, which required only the completion of a simple Application for Determination, in answer to which the respondent would file an Answer in the prescribed form. Compared to the complexity of the common-law system, proceedings in the Commission were relatively straightforward, although not always so. My first venture into the workers compensation jurisdiction involved an appearance on behalf of the Master in Lunacy for the State of Victoria on behalf of a disabled worker who had, in 1948, been awarded payments of 10 shillings per week for his lifetime. The application by the insurer was to terminate the award. My instructions from the Master in Lunacy were to consent to the award as it would then allow the worker to receive statutory benefits available to him under Victorian and Commonwealth law.

³ Pleas were limited to the appropriate form. A denial of negligence was effected by pleading the 'general issue' – 'not guilty'. A plea in 'confession and avoidance' accepted the claim as alleged but denied liability at law. A claim of debt was answered by a plea of *non indebitatus* – the denial that the defendant was indebted as alleged. In contract you could plead *non assumpsit* – a denial that the defendant had contracted in the manner claimed. An assertion that the claim was bad in law was made by way of a separate document called a 'Demurrer'.

⁴ I have deliberately used the singular 'they' in place of 'his or her'. This would have been unthinkable 50 years ago. The profession has been able to cope with the transition from 'thee' and 'thou' to the singular 'you', which occurred more than 200 years ago and is now managing to accept this usage of 'they' and 'their'.

As I walked down Macquarie Street to the Commission, I practised what I had to say. When the matter was reached in the call over, I rose to my feet and delivered my lines: "May it please Your Honour. My name is Dalley. I appear for the Master in Lunacy for the State of Victoria in the interests of ... the disabled worker. I consent to the application."

"No you don't!" replied his Honour. "This man has not had an increase in 22 years. I will adjourn the matter part heard to Melbourne to investigate his entitlements."

Thus it was that I succeeded in losing my first case in a jurisdiction that was to become a major part of my life in the years to come.

It was a time when more prosperous firms were starting to introduce photocopying machines. The cheaper ones employed photosensitive paper so that the image faded after a prolonged period of exposure to light. However, for the most part, carbon paper was employed to make multiple copies. The sixth copy was frequently illegible. Paper came in various sizes, ranging from double foolscap to octavo. Octavo was appropriate for terse notes to opponents: "We refer to our letter of the 17th ultimo⁵ and await the courtesy of your reply" or "We have your letter of the 23rd instant⁶ and will seek instructions and reply in due course". Quarto was used for more informative correspondence, and foolscap, appropriately folded, for the majority of court documents. Certain documents, including the summary of the pleadings filed with the 'Praeceptum for Trial' in the Supreme Court, involved the use of double foolscap, requiring each office to have at least one typewriter with an extended carriage.

It was also a time when it seemed that everybody smoked. Each practitioner's desk would have at least one ashtray and we worked in a cloud of cigarette smoke. It was not uncommon for local courts to have ashtrays on the bar table so that practitioners could stub out their cigarettes when the time came for the Magistrate to come onto the bench. In the Nowra Court of Petty Sessions one day, I recall a local practitioner appearing for the first time.

⁵ i.e. last month

⁶ i.e. this month

He was a solicitor who had practised for many years in conveyancing and probate on behalf of the squattocracy of the Shoalhaven. For the first time in his career, he had been prevailed upon to appear on behalf of a dairy farmer charged with driving above the prescribed concentration of alcohol.

The Magistrate came onto the bench and immediately observed that there was an unexpected appearance at the bar table. “Ah, Mr W---, how nice to see you. How can I assist you?” “Well, Your Worship,⁷ I represent Mr ----- on a charge of drink-driving. He is going to plead guilty.”

“Very good”, said the Magistrate. “Matter number ----. What are the facts, Sergeant?” The police prosecutor consulted his papers and observed that the dairy farmer had been stopped at a random breath test and had returned a reading of .09. He had been driving for some 30 years and had not come under notice in that time. “Section 556A,⁸ Mr W----?” asked the Magistrate. The solicitor gazed at the Magistrate in total incomprehension. “It means there is no conviction – you can’t do any better”, explained the magistrate. “Very good, very good!” muttered the solicitor and sank into his seat. His relief at having completed his first matter was palpable. He then reached into his coat pocket, took out his cigarettes and a lighter and lit up. The Magistrate smiled gently and said, “We don’t actually do that while the court is sitting, Mr W---”.

Security in those days was far less of an issue than it is today. At some stage the glass carafes of water that used to grace the bar table were replaced by plastic ones in order to minimise the risk of injury, should a participant in the proceedings be tempted to throw one. It was quite usual for the Magistrate, police prosecutor, solicitors and counsel to have morning tea together in country courts.

⁷ Stipendiary Magistrates (as they were then known) had a joke. When a member of the profession mistakenly addressed them as “Your Honour” they would say; “You mustn’t honour me. You worship me.”

⁸ The forerunner of Section 10 of the *Crimes (Sentencing Procedure) Act 1999*

It was considered appropriate and polite (after informing your opponent) to see the presiding Judge or Magistrate in chambers prior to commencement of the sitting day to pay your respects if you had not appeared before that particular bench previously.

Makita v Sprowles had not yet been decided and the courts tended to accept opinion evidence from any witness who appeared to know what they were talking about. There was no requirement to file and serve expert reports prior to the hearing. The family law jurisdiction resided in the Divorce Division of the Supreme Court. Although petitions for dissolution of marriage in the Divorce Division of the Supreme Court were usually undefended, the court would carefully scrutinise the evidence of the marital offence to ensure that the ground relied on was made out. This often took the form of the evidence of a private detective who, with the petitioner spouse, had detected the respondent and correspondent *in flagrante delicto*⁹ and who produced photographic evidence.

We employed a private investigator, Mr Abrahams, a former detective sergeant. In this case photography had failed and so it was necessary to rely on the oral evidence of the investigator himself. Mr Abrahams gave evidence: “I observed the respondent and the co-respondent to enter a motor vehicle at ----- in Wollstonecraft. I followed them to the parking area at Ball’s Head Reserve where adultery occurred.”

“Oh, Mr Abrahams!” said Mr Justice Toose. “That is your opinion as to what occurred. You have to tell the court what you observed that led you to that conclusion.”

“Well, Your Honour, I observed that the vehicle travelled to the parking lot at Ball’s Head Reserve. The vehicle stopped and the lights were extinguished. After a short time I observed the aerial of the vehicle to go like this [the witness raised his right arm and moved it backwards and forwards]. When you have been in this game as long as I have, you know when you see the aerial going like that, adultery is occurring.”

⁹ As it was then known. In the context of the Divorce Division it meant “having it off”.

“Very well”, said His Honour, “on that basis I accept that the witness is an expert in this field and I am satisfied that the ground has been made out. I pronounce a decree nisi for the dissolution of the marriage.”

On 1 July 1972 the *Supreme Court Act 1970* commenced, bringing with it the fusion of law and equity, the creation of the six divisions of the Supreme Court, and the abolition of the forms of action and common-law pleading with the introduction of narrative pleading. After that the common-law world would never be the same again. It was rather like the contemporaneous passing of steam from NSW Railways – not as much excitement but considerably simpler and more efficient.

The practice of the Workers Compensation Commission continued as it had before. Section 38(f) appropriately permitted the Commission to “make rules for the purpose of –

- i) enabling persons to take or defend, or be a party to, proceedings before the Commission as poor persons”.

In the days before the introduction of legal aid, destitute litigants could proceed at common law *in forma pauperis* – a procedure which resulted in the payment of a minuscule fee to the solicitor, the amount of which had remained unaltered for decades. Since the successful litigant recovered their costs, this option was seldom resorted to. Those costs were fixed by the Rules of Court (or the Commission), which fixed the amount that could be charged for attendances, correspondence (per folio), brief to counsel and drafting (per folio). In the Commission, if the matter was adjourned to another day with an order for ‘costs of the day’, counsel were entitled to charge the sum of \$31 for their attendance on that day.

Perhaps the most significant difference between the procedure of the Workers Compensation Commission of 50 years ago and the procedure of the Workers Compensation Division of the Personal Injury Commission today is the mandatory use of alternative dispute resolution.

Trial by ordeal¹⁰ had generally fallen into disuse by the 15th century, and trial by battle had been abolished by a statute of the English parliament in February 1819.¹¹ Other methods of dispute resolution, such as mediation or conciliation, were optional and seldom used. Pre-trial negotiation was the preferred model as an alternative to litigation.

Section 39(b) of the *Workers’ Compensation Act 1926* did provide that the Commission should “make all reasonable efforts to conciliate and bring parties to agreement where dispute has arisen concerning compensation claims of injured workers”, and the Registrar was appointed to act as conciliator. However, I cannot recall any instance where conciliation took place in a dispute between a worker and the insurer.

Looking back over the past 50 years, it is apparent that the practice of dispute resolution was still firmly rooted in the 19th century at the beginning of that period. The intervening years have seen enormous changes which have simplified and improved the practice of law and the mechanisms of dispute resolution. At the commencement of the period, it was not unusual for proceedings in the Supreme Court to take more than five years from issue of the writ to hearing. The parties were left largely to their own devices and adjournments were easily obtained. Case management has now ensured that the issues are identified at an early stage, the parties are obliged to apply their attention to alternative dispute resolution, and a hearing date is available at a relatively early date. In 50 years, with the aid of technology and simplified procedures, dispute resolution has moved from a system which would have been familiar to a practitioner from the late 19th century firmly into the 21st century. In the light of those changes, it is impossible to predict the position in another 50 years’ time.

Mr William Dalley
Member, Workers Compensation Division

¹⁰ Made mandatory in criminal cases by the Assize of Clarendon in 1166 – ordeals continued to be applied in accusations of witchcraft up to the end of the 16th century in England.

¹¹ The laws of England as they stood at 28 July 1828 became the law of the colony of New South Wales pursuant to Section 24 of the English Statute for the “Administration of Justice in New South Wales and Van Diemens Land” 9 Geo IV c.83.

Appendices

Appendix A – Executive Leadership Team

President

Judge Gerard Phillips

Division Head, Workers Compensation Division

Mr Rodney Parsons

Division Head, Motor Accidents Division

Ms Marie Johns

Principal Registrar

Ms Marianne Christmann

Appendix B – Members

Presidential Members

Deputy Presidents

Mr Michael Snell

Ms Elizabeth Wood

Acting Deputy Presidents

Mr Larry King SC

Mr Geoffrey Parker SC

Principal Members

Ms Josephine Bamber

Mr John Harris

Senior Member

Mr Glenn Capel

General Members

Full-Time

Workers Compensation Division	Motor Accidents Division	Dual appointment
Ms Elizabeth Beilby	Ms Alexander Bolton	Ms Susan McTegg
Mr Cameron Burge	Ms Belinda Cassidy	Mr Terence O'Riain
Ms Kerry Haddock	Mr Raymond Plibersek	
Ms Rachel Homan	Mr Brett Williams	
Mr John Isaksen		

Sessional

Workers Compensation Division	Motor Accidents Division	Dual appointment
Mr Brett Batchelor	Mr Stephen Boyd-Boland	Mr Michael Inglis
Mr William Dalley	Mr Terrence Broomfield	Mr Anthony Scarcella
Mr Marshal Douglas	Ms Maurice Castagnet	Mr Cameron Thompson
Ms Karen Garner	Mr Allan Cowley	Mr Philip Young
Ms Catherine McDonald	Mr Robert Foggo	
Ms Deborah Moore	Mr David Ford	
Ms Jane Peacock	Ms Margaret Holz	
Mr Richard Perrignon	Ms Roohi Koya	
Mr Michael Perry	Mr Christopher Lehmann	
Mr Nicholas Read	Mr Hugh Macken	
Ms Carolyn Rimmer	Ms Elizabeth Medland	
Ms Jacqueline Snell	Ms Bridie Nolan	
Mr Paul Sweeney	Mr Gary Patterson	
Ms Jill Toohey	Ms Shana Radnan	
Mr Michael Wright	Mr Terence Stern	
Mr Christopher Wynyard	Ms Elyse White	

Appendix C – Merit Reviewers

Ms Tajan Baba	Mr Stavros Georgiadis	Mr Raymond Plibersek
Ms Josephine Bamber	Mr John Harris	Ms Shana Radnan
Mr Alexander Bolton	Ms Margaret Holz	Ms Katherine Ruschen
Mr Stephen Boyd-Boland	Mr Michael Inglis	Mr Anthony Scarcella
Ms Michelle Boyle	Ms Roohi Koya	Mr Kriesen Seeneevassen
Ms Rachel Brittliff	Mr Christopher Lehmann	Mr Michael Sofoulis
Mr Terrence Broomfield	Mr Jeremy Lum	Mr Terence Stern
Ms Belinda Cassidy	Mr Hugh Macken	Mr Cameron Thompson
Mr Maurice Castagnet	Ms Susan McTegg	Ms Elyse White
Mr Allan Cowley	Ms Elizabeth Medland	Mr Brett Williams
Mr Nicholas Delfendahl	Ms Bridie Nolan	Mr Philip Young
Mr Robert Foggo	Mr Terence O’Riain	
Mr David Ford	Mr Gary Patterson	

Appendix D – Mediators

Mr Ross Bell	Ms Nina Harding	Mr Garry McIlwaine
Professor Laurence Boulle	Mr John Ireland	Mr Chris Messenger
Mr Jak Callaway	Dr Katherine Johnson	Mr Dennis Nolan
Mr Philip Carr	Dr John Keogh	Ms Philippa O’Dea
Ms Janice Connelly	Ms Bianca Keys	Mr Anthony Scarcella
Ms Geri Ettinger	Mr Stephen Lancken	Ms Jennifer Scott
Mr David Flynn	Ms Margaret McCue	Mr John Tancred
Mr Robert Foggo	Mr John McGruther	Mr John Whelan

Appendix E – Medical Assessors

Medical Assessor	Specialty	Division
Dr Nigel Ackroyd	Cardiology/General Surgery	Motor Accidents and Workers Compensation
Ms Lauren Alach	Occupational Therapy	Motor Accidents
Dr Martin Allan	Psychiatry	Motor Accidents
Dr Stephen Allnutt	Psychiatry	Motor Accidents
Dr Peter Anderson	Psychiatry	Workers Compensation
Dr Tim Anderson	Occupational Medicine	Workers Compensation
Dr Douglas Andrews	Psychiatry	Motor Accidents and Workers Compensation
Dr John Ashwell	Orthopaedic Surgery	Workers Compensation
Dr Mohammed Assem	Rehabilitation Medicine	Motor Accidents and Workers Compensation
Dr John Baker	Psychiatry	Workers Compensation
Dr Leslie Barnsley	Rheumatology	Motor Accidents
Dr Melissa Barrett	Psychiatry	Motor Accidents
Dr Jennifer Batchelor	Neuropsychology	Motor Accidents
Dr John Beer	Orthopaedic Surgery	Workers Compensation
Dr Christopher Bench	Psychiatry	Workers Compensation
Professor Roy Beran	Neurology	Motor Accidents and Workers Compensation
Dr Neil Berry	General Surgery	Motor Accidents and Workers Compensation
Dr Trevor Best	Orthopaedic Surgery	Workers Compensation
Dr Graham Blom	Psychiatry	Workers Compensation
Dr David Bowers	Rehabilitation Medicine	Motor Accidents
Dr James Bodel	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Stephen Richard Buckley	Rehabilitation Medicine	Motor Accidents
Dr Mark Burns	Occupational Medicine	Workers Compensation
Dr Gregory Burrow	Orthopaedic Surgery	Workers Compensation
Professor Ian Cameron	Rehabilitation Medicine	Motor Accidents
Dr Gregory Carr	Rheumatology	Motor Accidents
Professor John Carter	Endocrinology	Motor Accidents and Workers Compensation
Dr Edward Cassidy	Psychiatry	Motor Accidents and Workers Compensation

Medical Assessor	Specialty	Division
Dr Anna Castle-Burton	Occupational Therapy	Motor Accidents and Workers Compensation
Dr Wing Chan	Occupational Medicine	Motor Accidents
Dr Lionel Chang	Plastic and Reconstructive Surgery	Workers Compensation
Dr Robin Chase	Occupational Medicine	Motor Accidents
Ms Fiona Condie	Physiotherapy	Motor Accidents and Workers Compensation
Dr Michael Coroneos	Neurosurgery	Motor Accidents
Dr Michael Couch	Occupational Medicine	Motor Accidents
Dr Richard Crane	General Surgery	Motor Accidents and Workers Compensation
Dr David Crocker	Occupational Medicine	Motor Accidents and Workers Compensation
Dr Paul Curtin	Plastic and Reconstructive Surgery	Motor Accidents and Workers Compensation
Ms Judith Davidson	Occupational Therapy	Motor Accidents
Dr Michael Davies	Neurosurgery	Workers Compensation
Dr Russel Davies	Psychiatry	Motor Accidents and Workers Compensation
Dr Michael Delaney	Ophthalmology	Motor Accidents and Workers Compensation
Dr Anup Desai	Respiratory Medicine	Motor Accidents
Dr Michael Diamond	Psychiatry	Motor Accidents
Dr Uthum Dias	Occupational Medicine	Motor Accidents
Dr Drew Dixon	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr John Dixon-Hughes	General Surgery	Workers Compensation
Dr Paul Fagan	Ear, Nose & Throat, Otolaryngology	Workers Compensation
Dr Sylvester Fernandes	Ear, Nose & Throat, Otolaryngology	Motor Accidents and Workers Compensation
Dr David Fitzgerald	Occupational Medicine	Motor Accidents
Adjunct Professor Robin Fitzsimons	Neurology	Motor Accidents and Workers Compensation
Dr Paul Friend	Psychiatry	Motor Accidents
Dr Atsumi Fukui	Psychiatry	Motor Accidents
Dr John Garvey	General Surgery	Motor Accidents and Workers Compensation
Dr Eugene Gehr	Orthopaedic Surgery	Motor Accidents

Medical Assessor	Specialty	Division
Dr Anna Castle-Burton	Occupational Therapy	Motor Accidents and Workers Compensation
Dr Robert Gertler	Psychiatry	Motor Accidents
Dr Peter Giblin	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Margaret Gibson	Occupational Medicine	Motor Accidents and Workers Compensation
Dr John Giles	Plastic and Reconstructive Surgery	Motor Accidents and Workers Compensation
Dr Michael Gliksman	Occupational Medicine	Motor Accidents and Workers Compensation
Professor Nicholas Glozier	Psychiatry	Motor Accidents and Workers Compensation
Dr David Gorman	General Medicine	Motor Accidents and Workers Compensation
Associate Professor Christopher Grainge	Respiratory Medicine	Motor Accidents
Dr Rhys Gray	Orthopaedic Surgery	Motor Accidents
Dr Graham Gumley	Orthopaedic Surgery	Motor Accidents
Dr Richard William Haber	Cardiology	Motor Accidents and Workers Compensation
Dr Peter Haertsch	Plastic and Reconstructive Surgery	Motor Accidents
Dr Ian Hamann	Dermatology	Motor Accidents and Workers Compensation
Dr Christopher Harrington	Orthopaedic Surgery	Motor Accidents
Dr Henley Harrison	Ear, Nose and Throat, Otolaryngology	Workers Compensation
Dr Philippa Harvey-Sutton	Occupational Medicine	Motor Accidents and Workers Compensation
Dr Jonathan Herald	Orthopaedic Surgery	Motor Accidents
Dr Mark Herman	Cardiology	Motor Accidents and Workers Compensation
Dr Roland Hicks	Orthopaedic Surgery	Workers Compensation
Dr Yiu-Key Ho	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Adeline Hodgkinson	Rehabilitation Medicine	Motor Accidents
Dr Claire Hollo	Occupational Medicine	Motor Accidents
Dr Alan Home	Occupational Medicine	Motor Accidents and Workers Compensation

Medical Assessor	Specialty	Division
Dr Michael Li Hong	Psychiatry	Motor Accidents and Workers Compensation
Associate Professor Nigel Hope	Orthopaedic Surgery	Workers Compensation
Dr Kenneth Howison	Ear, Nose and Throat, Otolaryngology	Workers Compensation
Ms Diana Hurst	Occupational Therapy	Motor Accidents
Dr Murray Hyde Page	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Robert Ivers	Orthopaedic Surgery	Workers Compensation
Dr Louis Izzo	Urology/Gynaecology	Motor Accidents
Dr Matthew Jones	Psychiatry	Motor Accidents
Dr Mark Jones	Sports and Exercise Medicine	Workers Compensation
Dr Gregory Kaufman	Respiratory Medicine	Workers Compensation
Dr John Kasinathan	Psychiatry	Motor Accidents
Dr Clive Kenna	Musculoskeletal Medicine	Motor Accidents
Dr Sikander Khan	General Surgery	Motor Accidents
Dr Edward Korbel	Urology/Gynaecology	Motor Accidents and Workers Compensation
Dr John Korber	Diagnostic Radiology	Motor Accidents
Dr Thomas Kossmann	Orthopaedic Surgery	Motor Accidents
Dr Damodaran Prem Kumar	General Surgery	Motor Accidents and Workers Compensation
Dr Rob Kuru	Orthopaedic Surgery	Workers Compensation
Dr Pauline Langeluddecke	Neuropsychology	Motor Accidents
Dr Sophia Lahz	Rehabilitation Medicine	Workers Compensation
Mr Andrew Leaver	Physiotherapy	Motor Accidents
Dr Robert Lewington	Rehabilitation Medicine	Workers Compensation
Dr Samuel Lim	Psychiatry	Motor Accidents
Dr Monica Ling	Rehabilitation Medicine	Motor Accidents
Dr Michael Long	Rehabilitation Medicine	Motor Accidents and Workers Compensation
Dr Jane Lonie	Neuropsychology	Motor Accidents
Dr Frank George Machart	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Wayne Mason	Psychiatry	Motor Accidents and Workers Compensation
Dr Tommasino Mastroianni	Occupational Medicine	Workers Compensation

Medical Assessor	Specialty	Division
Dr Andrew McClure	Psychiatry	Motor Accidents and Workers Compensation
Dr Michael John McGlynn	Plastic and Reconstructive Surgery	Motor Accidents and Workers Compensation
Dr David McGrath	Occupational Medicine	Motor Accidents and Workers Compensation
Dr Gregory McGroder	Occupational Medicine	Workers Compensation
Dr John D. McKee	General Surgery	Motor Accidents and Workers Compensation
Dr Ian Meakin	Orthopaedic Surgery	Motor Accidents and Workers Compensation
Dr Allan Meares	Plastic and Reconstructive Surgery	Workers Compensation
Dr Ross Solomon Mellick	Neurology	Workers Compensation
Dr Nigel Menogue	Musculoskeletal Medicine	Motor Accidents
Dr Geoffrey Miller	General Surgery	Motor Accidents
Dr Shane Moloney	Musculoskeletal Medicine	Motor Accidents
Dr Patrick John Morris	Psychiatry	Workers Compensation
Dr Paul Myers	General Surgery	Motor Accidents
Dr Jonathan Negus	Orthopaedic Surgery	Workers Compensation
Dr Thomas Newlyn	Psychiatry	Motor Accidents
Dr Bradley Ng	Psychiatry	Workers Compensation
Dr Paul Niall	Ear, Nose and Throat, Otolaryngology	Workers Compensation
Dr Paul Nichols	Dentistry	Motor Accidents
Dr Brian Noll	Orthopaedic Surgery	Workers Compensation
Dr Chris Oates	Occupational Medicine	Motor Accidents and Workers Compensation
Dr John Hugh O'Neill	Neurology	Motor Accidents and Workers Compensation
Dr William O'Reilly	Dentistry	Motor Accidents
Dr Robin O'Toole	Occupational Medicine	Workers Compensation
Dr Shannon Paisley	Psychiatry	Motor Accidents
Dr Enrico Parmegiani	Psychiatry	Motor Accidents
Dr Julian Parmegiani	Psychiatry	Workers Compensation
Dr Brian Parsonage	Psychiatry	Motor Accidents and Workers Compensation

Medical Assessor	Specialty	Division
Dr Robert James Payten	Ear, Nose and Throat, Otolaryngology	Motor Accidents and Workers Compensation
Dr Sam Perla	Musculoskeletal Medicine	Motor Accidents
Dr Roger Pillemer	Orthopaedic Surgery	Workers Compensation
Dr Sally Preston	Rheumatology	Motor Accidents
Dr Michael Prior	Psychiatry	Motor Accidents
Dr Thandavan B. Raj	Ear, Nose and Throat, Otolaryngology	Workers Compensation
Associate Professor Trudy Rebbeck	Physiotherapy	Motor Accidents
Dr Anne-Marie Rees	Psychiatry	Motor Accidents and Workers Compensation
Dr Loretta Reiter	Rheumatology	Workers Compensation
Dr Sharon Reutens	Psychiatry	Motor Accidents
Dr Christopher Rikard-Bell	Psychiatry	Motor Accidents
Dr Samson Roberts	Psychiatry	Motor Accidents and Workers Compensation
Associate Professor Michael Robertson	Psychiatry	Motor Accidents and Workers Compensation
Dr Michael J. Rochford	Urology	Motor Accidents and Workers Compensation
Dr Tania Rogers	Occupational Medicine	Motor Accidents
Dr David Rosen	Neurology	Motor Accidents
Dr Tom Rosenthal	Occupational Medicine	Motor Accidents and Workers Compensation
Dr Doron Samuell	Psychiatry	Motor Accidents
Dr John Schmidt	Gynaecology	Motor Accidents
Dr Joseph Scoppa	Ear, Nose and Throat, Otolaryngology	Motor Accidents and Workers Compensation
Dr Mark Scurrah	Psychiatry	Motor Accidents
Dr Farhan Shahzad	Occupational Medicine	Motor Accidents and Workers Compensation
Dr Wasim Shaikh	Psychiatry	Motor Accidents and Workers Compensation
Dr Philip Sharp	General Surgery	Motor Accidents
Dr Tarra Shaw	Psychiatry	Motor Accidents
Ms Belinda Shepherd	Occupational Therapy	Motor Accidents
Dr Alexy Sidorov	Psychiatry	Motor Accidents
Dr Glen Smith	Psychiatry	Motor Accidents

Medical Assessor	Specialty	Division
Dr Michael David Steiner	Ophthalmology	Motor Accidents and Workers Compensation
Dr John Brian Stephen	Orthopaedic Surgery	Workers Compensation
Dr Andrew Stephens	Orthopaedic Surgery	Motor Accidents
Dr John Brian Stephenson	Orthopaedic Surgery	Workers Compensation
Dr Harry Stern	Ophthalmology	Motor Accidents and Workers Compensation
Dr Jeanette Stewart	Neuropsychology	Motor Accidents
Dr Geoffrey Stubbs	Orthopaedic Surgery	Motor Accidents
Dr David Sykes	Dentistry	Motor Accidents
Dr Inglis Howe Synnott	Psychiatry	Motor Accidents
Dr Ash Takyar	Psychiatry	Motor Accidents and Workers Compensation
Dr Bernard Tamba-Lebbie	Orthopaedic Surgery	Motor Accidents
Dr Stephen Thornley	Endocrinology	Motor Accidents
Dr Haydn Till	Neuropsychology	Motor Accidents
Dr Philip Truskett	General Surgery	Motor Accidents and Workers Compensation
Dr Leon Turnbull	Psychiatry	Motor Accidents
Dr Ahamed Veerabangsa	Rehabilitation Medicine	Motor Accidents
Dr Ray Wallace	Orthopaedic Surgery	Motor Accidents
Dr Tai-Tak Wan	Rehabilitation Medicine	Motor Accidents
Mr Michael Ward	Physiotherapy	Motor Accidents
Dr Ian Wechsler	Ophthalmology	Workers Compensation
Dr George Weisz	Orthopaedic Surgery	Workers Compensation
Dr Gregory White	Psychiatry	Motor Accidents and Workers Compensation
Dr Nelukshi Wijetunga	Occupational Medicine	Motor Accidents
Dr Brian Williams	Ear, Nose and Throat, Otolaryngology	Motor Accidents and Workers Compensation
Ms Jennifer Wise	Occupational Therapy	Motor Accidents
Dr James Wong	Orthopaedic Surgery	Motor Accidents
Dr Alexander Woo	Orthopaedic Surgery	Motor Accidents
Associate Professor Sui Kin Cyril Wong	General Surgery	Workers Compensation
Dr Mary Wyatt	Occupational Medicine	Motor Accidents
Mr David Young	Physiotherapy	Motor Accidents
Dr Peter Yu	Occupational Medicine	Motor Accidents

Appendix F – Rule Committee

Chair

Judge Gerard Phillips, President

Membership

Representative	Organisation Represented
Mr Rodney Parsons, Division Head, Workers Compensation	Personal Injury Commission
Ms Marie Johns, Division Head, Motor Accidents	Personal Injury Commission
Ms Carmel Donnelly	State Insurance Regulatory Authority (SIRA)
Ms Natasha Flores	Unions NSW
Ms Elizabeth Greenwood	Ai Group, Australian Federation of Employers and Industries, NSW Business Chamber
Ms Elizabeth Welsh	Council of the NSW Bar Association
Mr Ross Stanton	Council of the NSW Bar Association
Mr Ian Jones	Council of the Law Society of NSW
Mr Shane Butcher	Council of the Law Society of NSW
Adjunct Professor Robin Fitzsimons	Royal Australasian College of Physicians (RACP), The Royal Australian and New Zealand College of Psychiatrists (RANZCP) and The Royal Australasian College of Surgeons (RACS)

Appendix G – Stakeholder Reference Group

Chair

Judge Gerard Phillips, President

Membership

Representative	Organisation Represented
Ms Marianne Christmann, Principal Registrar	Personal Injury Commission
Mr Rodney Parsons, Division Head, Workers Compensation Division	Personal Injury Commission
Ms Marie Johns, Division Head, Motor Accidents Division	Personal Injury Commission
Ms Helen Wall	NSW Bar Association
Mr Timothy Concannon	The Law Society of New South Wales
Mr Leigh Davidson	The Law Society of New South Wales
Mr Stephen Harris	The Law Society of New South Wales
Ms Katherine Toshack	The Law Society of New South Wales
Mr Joshua Dale	Australian Lawyers Alliance
Ms Madeleine Hibberd	Insurance Council of Australia
Ms Mary Maini	icare NSW
Ms Sheri Hayward	Unions NSW
Mr Simon Geraghty	Department of Customer Service (DCS) Government Technology Platforms
Mr Aaron Kim	Department of Customer Service (DCS) Cabinet & Policy
Dr Petrina Casey	State Insurance Regulatory Authority (SIRA) Motor Accidents Insurance Regulation
Mr Darren Parker	State Insurance Regulatory Authority (SIRA) Workers & Home Building Compensation Regulation

Appendix H – CTP Insurer Reference Group

Chair

Ms Marie Johns, Division Head, Motor Accidents Division

Membership

Representative	Organisation Represented
Ms Marianne Christmann, Principal Registrar	Personal Injury Commission
Ms Betty Taleski	Allianz Australia Insurance Ltd
Ms Diana Farah	Carroll & O’Dea Lawyers
Mr Scott Frazer	Enstar Australia
Ms Annette Buterin	icare NSW
Ms Megan McDonald	icare NSW
Ms Madeleine Hibberd	NRMA Insurance
Mr Tom Lunn	Insurance Council of Australia
Mr John Cooper	Moray & Agnew
Mr James Dunwoody	QBE Insurance Group
Mr Darren Chew	Suncorp
Mr Peter Tran	Suncorp
Ms Elizabeth Marinopoulos	Transport Accident Commission (TAC)
Ms Lauren Johnson	Transport Accident Commission (TAC)
Mr Glen Robinson	Youi
Ms Julia Allcock	Youi

Appendix I – Medical Assessor Reference Group

Chair

Ms Marianne Christmann, Principal Registrar

Membership

Representative	Specialty
Dr Neil Berry	General Surgery
Dr Mark Burns	Occupational Medicine
Professor Ian Cameron	Rehabilitation Medicine
Dr Michael Couch	Occupational Medicine
Dr Drew Dixon	Orthopaedic Surgery
Dr John Garvey	General Surgery
Dr Peter Giblin	Orthopaedic Surgery
Dr Margaret Gibson	Occupational Medicine
Professor Nicholas Glozier	Psychiatry
Dr Henley Harrison	Ear, Nose and Throat
Dr Chris Oates	Occupational Medicine
Associate Professor Trudy Rebbeck	Physiotherapy
Dr Julian Parmegiani	Psychiatry
Dr Brian Parsonage	Psychiatry
Dr Nel Wijetunga	Occupational Medicine

Appendix J – Mediator Reference Group

Chair

Mr Rodney Parsons, Division Head, Workers Compensation Division

Membership

Representative	Organisation Represented
Ms Marianne Christmann, Principal Registrar	Personal Injury Commission
Mr Philip Carr, Mediator	Personal Injury Commission
Ms Geri Ettinger, Mediator	Personal Injury Commission
Ms Nina Harding, Mediator	Personal Injury Commission
Ms Bianca Keys, Mediator	Personal Injury Commission
Mr John McGruther, Mediator	Personal Injury Commission
Ms Philippa O'Dea, Mediator	Personal Injury Commission
Ms Jennifer Scott, Mediator	Personal Injury Commission

Personal Injury Commission

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