



icare

**Independent Review of icare governance,  
accountability and culture**

February 2021 – Final Report

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# 1. Executive summary

Insurance and Care NSW (icare) is a NSW government agency established in 2015 which manages over 12 insurance and care schemes within NSW. The schemes include Lifetime Care, Dust Diseases, Care and Sporting Injuries insurance, and each of these has unique governance, accountability and risk profiles due to having different customers, different funding arrangements and scheme reserve capital positions as well as being governed by different NSW legislation. This creates complexity in icare's operations and requires a nuanced approach from icare to govern and manage accountability, risk, compliance and culture effectively.

The Workers Compensation Nominal Insurer (NI) Scheme is the largest scheme and is the subject of this review of governance and accountability; culture has been reviewed for the whole of icare due to the presence and influence of icare's culture beyond the NI.

The NI scheme is responsible for the provision of workers compensation services to over 3 million workers and 328,000 employers. These services are provided by icare and its four significant outsourced service providers (scheme agents). The legislation governing NI includes the *Workers Compensation Act 1987*, the *Workplace Injury Management and Workers Compensation Act 1998 No 86*, *Workers Compensation Regulation 2016* and guidelines issued by the State Insurance Regulatory Authority (SIRA).

Having also been established in 2015, SIRA's regulatory guidelines and standards have been evolving and maturing since inception. There is also complexity and some lack of certainty for icare over the regulatory standards that icare must comply with. The NI is exempt from some regulatory requirements applicable to NSW Government agencies and it is not required to comply with APRA standards or guidance, however these standards are a relevant guide to better practice for the schemes and we used and referred to them in our review.

Following ongoing concerns about the compliance and performance of the NI, SIRA commissioned an independent review of the NI which resulted in the Dore Report, released in December 2019.

The findings of the Dore Report, along with significant media and public scrutiny, triggered a range of actions and remediations from both icare and SIRA to drive steady and sustainable improvements in icare's performance and operations, including SIRA's 21-Point Action Plan. Action #9 of the 21-point plan recommended an independent review into the governance, accountability and culture of icare and the agents managing the NI.

icare commissioned PwC on 6 October 2020 to undertake an independent review and this report is the outcome of that review. We completed our fieldwork at the end of January 2021, shortly after the appointment of the new CEO. We expect the new CEO will address the report recommendations on a timely basis.

## 1.1 Progress to date

Our review included input from over 1,200 stakeholders through interviews, focus groups and an icare-wide survey, in addition to a sample review of select documents. The review considered governance and accountability in the NI, and culture across the whole of icare. We identified both strengths and weaknesses which have affected icare's performance over time. We have observed some progress in the ongoing development of governance, accountability and culture, most notably over the past six months. These have included:

- **Executive leadership:** Despite the challenges resulting from turnover of executive positions in 2020, the interim CEO<sup>1</sup> led actions to begin to improve the relationship with SIRA and the management of risk. Examples include the appointment of a new Chief Risk Officer (CRO), and re-appointment of the CRO and General Counsel as standing members of Group Executive Team (GET) meetings. icare leadership has taken steps to address issues raised in the Dore Report, such as establishing working groups to target GET attention on key areas.
- **Board leadership:** icare has welcomed three new non-executive directors to the board in 2020, including a new chair, resulting in a significant refresh of board composition. From the middle of 2020, the board has set a more deliberate tone from the top in relation to the importance of risk management and icare's relationship with the regulator. The Governance Committee of the Board was established in August 2020 as an interim Committee established to consider, review and take advice on better practice governance and regulatory engagement. The board has recognised areas of past weakness and is actively working with

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<sup>1</sup> Following the resignation of the CEO in August 2020, an interim CEO was in place from August 2020 to January 2021, when a new, permanent CEO commenced. The new chair commenced in September 2020 and two new directors were appointed in December 2020.

icare management to address these, including improving the detail and nature of reports received from the GET.

- **Processes, policies and procedures:** Improvements have been made to icare's processes, policies and procedures in 2020 to address gaps or immaturities in existing governance. There have also been steps taken to improve risk policies, refresh the risk management framework and risk management statement. There are also changes that are planned or completed and are awaiting operationalisation such as improved complaints policies.
- **Engagement with SIRA:** icare's engagement with SIRA has improved over 2020 with processes put in place to enhance the relationship between the two organisations. Meetings between icare and SIRA boards have occurred to enhance cohesion and build understanding at a leadership level, while operational decisions such as voluntary reporting of significant issues have improved compliance and engagement. Recent sentiment suggests that greater listening to SIRA has occurred, resulting in critical agreements such as how return to work (RTW) is defined.
- **Service provider relationship:** icare has identified weaknesses in service provider contractual arrangements and ways of working with EML, the main claims management service provider for the NI. icare has sought to address these, for example by clarifying roles and responsibilities in the renewed contract and improving the function and nature of this relationship.

## 1.2 Summary findings

While improvements have been made in governance, accountability and culture, significant changes are still required in the NI and the broader organisation. The following is a synthesis of our key findings:

- There is a lack of clarity in the type of organisation icare is seeking to be and the compliance standards it is seeking to achieve. icare is a NSW government agency, however icare and the NI are exempt, in part, from some regulatory obligations that are generally applicable to NSW Government agencies. The board and the GET have expressed their desire to comply with regulatory standards akin to an APRA-type standard, but this has not been reflected as a requirement in icare's policies, processes and procedures.
- A customer vision continues to be at the core of what drives and energises icare; however, the discipline for delivering timely and quality outcomes to customers and listening to the voice of customers has not been appropriately represented in governance processes, and employees have not been fully held to account.
- Accountability, voice, challenge and framework for risk and compliance requires significant improvement and embedding into the organisation. This needs to be supported by appropriate capability and capacity across the three lines of defence (3LoD).
- There is a need to significantly improve the identification, escalation and approach to issues management. This should be supported by adequate policies, procedures and processes as well as organisation-wide training in relation to what an issue is, clear roles and responsibilities, and how resolution will be oversighted and monitored.
- icare's relationship with external stakeholders, in particular SIRA and EML, has not been as constructive as it should be. Deliberate shifts in behaviour over the past six months have started to rebuild these relationships. However, this will require a continued focus on formalising the approach, roles, responsibilities and accountabilities for managing the relationship, communication, supervision and monitoring.
- Accountabilities for decisions, outcomes and performance have not been well-defined or embedded. They will also need to be supported by an appropriate performance and consequence management framework.
- icare's leadership has not invested sufficient time in reflecting, learning and course-correcting. A preoccupation with transformation tasks and speed to deliver rather than outcomes has created a tendency to look forward, without adequate space and time provided to understand lessons learned and apply these to future initiatives.

### icare's culture

icare's culture, like that of any organisation, sits at the heart of both its successes and failures. It is ultimately the way things are done within icare, what is reinforced, seen as acceptable and role modelled, which leads to a positive outcome, or a not-so-positive outcome. At the outset, we acknowledge the contribution many people at icare make each day in doing the right thing for their customers.

As has been documented in the media and previous reviews, the actions and behaviours however, of some have contributed to poorer outcomes and negative perceptions. To this extent, we found no evidence to

suggest the weaknesses in governance and accountability observed throughout this review occurred as a result of malice.

We summarised our observed five cultural traits that exist across icare and the strengths and challenges associated:

### icare's cultural traits

Cultural trait	Strengths	Challenges
<p><b>Commitment to vision:</b></p> <p>Strong commitment and unity around icare's 'vision' as it relates to both focus on customers and the vision of transformative change</p>	<ul style="list-style-type: none"> <li>• Driven by positive intent for customers</li> <li>• Courage and confidence to transform</li> <li>• Resilience in times of adversity</li> </ul>	<ul style="list-style-type: none"> <li>• Speed over process and execution discipline</li> <li>• Tunnel-vision when on a path</li> <li>• Overlook 'hygiene' factors, such as active management of risks and issues</li> </ul>
<p><b>Alignment seeking:</b></p> <p>The value of collaboration and consensus and pride sought from the influence of others</p>	<ul style="list-style-type: none"> <li>• Collaboration and collective problem-solving</li> <li>• Strong task deliverable focus</li> <li>• Generates momentum and engagement</li> </ul>	<ul style="list-style-type: none"> <li>• Decisioning outside formal channels</li> <li>• Consensus-bias</li> <li>• Lack of robust challenge</li> </ul>
<p><b>We are the experts:</b></p> <p>Self-reliance and confidence with a high value placed on expertise and robust design</p>	<ul style="list-style-type: none"> <li>• Confidence and self-reliance</li> <li>• Navigate uncertainty and ambiguity</li> <li>• Pride in leading others</li> </ul>	<ul style="list-style-type: none"> <li>• Over-reach in activity management</li> <li>• Lack of trust</li> <li>• Dismissive of advice</li> <li>• Limits productive working partnerships</li> </ul>
<p><b>In the tribe:</b></p> <p>Tight connections and support for team members exist in icare with an ability to form tight teams across functions</p>	<ul style="list-style-type: none"> <li>• Belonging and loyalty</li> <li>• Tight connections and support for colleagues</li> <li>• Rapid formation of cross-functional teams</li> </ul>	<ul style="list-style-type: none"> <li>• Incongruence in priorities</li> <li>• Lack of uniform identity across icare</li> <li>• Protection of 'patches' and combative behaviours</li> </ul>
	<ul style="list-style-type: none"> <li>• Energises the organisation around sense of achievement</li> <li>• Recognition of strong performance</li> <li>• Provides sense of achievement</li> </ul>	<ul style="list-style-type: none"> <li>• Complacency and ineffective response to risks</li> <li>• Selective reporting and positive spin</li> <li>• Inhibits speak-up, raising concerns and confrontation</li> </ul>

These traits sit at the root of many governance and accountability challenges and drive behaviours that were apparent during our review. Addressing the weaknesses in governance and accountability through structural remediations and the building of new infrastructure will be critical, but so too will be addressing the perceptions, attitudes and cultural norms that affect whether and how that infrastructure is adopted. Importantly, these traits also provide icare with unique strengths which it can leverage to accelerate change in the future - such as a pride in adopting new ideas; collaboration and collective problem solving; and willingness to take on new challenges.

Findings in terms of what is working well, opportunities for improvement and recommendations have been set out in each chapter.

### 1.3 Next steps

To rebuild trust with customers and the community, icare will be judged not by the quality of its plan to respond to this report, but by the sustainable improvements made to customer, performance and risk outcomes.

We have developed a set of detailed recommendations for management and the Board to action or oversee. Implementation of the 76 recommendations without consideration of the root cause behind them nor the desired outcome will fall short of achieving the end goal of sustainable improvement. They are all important in driving maturity in governance, risk and accountability and transforming the culture of the organisation.

In responding to the recommendations, management should:

- determine the set of priorities and align the delivery of these recommendations within the strategic plans and current and proposed initiatives
- develop an action plan to address opportunities for improvement, taking into account the prioritisation and urgency of the recommendation, estimated effort, interdependencies, benefits realisation and any risks that are not being managed effectively and are outside the risk appetite
- assign owners, accountabilities and provide adequate resources and hold people to account on timeframes, milestones, benefits and reporting requirements
- monitor and seek assurance for the implementation of all recommendations to resolution.

## 1.4 Detailed Recommendations

#	Recommendation
<b>Role of the board</b>	
<b>Outcome: A diverse board that actively ensures icare's obligations are met and sets a strong tone from the top through challenge on accountability, performance and culture</b>	
1	The board should continue providing a clear tone from the top on icare's role as a NSW government agency with adherence to the standards expected of such an agency, including by tracking regulatory requirements, requiring management reporting on compliance, and engaging with regulatory bodies to build positive working relations that cascade through icare.
2	The board to: <ul style="list-style-type: none"> <li>• strengthen and refine the board skills matrix including mapping skills and capabilities at the committee level</li> <li>• review the composition of board committees and ensure that there are adequate skills and experience aligned to the remit and purpose of the committee</li> <li>• develop strategies for addressing any ongoing skills gaps, such as through the appointment of external advisers, board development and future succession planning.</li> </ul>
3	Consult further with NSW Treasury to set up a separate risk committee or risk sub-committee to provide adequate focus and time to manage the risk issues facing icare. Once established; review the role and remit of the Governance Committee to ensure clarity.
4	Update the charter for the ARC (or separate Audit and Risk Committees) to include the requirement to form a view on icare's risk culture and to assess the adequacy of icare's risk management framework (both its design and effective implementation).
5	Customer Innovation and Technology Committee (CITC) to increase the time it spends on the voice of the customer and customer outcomes.
6	Enhance management reporting, most notably in the areas of customer outcomes, non-financial risk, root cause analysis, regulator engagement, management of material issues and remediation monitoring, and scheme-based dashboards.
7	Adopt a more rigorous approach to actions arising, including naming accountable persons, setting a time for delivery of actions and ensuring effective monitoring completion.
8	icare board to introduce a regular agenda item at board meetings to receive reports on the regulator relationship and ensure the voice of the regulator is understood and being addressed.
9	Update the board charter to reflect the requirement to regularly report to the NSW Treasurer in accordance with s6(3) of the SICG Act. Governance processes should: <ul style="list-style-type: none"> <li>• consider, at regular intervals, whether it should inform the Treasurer of an issue because it is a material development in icare activities</li> <li>• table correspondence received from the Treasurer requesting information from the board on the activities of icare.</li> </ul>



## Senior leadership oversight

**Outcome: An executive team that governs and leads high performance and customer outcomes, while proactively managing risks and obligations**

- 10 icare GET to set a clear tone from the top on the importance of the role of risk management and the role of SIRA as the regulator, by role-modelling expected behaviours and attitudes.
- 11 GET meetings to be governed by established terms of reference with mapped collective accountabilities to ensure that material decisions are made with appropriate GET oversight.
- 12 Challenge behaviours of making decisions 'outside the room' and ensure GET brings its full capability and diversity of experience to the issues brought before it.
- 13 GET governance to ensure that decisions, risks and issues are discussed and decided at the right levels of the organisation using timely and relevant data and reporting.
- 14 Establish a financial risk management sub-committee and a non-financial risk management sub-committee with all GET members as standing members; committee meetings to be of a length to allow sufficient agenda time to discuss, manage and oversee icare risks and issues.
- 15 Enhance customer outcome reporting provided to GET by incorporating broader leading and lagging metrics on an individual scheme basis to complement NPS reporting.

## Risk management & compliance

**Outcome: A risk aware organisation that consistently makes sound decisions and actively prevents loss or harm to customers or operations**

- 16 Review and update the Risk Management Framework (RMF) to ensure there is a consistent approach to identifying, measuring and monitoring risks that reflects appetite. Consideration should be given to incorporating better practice guidance from other key regulators eg. APRA, ASIC, and ensure the RMF is rolled out and communicated.
- 17 icare to create, strengthen and update risk profiles for each business unit using a bottom-up approach and roll out procedures, controls and other mechanisms to support implementation and operating effectiveness.
- 18 In relation to the Risk Appetite Statement (RAS), review and refine metrics to reflect the key risks, metrics and tolerance levels relevant to a business of icare's nature and complexity, and ensure tolerances reflect the appetite of icare's refreshed board.
- 19 Take action regarding the various financial risks that require improvement via better documentation, oversight and assurance, including medical cost payment, compliance and leakage and the integrity of operating cost allocation between schemes.
- 20 Develop comprehensive compliance registers and implement procedures, controls and other mechanisms to ensure compliance and effective risk mitigation.
- 21 Strengthen the non-financial risk framework and operationalise this through the development and implementation of policies and procedures, leveraging external better practice.
- 22 Further strengthen policies and procedures in relation to conflicts of interest and ensure this has been communicated and effectively implemented.
- 23 Significantly strengthen the reporting of operational risk, compliance risk and conduct risk to enable consistent oversight of emerging risks, thematic control weaknesses, issues identified through internal audit, conduct risk and incident root causes and trends.

24	Update the RMF to reflect the TPP 20-08 attestation process and increase the level of rigour and assurance to support the signing of this.
25	Enhance and roll out education and awareness activities to lift employees' understanding of icare's and individuals' risk and compliance obligations, the management of risk, key operational risk processes, systems and tools, incidents management, and relevant consequences for non-compliance.
26	Establish and implement a Line 1 risk committee to oversee risk and compliance in each business unit.
27	Build the capability and resourcing of Line 1 (including the Assurance and Quality (A&Q) team), by equipping and enabling people with greater risk awareness and an understanding of icare's frameworks, and encourage their use. Review the reporting line of A&Q.
28	Provide sufficient resources for Line 2 to design and communicate the risk management framework to employees to build awareness and understanding of their role in risk.
29	Install the CRO as a permanent, standing member of GET meetings with a direct reporting line to the CEO to ensure the voice of risk is heard.
30	The CRO to be made accountable for management of the regulator relationship.
31	Internal Audit's reporting line to be changed from a dotted to a hard line into the ARC and the ARC Charter to be amended state that Internal Audit has unfettered access to that committee, to support its independence.
32	Internal Audit to strengthen record keeping in relation to investigations commenced due to ICAC referral or other relevant stakeholders. The ARC to improve its oversight of the closure of high rated actions arising from audit reports

### Issue identification, escalation & resolution

#### Outcome: Management and employees are capable, confident and disciplined in identifying, escalating, mitigating and learning from issues, breaches, complaints or wrongdoing

33	Expand the incident management policy to describe the roles, responsibilities and accountabilities for: <ul style="list-style-type: none"> <li>• effective identification and escalation of incidents</li> <li>• the risk assessment and rating of incidents</li> </ul> Also reconsider the roles, responsibilities and reporting of the Regulatory & Affinity Partners (RAP) team in light of the 3LoD principles.
34	Add a risk rating to all incidents in the incident register and take the necessary action required based on the rating and significance of the incident.
35	Improve record-keeping over incidents and ensure appropriate monitoring and oversight over closure.
36	Improve awareness and training of icare employees on the importance of escalating incidents in a timely way. Update the incident management policy to better define both an incident and governance roles, to support effective escalation and response actions including remediation.
37	Extend the incidents management policy to incorporate root causes analyses of material or high rated incidents by Line 2, 3 or an independent reviewer (where relevant) to bring an objective and unbiased approach to identifying root causes.
38	Define and document a remediation framework which sets the guiding principles, roles, responsibilities and accountability for when and how a remediation program should be established and the governance required to oversee remediation activities.
39	Improve Line 1 and Line 2 reporting on incident identification, management and closure and feed into consequence management as appropriate.

40	Establish a significant matter committee to assist with expediting decision-making regarding what should be reported. This should be supported by terms of reference and appropriate composition.
41	Uplift employee awareness of icare's commitment to report significant matters to the regulator SIRA within five days.
42	Improve coordination of complaints management to provide oversight/reduce duplication and ensure learnings from complaints are more routinely sought as feedback loops into design and execution.
43	Update and implement policies and procedures in relation to wrongdoing to enable and better support 'speak-up'. Ensure reporting channels are in place to support the anonymity, safety from potential reprisal and independence of the wrongdoing process. Any changes should be communicated to all staff.
44	Coordinate and report to ARC on the complete set of material grievance and wrongdoing issues to provide oversight and an understanding of systematic themes. Implement a system of feedback to help inform future behaviours and ensure lessons are learned.
45	Ensure that management takes action efficiently and effectively in formal and informal matters of wrongdoing and other complaints and there is effective communication in support of this.

## Scheme agents

### Outcome: Outcomes-focused partnerships with scheme agents based on commerciality, transparency and accountability

46	Strengthen and further embed the outsourcing policy and design the underpinning processes and procedures to fully operationalise and implement the updated policy.
47	Set up the proposed outsourcing committee with standing members of GET members and relevant executives involved in outsourcing, with a terms of reference providing a clear remit which considers the committee's interfaces with other committees and roles and includes the requirement to escalate material issues to the GET and ARC.
48	Review existing key material outsourcing contracts against the revised outsourcing policy requirements and update accordingly.
49	Improve the governance over scheme agent adherence to relevant internal icare policies and ensure that scheme agents are performing to these standards.
50	Review the KPIs used to measure scheme agent performance. Ensure they adequately capture compliance with regulatory requirements and include leading measures as well as lagging measures focused on the injured worker.
51	Identify and map the key obligations, risks and controls related to claims management and how roles and responsibilities are delineated between icare and the scheme agents.
52	Once obligations, risks and controls have been documented: <ul style="list-style-type: none"> <li>document assurance roles and responsibilities in relation to scheme agents across the 3LoD</li> <li>significantly improve assurance activities by the 3 LoD over scheme agents in accordance with a documented framework, supported by procedures, reporting and governance oversight.</li> </ul>
53	GET meetings to receive regular individual scheme agent scorecards to ensure visibility and accountability of scheme performance.

## Prioritisation & decision-making

**Outcome: Prioritisation of investment and execution, guided by disciplines that enable strategic alignment, risk management and learnings to be incorporated**

- 54 Review and update icare's Instrument of Delegations to ensure it considers the materiality of risk in addition to project financials. Examples of this are risk to strategy, brand and reputation risk, operational risk (eg. IT, cybersecurity, delivery) and customer (eg. experience, outcomes, retention).
- 55 Document icare's approach to strategic planning and prioritisation of projects.
- 56 Define and embed multi-dimensional criteria that consider customer outcomes, financial impacts, strategic alignment, risk appetite and alignment to icare's ethical Decision-Making Framework (DMF). This will allow independent evaluation of the feasibility of each project, as well as support trade-off decisions across projects.
- 57 Line 2 to establish a formalised 'risk in change' approach. This should consider the nature and types of change that can affect the risk environment and the need to assess icare's capacity, appetite, impact, complexity, interdependencies and dependencies as it relates as a result of change (including project change).
- 58 Ensure Line 2 risk capability has a continuing presence and is embedded as a standing member of material steering committees and in prioritisation forums.
- 59 Clarify and operationalise accountabilities for risk management within program roles and improve the management and oversight of risk in project decision-making and delivery.
- 60 GET to bring a stronger risk management and governance lens to decision-making on the magnitude and complexity of change across multiple programs of work.
- 61 Further embed the key elements of the Program Management Handbook and ensure key project principles (eg. post implementation reviews, benefits realisations, risk assessment) are adhered to and with sufficient quality/depth or documentation so that lessons can be learned for future projects.

**Accountability**

**Outcome: Clear accountabilities across all levels, enabled by real performance management and consequences**

- 62 Adopt a better practice accountability framework that provides clarity on standards, holds people to account with strict board and GET governance and oversight, cascades accountabilities through the organisation, and effectively applies consequence management. Ensure these accountabilities are documented and communicated and consideration given to leveraging practices and requirements set by other regulators.
- 63 Amend the People and Remuneration Committee's (PRC) charter to include a role to oversee the setting-up of an effective accountability framework for icare complementing a new consequence management framework, and including the cascade of this through the organisation.
- 64 Improve role descriptions of the GET and their teams to ensure that accountabilities for scheme agents, risk and other matters are clearly captured and then cascaded through the organisation. Ensure there is a process of regular review.
- 65 As part of the better practice framework, develop an accountability map for icare as a whole, referencing how accountabilities come together from individual schemes to ensure there are no gaps or overlaps.
- 66 Define and document a consequence management policy and/or approach that considers other levers besides financial consequences.

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| 67 | Continue to reinforce balancing of performance measurement with reward through increased risk assessment monitoring, guidance over the inclusion of customer and risk metrics in individual performance goals, and enhanced leadership capability in managing performance. |
| 68 | icare to implement a regime imposing individual accountability on the CEO, CRO and GET executives to engage with SIRA in an open, constructive and cooperative way.  |
| 69 | Develop a formal stakeholder accountability framework and develop and communicate to employees clear expectations on how icare must engage with its stakeholders in a positive, open and constructive way.   |

## Culture

### **Outcome: A culture whereby perceptions, attitudes and behaviours of icare staff reinforce the importance of governance, risk and accountability**

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| 70 | icare should translate its strategic priorities into cultural aspirations and make them tangible for individuals across the organisation.   |
| 71 | Create a greater understanding of the expectations for all icare employees with respect to governance and accountability and align these to processes, policies and tools set around incident management, issue management and risk management. This supplements recommendations made in Chapter 5. Risk management & compliance, Chapter 6. Issues identification, escalation & resolution, and Chapter 9. Accountability. |
| 72 | Build and promote further learning and feedback mechanisms and both project and team levels both formally and informally. This supplements recommendations made in Chapter 6. Issues identification, escalation & resolution.   |
| 73 | Build leadership (GET, Chiefs and SLT) capability around effective risk, governance and accountability practices, but also in how they role model and communicate change to their teams as a collective. This supplements recommendations made in Chapter 4. Senior leadership oversight, and Chapter 5. Risk management & compliance.  |
| 74 | Enhance its performance management system, with particular focus on clarifying individual expectations so as they can overcome the diffusion of responsibility and hold people to account. In doing so, icare should confirm the KPIs, scorecards, charters, accountability frameworks and cascade that exist to support this. This supplements recommendations made in Chapter 9. Accountability.                          |
| 75 | Identify and embed the critical few behaviours it needs to drive effective governance and accountability practices. The may include behaviours associated with constructive challenge, speaking up and safety in doing so, listening to other areas of expertise, learning and responding, but also to further embed collaborative partnering.  |
| 76 | Implement a robust behavioural measurement framework that enables monitoring of behavioural change to drive governance, accountability and performance outcomes. This supplements recommendations made in Chapter 9. Accountability.  |

# 2. About this report

## 2.1 Background to this report

The New South Wales Government established Insurance and Care NSW (icare) under the *State Insurance and Care Governance Act 2015* (NSW) (SICG Act). The SICG Act also established the State Insurance Regulatory Authority (SIRA) and SafeWork NSW. The second reading speech in relation to the SICG Act references the creation of the three separate organisations and the intention of “supporting injured workers to recover and return to work, providing proper assistance to workers with the highest needs, and making sure that any changes to benefits will not compromise the financial sustainability of the scheme.”<sup>2</sup>

It is important that icare demonstrate it is working to meet the highest standards of integrity, transparency and governance as a NSW government agency. The SICG Act established icare as a “NSW government agency” and it is therefore subject to a range of public agency legislative obligations including, for example, the *Government Information (Public Access) Act 2009* and the *Government Sector Finance Act 2018*. However, some regulatory provisions that apply to NSW government agencies do not apply to icare (such as the *Government Sector Employment Act 2013* in relation to the employment of icare staff) and the Nominal insurer is also exempt from some NSW government agency regulatory requirements.

icare is governed by an independent board of directors who are appointed by the NSW Treasurer.

icare’s strategy states that its purpose is to “protect, insure and care for the people, businesses and assets that make NSW great”. icare delivers a broad range of insurance and care services to the people and businesses of NSW, including operating the following schemes and insurance services:

- Acting for the Nominal Insurer in accordance with s154C of the Workers Compensation Act
- Lifetime Care
- Dust Diseases Care
- Sporting Injuries insurance
- Building Insurers’ Guarantee Corporation.
- Motor Accident Injuries Treatment and Care Benefits Fund (MAITCBF)
- Self-insurance by NSW of the following schemes:
  - NSW Treasury Managed Fund
  - Construction Risks Insurance Fund
  - Transport Accidents Compensation Fund
  - Pre-Managed Fund Reserve
  - Governmental Workers Compensation Account
  - Residual Workers Compensation Liabilities of the Crown
  - Bush Fire Fighters Compensation Fund
  - Emergency and Rescue Workers Compensation Fund
  - Supplementary Sporting Injuries Fund
  - Home Building Compensation Fund (HBCF).

The Nominal Insurer (NI) scheme is the largest of the schemes managed by icare and, like all schemes, has its own regulatory obligations. The NI scheme specifically must comply with the requirements of the *Workers Compensation Act 1987*, the *Workplace Injury Management and Workers Compensation Act 1998 No 86*, *Workers Compensation Regulation 2016* and guidelines issued by SIRA. There are detailed provisions in the legislation relating to the management of claims and entitlements of injured workers. We considered these legislative requirements in our review. The Dore Report described the NSW workers compensation NI scheme

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<sup>2</sup> State Insurance and Care Governance Bill 2015, second reading speech, the Hon. Dominic Perrottet MP, August 2015

as Australia's largest defined benefit scheme. In FY20 the NI scheme collected \$2.8B from 328,000 businesses to insure 3 million workers.

## SIRA

SIRA was established by the SICG Act in 2015 to be the regulator of icare in relation to a number of its schemes and other relevant self insured entities. SIRA's purpose is:

- to promote the efficiency and viability of the insurance and compensation schemes for workers compensation, motor accidents, the scheme under the *Home Building Act 1989* and other relevant acts
- to minimise the cost to the community of workplace injuries and injuries arising from motor accidents and to minimise the risks associated with such injuries
- to promote workplace injury prevention, effective injury management and return to work measures and programs
- to ensure persons injured in the workplace or in motor accidents have access to treatment that will assist with their recovery
- to provide for the effective supervision of claims handling and disputes under the workers compensation and motor accidents legislation and the *Home Building Act 1989*
- to promote compliance with the workers compensation and motor accidents legislation and the *Home Building Act 1989*.

## icare's regulatory framework

There is complexity and some lack of certainty for icare over the regulatory standards that icare must comply with.

Each of the insurance and care schemes managed by icare is unique and governed by different NSW legislation. icare was itself created by an Act of NSW Parliament (the SICG Act) and is a NSW government agency, but is exempt from some of the requirements generally applicable to NSW public agencies around certain recruitment and employment matters. The Nominal Insurer is also exempt from other requirements, such as NSW public sector procurement rules.

While SIRA has published a range of guidelines that icare must comply with, including matters such as premiums, claims management and complaints, they relate only to the schemes managed by SIRA and not all schemes operated by icare.

Although icare is operating large insurance operations at scale, it is not an APRA regulated entity and consequently is not required to comply with APRA prudential standards applicable to Australian private insurers. The NSW Treasurer is vested with the power to create prudential standards or reporting and auditing requirements for icare's scheme funds under the SICG Act. To date, prudential standards have not been issued.

NSW Treasury has issued risk guidelines for icare to follow as a NSW government agency (TPP 20-18) and they require icare to establish a risk management system consistent with ISO 31000:2018. This international standard is broad in nature and does not provide the level of guidance or specificity relevant to a complex insurance organisation.

## The Dore Report

In February 2019, SIRA commissioned an independent review of the Nominal Insurer of the NSW workers compensation scheme, led by Janet Dore. icare acts on behalf of the nominal insurer. The review arose as a result of SIRA's ongoing concerns over the operation and performance of the NI scheme. The terms of reference for the Dore Report were to:

- assess NI compliance with SIRA's Market Practice and Premiums Guidelines and identify any unintended consequences, risks and priorities for improvement in SIRA regulation of the premiums of the NI
- identify the benefits and risks to the performance of the NSW workers compensation system arising from icare's implementation changes to the NI operating model and supporting digital platforms
- assess the NI's performance in relation to return to work outcomes, claims management (including guidance, support and services for workers, employers and health service providers), customer experience and data quality and reporting.

The Dore Report was released in December 2019 and identified "significant deterioration in the performance of the NI, through poorer return to work rates, underwriting losses, no competition and therefore concentration of risk".

icare's initial response to the Dore Report supported 11 of the report's 13 recommendations (recommendations #4 and #12 were considered not matters for icare but required action by SIRA and the NSW Government).

SIRA released a 21-point plan in response to the Dore Report to provide a foundation for a fact-based and steady improvement in icare's operations. Action #9 of the 21-point plan recommended icare to commission an independent review into the governance, accountability and culture in the icare team and agents managing the NI.

## 2.2 Independent review by PwC

Following SIRA's Action #9 recommendation, icare commissioned PwC on 6 October 2020 to undertake an independent review of icare's governance, accountability and culture.

PwC conducted this review using a range of information sources set out in more detail below. The review was conducted in the four-month period from October 2020 to February 2021.

## 2.3 What this review covered

In accordance with the Standard Form of Agreement between PwC and icare dated 06 October 2020, our review covered:

- the assessment and identification of gaps in governance, accountability and culture including senior leadership oversight, through quantitative and qualitative measurement
- the development of findings for icare to address the observed gaps in culture, governance and accountability.

The following matters were out of scope for the review:

- assessment of the culture of NI scheme agents or other service providers to icare
- governance and accountabilities relating to schemes other than the NI, including: icare Lifetime Care, Dust Diseases Care, the icare Home Building Compensation Fund, icare Insurance for NSW, icare Sporting Injuries insurance, Treasury Managed Fund (TMF) scheme and insurance services to NSW government
- review of the claims management process.

We undertook an extensive review to form a comprehensive view of icare's governance, accountability and culture and to identify strengths and weaknesses. Our review comprised an investigation of evidence related to activities performed over 2019 and 2020. However, where necessary to understand relevant information pre-dating this timeframe, we included information from earlier years.

Although our focus was a current state assessment, we identified:

- where icare has worked to address recognised weaknesses in its governance and accountability practices over 2019-20
- where it is working to further improve its governance and accountability practices, including initiatives that have been recently approved and are underway.

On icare's request, given its single brand and the desire to support ongoing cohesion across the organisation, our culture review took a broader scope than the governance and accountability reviews and considered icare's culture across all functions.

## 2.4 How PwC conducted this review

The four-month review (Oct 2020 - Jan 2021) involved the following activities to assess and evaluate icare's governance, accountability and culture:

- document review
- icare board and executive interviews
- focus groups with the icare employees
- interviews with stakeholders and focus groups with some stakeholders, including scheme agents
- case studies
- a PwC-issued icare-wide survey.

Interviewees were chosen with reference to the scope of the review focussing on the NI and icare enterprise matters, with respect to G&A, and the whole of icare with respect to culture.



## **Document review**

icare provided documents for review covering 2019 and 2020. A number of issues raised in the Dore Report occurred before November 2018, but we did not conduct a document review on matters earlier than November 2018.

The documents we reviewed were board and board committee agendas, papers and minutes; GET agendas, papers and minutes; risk and governance policies, frameworks, charters and terms of reference; icare people surveys, eNPS reports, People Matter Employment Survey results and external reports.

## **icare board and executive interviews**

More than 35 formal individual interviews were conducted with icare stakeholders, including:

- chair of the board
- board non-executive directors
- interim chief executive officer
- icare Group Executive Team (GET) and Chiefs.

A full list of board and executive interviews is in Appendix A.

## **icare stakeholder interviews**

We held formal interviews with over 40 external stakeholders including SIRA, WIRO, NSW Business, Unions NSW, ICAC, EY and NSW Treasury. We also interviewed EML principals and managers to more deeply understand the nature of the relationship and commercial arrangements between icare and third parties.

A full list of external interviews is in Appendix A.

## **icare focus groups**

We held eight focus groups across all icare functions. The focus groups were independently facilitated without icare leadership presence. Participants were randomly selected and invited to participate. Participants were asked to consider moments of pride working for icare as well as moments of challenge, along with exploration of areas relating to governance, accountability and culture.

## **Scheme agent focus groups**

Five focus groups were held with 38 scheme agent participants: two with EML and one each with GIO, Allianz and QBE. Additional time and emphasis was given to engaging with EML due to its role managing the majority of claims as well as its long-standing and extensive interactions with icare.

Participants were identified by the scheme agents' principals to provide a range of perspectives and insights relating to icare and the NI. Focus group participants were asked to reflect on their interactions with icare that they considered positive and ones they considered challenging.

## **Case studies**

We conducted three case studies to further understand specific governance, accountability and culture themes relating to icare's management and response to issues:

- **Wrongdoing:** A review of how icare responded to and managed allegations of misconduct, corrupt conduct, maladministration, or serious and substantial waste as defined by the *Public Interest Disclosure Act 1994*.
- **Decline in RTW outcomes:** How icare identified, investigated and responded to declining RTW rates.
- **COVID-19:** How icare responded to the COVID-19 pandemic to manage the risks and mitigate their impact on injured workers, employers, employees and other stakeholders.

Other incidents and events arose throughout the review, which we examined and reviewed in addition to the above case studies.

The insights from these case studies have been weaved through this report.

## **PwC survey**

We developed and released an independent survey for completion by icare personnel. The PwC survey asked respondents to answer a series of questions, including the extent to which they agree or disagree about icare's operations, attitudes and ways of working, and enabled free text responses relating to their experiences working with icare. Around 1,042 valid responses were received from across all levels and functions in the business – this is approximately 56% of icare personnel.

## **Assessment criteria**

In determining our observations and findings, we applied robust assessment criteria of governance, accountability and culture that were developed by PwC and are based on our experience undertaking similar reviews.

## **2.5 Structure of the report**

This report is set out in nine chapters, set out below. Chapters 3-10 present the findings of the review as they relate to the broader themes of governance, accountability and culture; each chapter includes a summary, background, observations and key recommendations arising from the review.

### **Governance**

- Chapter 3: The role of the board
- Chapter 4: Senior leadership oversight
- Chapter 5: Risk management & compliance
- Chapter 6: Issue identification, escalation & resolution
- Chapter 7: Scheme agents
- Chapter 8: Prioritisation & decision-making

### **Accountability**

- Chapter 9: Accountability

### **Culture**

- Chapter 10: Culture

### **Recommendations**

- Chapter 11: Recommendations



## **Section A: Governance**

# 3. Role of the board

## 3.1 Summary

icare's board brings commitment and dedication to its oversight of icare and support towards the purpose of icare; there is evidently a depth of experience and knowledge among the directors, particularly in relation to insurance and complex financial institutions.

However, we observed a number of weaknesses in performance and in oversight of governance. Until mid-2020, the board did not set a clear or strong enough tone from the top on matters of risk, on the importance of meeting NSW government agency compliance requirements and on the need to build a cooperative and open relationship with the regulator SIRA. Gaps and weaknesses in management reporting have meant the board has not always been armed with all the information it needed to support strong governance oversight. Recent changes and additions to the board composition will help rectify under-weighted skills, capabilities and experience in governing a public organisation and personal injury management.

In the last four months, there have been four new board directors and a shift in board governance and progress on action to address known issues. Additional enhancement to the reporting of operational, compliance and conduct risks will result in stronger and more effective challenge to management, further strengthening governance by the board.

We assessed the effectiveness of the icare board's governance and oversight of the NI by examining the following areas:

1. Setting the tone from the top
2. Board skills and competency to enable effective oversight
3. Board structure and operating pattern
4. Quality of management reporting to the board
5. The board's relationship with management and holding management to account
6. The board's oversight of the regulator relationship
7. The board's obligation to keep the Treasurer informed.

Our findings and recommendations are set out below.

## 3.2 Context for this chapter

icare's board consists of the CEO and up to eight directors appointed by the NSW Treasurer under the *State Insurance and Care Governance Act 2015*. The NSW Treasurer selects directors with the skills and experience that are relevant to the administration of the State's insurance and care schemes as well as to assist in the exercise of icare's functions. To ensure separation of duties, a person cannot be a director of both the SIRA board and the icare board. The board meets regularly, with directors committing significant time to board and committee meetings every year. The Board met an average of 10 times a year in 2019 and 2020 and also held additional workshops. On average, Board Committees meet between 4 and 8 times per year. The board meets for a day and other committees meet for between 2 and 4.5 hours.

The board publishes a communique, being a high-level summary of the board minutes, on the icare website which is an example of good governance and transparency to stakeholders. Board minutes are comprehensive and detailed on issues discussed; however, there are relatively few actions arising that are identified and tracked.

icare is accountable to the NSW Treasurer, who has the power to issue a written direction to the board if necessary after consultation with the board and in the public interest. The board must comply with this direction.

Under the SICG Act, all decisions relating to the functions of icare are made by or under the authority of the board, including the appointment of the CEO. This means that the board is a governance board rather than an advisory board, which is different to the way that many NSW government agencies operate. Each director is required to exercise the degree of care and diligence that a reasonable person in a like position would exercise in the circumstances.

### **Audit and Risk Committee**

The Audit and Risk Committee (ARC) was established in compliance with the NSW Public Sector's Internal Audit and Risk Management Policy, to assist the board in discharging its responsibilities by overseeing icare's framework and management of risk. The ARC oversees icare's financial and actuarial reporting, risk management framework and risk profile, regulatory compliance, and internal and external audit plans. It meets at least quarterly and consists of at least four, but not more than five, non-executive directors appointed by the board.

A summary of the ARC's responsibilities include:

- overseeing the organisation's financial reporting
- reviewing and approving the organisation's risk management framework and risk profile
- reviewing the organisation's compliance risks, compliance processes, policies and procedures, issues and significant breaches and compliance projects
- reviewing and approving the organisation's annual internal and external audit plans, including the scope of audit work, the use of any external expertise to assist the audit functions, and any changes that may be required.

Representatives of the NSW Audit Office attend meetings of the ARC.

### **Governance Committee**

The Governance Committee was established in August 2020 to consider, review and take advice on the best practice governance and regulatory engagement in light of the emerging issues in the external environment and changing stakeholder expectations relevant to icare. The committee appointed a corporate governance expert to act as a standing advisor to the committee. The committee considers the operation and effectiveness of icare's governance processes in light of those emerging issues, or any particular issues that are of concern to the board or stakeholders. The terms of reference of the Committee include reviewing and providing advice on icare's approach to this CGA review.

The committee reports and makes recommendations to the board on better practice internal and external governance and stakeholder engagement, having regard to the requirements and expectations of:

- icare's regulators, including SIRA and the Information and Privacy Commissioner
- key government stakeholders, including the Treasurer, NSW Treasury, the NSW Audit Office, the NSW Public Service Commissioner, NSW Procurement and the Department of Premier and Cabinet.

icare has indicated that the committee is intended to be interim and its operations will be rolled back into the ARC or the board by the end of 2021.

### **Customer Innovation and Technology Committee**

Established in 2015 as an IT Committee and expanded in September 2016 to the Customer Innovation and Technology Committee (CITC), the CITC's role is to assist the board in overseeing icare's information technology and customer operations, customer and technology strategy, information systems and data management risks and controls. It meets at least quarterly, and consists of at least four non-executive directors appointed by the board.

A summary of the CITC's responsibilities include:

- reviewing, evaluating and monitoring the implementation of icare's major customer experience strategies and report strategies back to the board
- approving icare's approach to innovation in relation to customer and technology strategy, including the development of innovation capabilities and vehicles, and a proposed funding and governance model
- reviewing, evaluating and monitoring implementation of icare's major technology plans and strategies, including its research and development activities as well as the technical and market risks associated with product development and investment
- approving proposals to spend funds and to enter into commitments of up to the value of \$30 million, and report to the board on significant items covered at each committee meeting.

## People and Remuneration Committee

Established in 2015, the People and Remuneration Committee (PRC) assists the board in overseeing icare's remuneration and other human resources policies and practices. It meets at least quarterly, and consists of at least four non-executive directors appointed by the board.

A summary of the PRC's responsibilities include:

- keeping itself apprised of the latest legislative, regulatory or industry developments, trends and NSW Government policies in relation to remuneration, employment, work health and safety, and human resources matters likely to have a significant impact on icare
- monitoring and overseeing the development and implementation of the people strategy and workplace health and safety framework
- determining and recommending to the Board a remuneration framework and policy and ensure remuneration is managed in accordance with this framework
- approving human resources policies, other than those requiring board approval in which case review, endorse and recommend to the Board for approval on human resources policies.

## Investment and Asset Committee

Established in 2015, the Investment and Asset Committee (IAC) assists the board in setting icare's investment strategy and related investment policies, and overseeing the investments of icare's funds.<sup>3</sup> The responsibility for the oversight, management and performance of the SI Corp Scheme Funds<sup>4</sup> is governed by a memorandum of understanding between icare and the NSW Treasury. The IAC typically meets six times a year, and consists of at least four independent non-executive directors.

A summary of the IAC's responsibilities include:

- conducting a review of the investment strategy as often as deemed necessary but no less than once every two years, where the investment strategy includes the statement of investment beliefs, investment risk appetite statement, investment policy statement and overarching investment strategy for all icare funds
- endorsing for recommendation to the board the master financial services agreement between icare and NSW Treasury Corporation, and MoU between icare and NSW Treasury
- endorsing for recommendation to the board the strategic asset allocation to asset classes for all funds and portfolio construction within asset classes.

## Foundation Committee

The Foundation Committee (FC), established in 2016 oversees the strategy and assurance of icare's Foundation, which was established to consolidate and maximise the impact of icare's social investments under one governance framework, with a strategic narrative that aligns social and commercial initiatives across the organisation.

It meets at least quarterly, and consists of at least four non-executive directors appointed by the icare board and CEO.

A summary of the FC's responsibilities include:

- approving and monitoring the Foundation's strategy and relevant policies governing its operations
- recommending the Foundation's operational budget and overseeing the investment and funding of prevention and intervention programs.

The CEO is a member of all Board committees, other than the ARC of which the CEO is a standing attendee.

## 3.3 Review observations

### 3.3.1 Setting the tone from the top

The icare board has an important role to play in setting a strong tone from the top, role-modelling desired behaviours and actions to employees.

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<sup>3</sup> Workers Compensation Insurance Fund, Lifetime Care and Support Authority Fund, Sporting Injuries Fund and Workers' Compensation (Dust Diseases)

<sup>4</sup> Treasury Managed Fund, Home Building Compensation Fund, Construction Risks Insurance Fund, Transport Accidents Compensation Fund, Residual Workers Compensation Liabilities of the Crown Fund, Government Workers Compensation Account, Bush Fire Fighters Compensation Fund and Emergency and Rescue Workers Compensation Fund

The board oversaw a significant transformation program of initiatives, including the implementation of a single claims management platform and supporting the less adversarial approach to claims management. Until the middle of 2020, the board did not set a strong enough tone from the top on the management of risk, on the need for icare to meet the standards expected of a NSW government agency, and on building a cooperative and constructive relationship with SIRA particularly as it relates to the NI.

In response to the recent unveiling of issues through the Law and Justice Committee<sup>5</sup>, the media and other reviews, the following examples illustrate how the board is now setting a stronger tone from the top:

- establishing a governance committee to support further improvements to icare's governance and transparency. The committee meets monthly with a mandate to address current issues and the adequacy and operation of icare's governance policies and structures
- since February 2019, holding joint meetings with the SIRA board and listening to its feedback and concerns
- appointing an interim and then a permanent CEO charged with re-building the relationship with SIRA
- increasing its challenge to the executive team, in particular since September 2020
- hearing the voice of the newly appointed CRO and supporting the accelerated development of effective risk and policy frameworks to address known gaps

The Board also withheld bonus payments (long-term incentives and annual bonuses) and held remuneration flat for the CEO and executives in 2020 as a result of COVID and icare underperformance (referencing lower RTW rates and the issues with the transformation as examples).

Prior to mid-2020, however, the tone from the top revealed weakness. icare did not fully view itself as a NSW government agency until after the current scrutiny. There was no evidence to suggest the board was sufficiently emphatic or insistent enough in holding management to account to ensure that icare met its obligations as a NSW government agency. Shortcomings were allowed to continue for lengthy periods - for example, in the areas of procurement and conflicts of interest management. This was driven, in part, by the delineation of the NI not being a government agency and the complexity of this, while icare itself was, and therefore subject to certain requirements. In addition, the immaturity of the risk and compliance framework did not provide adequate guidance.

The board and executive proudly described icare as a "start-up"<sup>6</sup> when it was established in 2015, with the flow-on benefits of team energisation to navigate a major transformation. However the term 'start-up' was also likely to encourage management to take on higher levels of risk and to favour urgency and speed over quality, process and controls.

The board was slow to respond to signals from SIRA on concerns it raised over management's interactions with the regulator. Management did not provide the board with regular updates on regulator communications or the state of the regulatory relationship between icare and SIRA, nor did it signal a red flag to the board on the deterioration of the regulatory relationship between icare and SIRA. Further, the board tended to side with management's view and, as a result, did not set a strong enough tone from the top on the importance of a cooperative and open relationship with the regulator. When the Dore Report was issued in December 2019, the board was silent, making no public comment and sending no clear message to employees on the board's expectations or views, despite the report being critical of the organisation and its approach to the regulator<sup>7</sup>.

Board members acknowledged the fractious relationship between icare and SIRA's CEO, however did not take action early enough. The board was slow to respond to concerns over the suitability of the CEO<sup>8</sup> and slow to respond to the decline in RTW and the deterioration of the scheme.

While we identify the board's failings in not setting a strong tone from the top on a number of specific matters, we acknowledge their more decisive action in recent months, particularly in response to the public criticisms, to remediate and address issues raised in the December 2019 Dore Report, and to set a stronger tone. An executive interviewee noted the recent efforts of the board, in "fronting up to challenges and being proactive at recognising risk and being transparent with the regulator". There is a greater sense of urgency and momentum to set up an effective risk and policy framework appropriate for a large public finance corporation and to address past issues.

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<sup>5</sup> The Standing committee on Law and Justice is appointed by the Parliament of NSW to enquire into and report on legal and constitutional issues affecting NSW. In March 2020, it announced a review into the NSW workers compensation scheme.

<sup>6</sup> At the time, icare had over \$38B in assets, experienced employees and service providers who had been managing workers compensation for decades.

<sup>7</sup> The CEO and managing director of icare made an announcement <https://www.icare.nsw.gov.au/news-and-stories/statement-from-john-nagle-on-the-release-of-the-review-into-nsw-workers-compensation-nominal-insurer>

<sup>8</sup> Challis & Company, Insurance & Care NSW, Board Effectiveness Review, 29 May 2020



### Recommendation 1

The board should continue providing a clear tone from the top on icare's role as a NSW government agency with adherence to the standards expected of such an agency, including by tracking regulatory requirements, requiring management reporting on compliance, and engaging with regulatory bodies to build positive working relations that cascade through icare.

### 3.3.2 Board skills and competency to enable effective oversight

The NSW Treasurer appoints the directors to the board and as a result, the board does not manage its own succession, which is common in the public sector, but different to the usual practice in the private sector. As a result, the board does not have a formal nominations committee with an ongoing focus on its capability, effectiveness and development.

The board has undergone significant change in the last six months. Three non-executive directors resigned over July to September 2020, including the chair. Three new non-executive directors joined the board in late 2020, including a new chair in September 2020. The CEO resigned in August 2020 and a new CEO commenced in January 2021, bringing further change to board composition<sup>9</sup>. This has led to a significant refresh of the board and will also result in refresh of board committee composition.

The board has a range of relevant and deep skills and experience in insurance and financial services, with large and complex financial institutions, as well as in government and health. However, until recently, it has had limited experience in the public sector. The appointment of a new chair who is experienced in the public sector has strengthened the board's public sector experience.

It has also lacked depth of experience in personal injuries, in particular workers compensation. The board recognised this gap in the independent evaluation carried out of the board in May 2020<sup>10</sup>.

The board has developed a board skills matrix, but it is rudimentary and does not track the strengths and weaknesses of the board's skills and capabilities, nor the skills and capabilities of each board committee. This makes it difficult to assess the depth of the board's experience on a range of matters, including outsource management and transformation.

Although the board does not manage its own succession, it is able to make recommendations to the Treasurer on the skills and capabilities that need to be strengthened and to ensure that the board is augmented by specialist advisers where this is required.

Board succession planning should be designed to ensure the icare Board and each committee has the collective skills, experience and diversity for the Board to effectively fulfil its role. The term of appointment of icare board members is set out in the Instrument of appointment for the director, but must not exceed three years (per clause 3, schedule 3 SICG Act).

Board refreshment ideally involves a staggered process taken to retiring directors and onboarding new ones, to strike an appropriate balance between bringing on fresh thinking v.s retaining corporate memory, experience and expertise. There are different mechanisms to achieve this, including the Treasurer having the flexibility to appoint some directors for longer terms (such as four years) or managing the retirement of directors at different three year horizons.



### Recommendation 2

The board to:

- strengthen and refine the board skills matrix including mapping skills and capabilities at the committee level
- review the composition of board committees and ensure that there are adequate skills and experience aligned to the remit and purpose of the committee
- develop strategies for addressing any ongoing skills gaps, such as through the appointment of external advisers, board development and future succession planning.

<sup>9</sup> An interim CEO was a member of the board between August 2020 and January 2021

<sup>10</sup> Challis & Company, Insurance & Care NSW, Board Effectiveness Review, 29 May 2020. The board has undertaken two independent evaluations of its performance at three year intervals, which is better practice.



### 3.3.3 Board structure and operating pattern

Since 2015, icare has operated a combined audit and risk committee and, in accordance with the NSW Public Sector Internal Audit and Risk Management Guideline TPP 15-03, now replaced by TPP 20-08. Under TPP 20-08, icare is required to attest in each annual report that the ARC is operational. The ARC oversees icare's risk and issues management.

Given the scale and complexity of icare, there is justification in having a stand-alone risk committee to oversee all non-financial risk and an audit committee to oversee finance & audit matters and financial risk control. This will enable stronger focus on risk and accords with better practice by Australian insurers. We understand, through management, that icare asked NSW Treasury in late 2020 whether it was possible for icare to establish a stand-alone risk committee. Treasury responded that TPP15-03 (now TPP 20-08) requires icare to have a combined Audit and Risk Committee, however, it is possible for the ARC to have two sub-committees - a risk and an audit sub-committee. It is recommended that icare establish a stand alone risk sub-committee if a separate risk committee is not possible.

In August 2020, the board established a Governance Committee in response to recent public criticism of icare, to "review icare's response to issues that have been raised in NSW Parliament and media enquiries, and the adequacy and operation of icare's governance policies and structures". The Governance Committee oversees issues such as Pre-Injury Average Weekly Earnings (PIAWE), conflicts of interest, procurement issues and governance matters. These matters would normally be overseen by the ARC and therefore this committee has an overlapping remit (although icare advises the committee is interim and will cease in late 2021).

There is also a need for clearer delineation and hand-off between ARC's risk oversight role and CITC's customer impact oversight role.

Other considerations to achieve good practice include the following:

- The remit of ARC or a stand-alone committee should be extended to include the requirement to form a view on icare's risk culture.
- The remit of ARC or a stand-alone committee should assess the adequacy of icare's risk management framework (both its design and effective implementation).
- CITC's role should include a focus on customer outcomes, for example RTW rather than the experience of customers assessed through NPS.



#### Recommendation 3

Consult further with NSW Treasury to set up a separate risk committee or risk sub-committee to provide adequate focus and time to manage the risk issues facing icare. Once established; review the role and remit of the Governance Committee to ensure clarity.



#### Recommendation 4

Update the charter for the ARC (or separate Audit and Risk Committees) to include the requirement to form a view on icare's risk culture and to assess the adequacy of icare's risk management framework (both its design and effective implementation).

### 3.3.4 Quality of management reporting to the board

The board receives regular reporting on financial risk, such as a six-monthly report on financial reserves of the schemes operated by icare, which is prepared by an independent actuary and peer-reviewed. Generally however, reporting of non-financial risk has been limited and is a root cause of the board's inability to challenge and respond to, at least in part, the issues raised in the Dore Report. Reporting to the board suggests there has been a bias to 'selling' a positive picture. During focus groups, participants reflected on management reporting, one employee stating that "it wasn't wrong but I knew [senior leadership] weren't getting the full picture".

The board was largely unaware of the gaps in the information it was receiving and declined to accept red flags raised with it. For example, when SIRA queried the ARC in September 2019 on whether the board and its committees were receiving the right information to "do their job", there was reassurance to SIRA this was the case. The ARC believed the board was receiving the right information, however they acknowledged it was common for management teams to "put their best foot forward" and that "compared to the 2015 position, the icare Board is receiving much stronger information but there is still a way to go". There is evidence of the Board

seeking an uplift in management reporting following the SIRA meeting. In late 2019, the Board requested an uplift in reporting to enable better oversight of the organisation, including a clearer operational scorecard, customer interface points, KPI outcomes and issues and challenges facing management. In February 2020, the Board requested management to report SIRA's RTW trend data rather than management's view of RTW.

There is also evidence over 2018-19 that management was slow to bring forward a number of material non-financial risks and issues, and that reporting was filtered in some material respects. An example is the reporting on the decline in RTW and deterioration of EML's performance as the primary service provider of the NI scheme which was raised to the board in October 2018. Continued reference to EML's underperformance or data quality issues were accepted as an explanation for the declining performance of RTW and poor claims management performance. There was limited challenge from the board in relation to icare's role in the design and management of the model.

### **CEO report**

The CEO report is a key communication tool by which the board is informed of material issues and the business performance at every board meeting. The quality and substance of the CEO report has improved significantly over 2020 from a general narrative to reporting of dashboards with metrics. However, the dashboards are organised around icare's business lines rather than reporting against the individual schemes that icare operates.

Each of icare's schemes serves a different customer group, has different funding sources, has a unique capital reserve and is subject to different regulatory regimes and contractual requirements. The board's oversight of icare's performance will be improved if the board receives a regular dashboard with metrics reporting against agreed performance measures for each individual scheme (financial, NPS, risk, etc).

### **CITC and the voice of the customer**

The CITC spent around 20 minutes of each two-hour committee meeting on customer-focused matters (customer insights, complaints reporting) based on our review of 2019 meeting agendas<sup>11</sup>. This was because the CITC agenda was dominated by icare's technology transformation and issues arising from the two guidewire implementations. However customers may be discussed within the context of other agenda items, such as section 39 changes, Account management, Clinical governance or similar.

The CITC committee has now lifted its focus on the customer and over 2020 spent an average of 45 minutes (according to meeting agendas<sup>12</sup>) on customer matters at each meeting. We recommend that icare continue to uplift dedicated reporting on the voice of the customer.

### **NPS and customer outcomes**

There was a strong focus on the customer experience and an over-emphasis on NPS (net promoter score) as the driver of scheme success rather than on the delivery of material outcomes to customers. One interviewee commented there was "too much focus on NPS - icare isn't running a retailer". The board also received reports that aggregated NPS metrics across schemes, which had the effect of diluting issues 'in the tail', such as high levels of negative NPS for employers in the NI workers compensation scheme.

To further illustrate, employer NPS declined from -16 to -31 over the course of FY19 and was explained as a consequence of the shift to a less adversarial model. In 2018, complaints from NSW employers resulted in the NSW Chamber of Commerce (now NSW Business) issuing a press release calling for an independent review of the NI. In response, the then CRO reported to ARC on the matter in the context of its impact on icare's reputation rather than recommending actions to address the underlying concerns of employers. In June 2019, Employer NPS continued to be -30 and the CRO report noted "Management action plan: Programs of work based on targeted areas are in place to improve this result". There was no request by the ARC for a concrete plan to respond to what was a systemic pattern and further deterioration over an extended period. (September 2019 CRO report).

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<sup>11</sup> February 2019 (Customer Insights Report: 20 minutes), May 2019 (*Customer Insights Evolution Update*: 15 minutes), July 2019 (*Employer end-to-end Customer Engagement*: 15 minutes), September 2019 (*Customer Insights – Provider Selection*: 10 minutes) and November 2019 (*Customer Insights Report*: 15 minutes)

<sup>12</sup> February 2020 (*Customer Insights & Complaints Reports (Feb 2020 & Nov 2019)*, *Customer Impacting Operational Issues, Personal Injury Operational Dashboard*: 90 minutes), May 2020 (*Customer Insights & Complaints Reports*: 20 minutes), July 2020 (*Customer Insights & Complaints Reports*: 20 minutes), September 2020 (*Customer Insights & Complaints Reports, Customer Advocate Report*: 55 minutes), November 2020 (*Customer Insights & Complaints Reports, Customer Advocate Report, Response to the Customer Advocate's HBCF Recommendations*: 40 minutes)

Over FY20, management improved customer reporting to CITC by providing NPS by scheme or segment and greater thematics on insights behind trend lines. The voice of the customer was also enhanced through the use of verbatim quotes.



#### **Recommendation 5**

Customer Innovation and Technology Committee (CITC) to increase the time it spends on the voice of the customer and customer outcomes.



#### **Recommendation 6**

Enhance management reporting, most notably in the areas of customer outcomes, non-financial risk, root cause analysis, regulator engagement, management of material issues and remediation monitoring, and scheme-based dashboards.

### **3.3.5 The board's relationship with management and holding management to account**

There is evidence of increasing board challenge to management over 2020. There is also evidence of the board acting decisively when informed of serious allegations of wrongdoing and when requiring independent review by third parties on issues such as the ex-CEO's failure to report a conflict of interest.

However, as described above, there has been a weakness in reporting on non-financial risk matters which prevented the board from being able to fully challenge management and hold it to account.

There are also several examples where the board did not effectively challenge management:

- The board allowed a large-scale program of procurement to proceed to support the transformation without ensuring compliance with *Government Information (Public Access) Act 2009* requirements, even though this was a known issue from 2016.
- There were long-standing issues rated red in risk appetite statement reporting that did not receive sufficient challenge over 2018-19, with management actions vague and lacking in detail. Board minutes of November 2019 state the need for 'reporting against formal action plans' and this improved since then.
- When instances of employee fraud were identified they were reported to ICAC and the police, however the board did not take the opportunity to signal to employees the importance of ethical practices.
- Too much confidence placed in management's belief in its ability to resolve issues.
- A failure to require management to provide concrete plans to manage material challenges.
- Issues were often raised too late by management with the board and when they were acknowledged, management explained the issue or error as caused by external factors beyond its control rather than recognising its own role in contributing to the issue.

In 2018, when the board challenged management for allowing slippage in the timeline to address procurement compliance issues, management indicated it was prioritising resources to support the business in its procurement activities versus ensuring the control environment and processes for procurement were improved "at the right pace". While the board challenged management to improve to meet NSW government agencies practices, it did not ensure that management was held to account to do this within an appropriate timeframe and the issue remained unresolved until late in 2020. Further improvements could be made to the actions arising registers and to monitoring processes to enhance timeliness of resolution of them.

The board failed to apply a 'show me, don't tell me' approach and require clear plans from management, giving management more latitude than was desirable. The 2020 Challis & Company Report stated there was a common view held by the board that icare had tended to overestimate its ability to execute on its transformation and, while there were impressive outcomes, there had been too many misses. The board acknowledged that the bias towards positivity and a 'glass half full' approach by management resulted in weakness in management reporting and the need to narrow the gap between "Executives' continued optimism and NEDs' concern for ongoing surprises".

In recent times, there is increasing evidence of challenge from the board on material matters. The FY21 budget went through multiple rounds of challenge. The extension of the EML contract for one year was the subject of robust challenge by the board following a 'show me, don't tell me' approach, such as requiring evidence that

the new remuneration arrangement would provide appropriate incentives to encourage positive outcomes for injured workers and the NI scheme. The board also challenged the recent round of proposed remuneration increases and annual performance payments, which we address further in Chapter 7 Scheme agents.



#### **Recommendation 7**

Adopt a more rigorous approach to actions arising, including naming accountable persons, setting a time for delivery of actions and ensuring effective monitoring completion.

### **3.3.6 The board's oversight of the regulator relationship**

There was a progressive breakdown of the relationship between SIRA and icare over 2018-20. This was described in the Dore Report as characterised by "misunderstanding, disagreement and non-cooperation".

While the extent of the regulator issues evolved over time, the board was unaware of the seriousness of the issue until August 2019. The board was likely influenced by management's version of events prior to this time, which tended to lay fault to the regulator. However, there were earlier red flags that should have alerted the board to the need for more insistent action on the icare/SIRA relationship which challenged management's version, namely:

- The continuous disagreement on how to measure RTW, which was preventing icare from addressing the decline of RTW, which was apparent no matter what metric was used.
- SIRA was being increasingly insistent and challenging of icare over 2018-19 as it sought more engagement and visibility of the deterioration of performance issues.
- In the wake of the 2018 Banking Royal Commission and higher expectations of ASIC and APRA, icare's CRO reported to the ARC on the desire to mitigate the risk that SIRA might seek to over-regulate (Nov 2018 ARC).
- The CRO report to the ARC in August 2019 refers to the upcoming release of the Dore Report and preparations being undertaken by management. The CRO references management initiating a positive media program, ahead of the Dore Report's release, noting "A Positive Change communication campaign is being developed with the aim of focusing attention on the long-term nature of the icare strategy. The campaign has components aimed at both an external audience and our employees". An interviewee shared their perspective in relation to board reporting that "...it all felt quite stage managed. We wanted to show the board that everything was under control, that there was nothing to see."

The board continued to be largely influenced by management's attitude towards SIRA and management's desire to keep the regulator at arm's length and did not understand the true extent of the issues until the icare/SIRA relationship had seriously deteriorated. By the board meeting of late August 2019, it became clear to the board that there were significant areas of icare's relationship with SIRA that were not going well and that a reset was required, with the board needing to play a more assertive role. In the lead-up to the release of the Dore Report, the board began to engage with the SIRA board by holding joint board meetings from time to time. However, when the Dore Report was released in December 2019, the icare board did not release a public statement acknowledging it, missing an opportunity to set a strong tone from the top in relation to the regulator.

Again, in May 2020 the independent evaluation of icare's board documented a consensus that the CEO was unable to improve the relationship with the regulator and that the board required a clear, agreed strategy to improve the relationship with SIRA.<sup>13</sup>

Since mid 2020, there has been some change, indicating a desire to improve the relationship. For example:

- The interim CEO took immediate actions to improve the relationship in late 2020, namely the immediate shift to SIRA's preferred RTW measurement approach and opened improved lines of communication with the SIRA CEO.
- The icare and SIRA boards are meeting regularly and engaging in an open and respectful manner.
- The new board chair, interim CEO and Head of Performance Improvement worked in a transparent manner to share the recent end-of-year financials with SIRA and Treasury.
- While there remains a challenge over some factual discrepancies in the Dore Report, the management team and board have accepted the findings and are seeking to move forward to work with SIRA in a more productive and sustainable manner.

<sup>13</sup> Challis and Company Board Report on the Board Effectiveness Review, 29 May 2020

- icare has been willing to cooperate with PwC in this independent review into its governance, accountability and culture, a requirement of SIRA's 21-point plan.

In the future, the board should implement a number of mechanisms to ensure it is receiving the right information on the health of its relationship with SIRA and to enable it to set a strong tone from the top.



#### **Recommendation 8**

icare board to introduce a regular agenda item at board meetings to receive reports on the regulator relationship and ensure the voice of the regulator is understood and being addressed.

### **3.3.7 The board's obligation to keep the Treasurer informed**

Under section 6(3) of the SICG Act the board of icare is obligated to:

- keep the Minister informed of the general conduct of icare activities and of any significant development in icare activities
- give the Minister any information relating to the activities of icare that the Minister requests.

Throughout 2020, it is evident that icare has provided the Treasurer and NSW Treasury with regular updates on core challenges, operational matters and items to be noted. The Treasurer has also attended icare board meetings from time to time. However, we did not see the regular reporting on icare or board communications to the Treasurer, or NSW Treasury, tabled at or discussed at board meetings.



#### **Recommendation 9**

Update the board charter to reflect the requirement to regularly report to the NSW Treasurer in accordance with s6(3) of the SICG Act. Governance processes should:

- consider, at regular intervals, whether it should inform the Treasurer of an issue because it is a material development in icare activities
- table correspondence received from the Treasurer requesting information from the board on the activities of icare .

# 4. Senior leadership oversight

## 4.1 Summary

icare has embarked upon a significant transformation, with its greatest impact affecting the NI both in terms of a new operating model consolidating areas of the claims support model, and in the delivery of a new claims platform. The shift towards a less adversarial approach has been commended by those we interviewed, including SIRA; however, the size and complexity of this transformation was described as “almost overwhelming”. Management of the size and complexity of change has been the source of major challenge, creating points of delivery failure that have affected injured workers and employers. Blind spots were evident in the areas of risk, operational performance and delivery of customer outcomes. The cultural tendency to believe in icare’s own expertise, sometimes described by interviewees as “we know best”, played out across many stakeholder relationships including those with the regulator, employers, and EML as the prime service provider, and it dulled management’s willingness to acknowledge or respond to red flags raised on performance issues.

The change in leadership positions has created an opportunity to bring new perspectives and disciplines. The willingness of the interim CEO to listen and respond to the voice of stakeholders and to the voice of risk has proven positive. Management must assess the cultural traits that underlie the actions and behaviours evident in day-to-day practices and focus on role-modelling more effective behaviours and practices to overcome cultural challenges and set the expectations for cascading through the organisation.

We assessed the effectiveness of senior leadership oversight across the following areas:

1. Tone from the top set by the GET
2. The GET’s remit
3. Composition of the GET
4. GET’s operations as a decision-making, governance forum
5. GET’s oversight of risk management.
6. GET’s oversight of the voice of the customer and customer outcomes.

## 4.2 Context for this chapter

The icare board, in consultation with the Treasurer, selects the icare CEO. icare has had three CEOs since its creation in 2015, including the CEO who has been in the role since January 2021.

icare’s Group Executive Team (GET) consists of the CEO and Group Executive leads of the following functions:

- Personal Injury (interim)
- Care
- Prevention and Underwriting
- Organisational Performance
- Digital and Technology
- Strategy and Governance (interim)
- People and Workplace
- Customer and Community.

The Personal Injury, Care, and Prevention and Underwriting functions manage one or more of icare’s insurance schemes and Insurance NSW, including the NI. The remaining five functions provide operational and strategic support. Interim Group Executives are in place for Group Executive for Personal Injury and Group Executive for Strategy and Governance.

Under the current leadership structure, the Chief Risk Officer (CRO), and the General Counsel report to the CEO but are not considered part of the GET. This reporting line has been operating since September 2020.

There are four other ‘Chief’ direct reports to the Group Executive:

- Chief Claims Operations who reports to the Group Executive Personal Injury
- Chief Actuary who reports to the Group Executive Organisational Performance
- Chief Assurance and Quality who reports to the Group Executive Organisational Performance
- Chief Medical Officer who reports to the Group Executive Strategy and Governance.

In April 2020<sup>14</sup>, icare established five working groups reporting to the GET as part of the senior leadership team governance structure:

- **Customer-Centricity Forum:** The core purpose of the Customer-Centricity Committee is an enterprise-level stewardship and governance of enterprise customer strategies with initiatives, key activities and objectives driving continuous improvement. This group provides monthly reporting to GET of key enterprise key customer insights and decisions affecting customers.
- **Risk and Compliance Working Group:** The group's objective is to support the GET in delivering strong risk foundations across icare through monthly meetings, ensuring risk and compliance activities are aligned with business needs.
- **Business Planning Forum:** The group aims to provide oversight of the delivery of icare's strategic calendar, meeting monthly and overseeing the delivery and productivity of the Transformation Portfolio.
- **Financial Sustainability Committee:** The FSC has two areas of focus - underwriting and the broader financial status of icare's assets and liabilities. The committee typically meets monthly, providing a whole-of-business lens to icare's financial risks to enable informed decision-making to achieve financial sustainability for the schemes managed by care (in particular underwriting and asset and liability financial impacts on the schemes)
- **Driving Performance Through Leadership:** The working group aims to support the GET in delivering a strong organisational development program of work across icare, ensuring an enterprise view of culture and leadership required to deliver business and customer outcomes. The group meets monthly, raising awareness of central organisational development initiatives through active engagement and communication back into business lines.

Each working group consists of a chair and representatives from different parts of the business (at General Manager or Head Of level, ie. direct reports to the executive layer); each working group operates under established terms of reference. The purpose of the working groups is to involve a broader group of leadership to support the GET's operation, including the delivery of FY21 goals, cascading of decision-making, enhancing enterprise-level insights and growing a stronger enterprise mindset.

## 4.3 Review observations

### 4.3.1 Tone from the top set by the GET

There is a strong tone from the top in relation to icare's purpose. The GET refers with pride to its codified purpose statement, or the sentiment around its purpose "to protect, insure and care for the people, businesses and assets that make NSW great". As we interviewed and surveyed each member of the GET, they indicated they believe icare is effective in enhancing quality of life outcomes and that day-to-day behaviours are guided by what is best for icare's customers. This belief in the purpose of icare has also been cascaded below the executive level. We heard multiple stories during focus groups drawing a direct link to the purpose of icare, positively affecting people's degree of engagement, for example, "I love working at icare" and "love contributing to people's wellbeing" as part of their role.

Other examples of where the GET sets a strong tone from the top are:

- strong desire and courage to transform as seen through the large icare transformation agenda
- aspirational agenda with a focus on customer-centricity as the key rationale for many projects
- importance of icare as part of the broader community, as evidenced by the establishment of the icare Foundation
- belief and commitment to icare people - "our people are great, they all signed up to be part of what icare believes in"
- reducing bureaucracy and encouraging individual problem-solving.

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<sup>14</sup> Other than the FSC, which was established in 2019, originally as the Underwriting committee

These attributes helped to create a connected organisation linked by social purpose and a genuine sense to do the right thing. However, there were also significant failures, caused by major blind spots resulting from a single focus on delivery against the icare transformation.

### **Identity as a NSW government agency**

When icare was created by the *State Insurance and Care Governance Act 2015*, executives noted in interviews that from that time “icare had the desire to demonstrate our difference” by departing from the way in which the public sector operates. Select Group Executives were recruited from the private sector, remunerated based on private sector benchmarks and expected to bring private sector attitudes and experience to the fore. A new pace and way of working was encouraged with the view that if icare continued to act within standard governmental constraints “we would still be sitting here today to the detriment of our customers”.<sup>15</sup> It was noted on multiple occasions through interviews with executives that icare viewed itself as a ‘start-up’, which drove attitudes of rapid advancement and ambitious change and also sought to excuse immaturity or inadequacy of formal processes and procedures. As highlighted previously, while icare is a NSW government agency, the NI has an exemption from NSW government procurement rules. Executive interviewees noted the “fog of NI exemption” acted as a rationalisation for “taking short cuts”. GET members were “confused about our identity” which drove inadequate procurement processes that departed too strongly from government or better practice standards and were consistent with a start-up culture.

icare sought to deliver on both aspects of “commercial mind” and “social heart”. While reminding icare of its social purpose, the often-echoed phrase “commercial mind, social heart” has not provided the clarity required on how to deliver against financial performance and customer outcomes, particularly in how they should be traded off.

Executives noted in hindsight they had had limited appreciation of the complexity of public sector standards, reporting and public scrutiny under NSW government agency requirements. Instead, speed was prioritised over the ‘voice of risk’, with program task delivery and pace valued over compliance and process excellence.

### **Relationship with the regulator**

SIRA is responsible for regulating five of the schemes that icare is responsible for managing, including the NSW workers compensation scheme. icare is expected to maintain a constructive and respectful relationship with SIRA as the regulator, however we note the relationship between SIRA and icare was strained (particularly at the CEO level), which set the tone from the top for the GET and the teams below it. Although SIRA made ongoing efforts to raise matters of concern with icare over the performance of the NI scheme, icare sought to keep SIRA “at arm’s length”.

During interviews, there were references to icare’s perceived superiority over SIRA and the belief “the better talent went to icare” after the split of the prior Workcover authority of NSW. This was amplified by a ‘We are the experts’ attitude in icare (see Chapter 10) in relation to workers compensation and by icare’s urgency and ambition to deliver a world-class transformation. Interestingly, this was in contrast to the other schemes that SIRA supervises such as TMF, where both SIRA and EML executives referred to a more harmonious relationship with icare.

Our review found a number of areas where icare’s approach to its regulator SIRA requires improvement:

- The SIRA relationship is coordinated by the Head of Regulatory and Affinity Partners (RAP), who reports into the Communications and Stakeholder Engagement team. Icare’s CRO has had limited input or oversight of the regulatory relationship
- SIRA’s engagement with icare is channelled through the RAP to ensure “consistency, visibility, triage and governance”, however, in the case of the NI, SIRA is not permitted to engage directly with Line 1 management in workers compensation, even after RAP plays its conduit role. This had the effect of preventing SIRA from getting close to the business to understand or investigate matters of concern and has caused extended delays in the resolution of issues<sup>16</sup>. It was also observed that this channel became the mechanism to “manage the message in and out to SIRA”.
- EML was not permitted to participate in tripartite meetings with icare and SIRA on matters relating to EML operations.
- RAS (Risk Appetite Statement) reporting does not adequately monitor or call out the health of the regulator relationship. However, we did see evidence of reporting on the regulator relationship in the Compliance Report, which is tabled at GET meetings and provided to the ARC on a quarterly basis.

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<sup>15</sup> icare senior executive interview

<sup>16</sup> Although some joint meetings were also held between SIRA and icare executives



Furthermore, there is no formal documented framework in place to govern how the relationship with SIRA will be managed (outside of significant matter reporting),<sup>17</sup> including a lack of guidance on the importance of the relationship and defining the roles and responsibilities for maintaining that relationship. The stakeholder management plan developed in response to the perception of “external noise” around NSW Workers Compensation, its regulation and injury prevention especially from the NSW Business Chamber and EML<sup>18</sup> allocated SIRA to a “Tier 2” relationship status, which did not recognise the importance of the role played by its regulator and the other public agencies with which it worked. Focus groups discussed the lack of formal approach to engaging SIRA, one participant reflecting upon the ‘ad-hoc’ approach, stating that “we don’t think about SIRA like other organisations think about their regulator”.

Given the focus on the pace of transformation, coupled with confusion over the scope of SIRA’s powers and a general belief that SIRA tended to be overstepping its powers or was unclear in its messaging, there was a lack of appreciation or understanding of the role of the regulator.

### **Response to the Dore Report**

The Dore Report raised a number of critical issues which required attention from the GET, with SIRA’s 21-point plan supplementing the report following engagement with icare.

The initial public response from icare accepted the findings of the report but also noted “[disappointment that] the report didn’t present a true reflection of the overall performance of the NI and omitted some key facts”. The response signalled that icare was aware of and addressing many of the concerns raised. However, the tone from the top also signalled an attitude of ‘We are the experts’ and an enduring confidence in leadership’s ability to deliver despite the findings of the report.

The GET agreed to immediate actions at its January 2020 meeting (for example, to providing additional funding to respond to the report); however, from then on, the GET received limited reporting that tracked icare’s progress against SIRA’s 21-point plan, nor did it discuss how icare was working to improve the SIRA relationship. A steering committee was set up to oversee icare’s response, however that committee did not provide reports into GET meetings and the GET did not have the opportunity to set a strong tone from the top on the need for urgency and responsiveness to the 21 point plan.

It was not until September 2020, when a new interim CEO was appointed and media scrutiny intensified, that icare’s progress against the 21-point plan became a regular item on the GET agenda. This was more than eight months after the release of the Dore Report. This change in approach has had an impact, with icare executives noting that there has been significant progress in the relationship with SIRA and actions against the 21-point plan in recent months.

### **Case study: Leading through crisis**

icare’s response to the COVID pandemic demonstrated an effective and coordinated approach to managing crisis and icare’s people and customers in line with specific action plans under the Pandemic Response Group. icare stood up a senior leadership team (the SLT) from across the business (effectively building a ‘tribe’ as described by the culture trait ‘In the tribe’ in Chapter 10) and able to rapidly coalesce around COVID as a major challenge. icare had a contingency plan in place and was able to leverage the expertise of the Incident Response team who had dealt with major crises before.

Some of the strengths of GET leadership are evident through the COVID response:

- people prioritisation and the emphasis on communications and updates
- elements of good governance in place; for example, a COVID inbox to report incidents, development of a “policy on the management of COVID-19 in the workplace”, development of a detailed register of COVID advice and decisions<sup>19</sup>, which included common principles for decision-making in the context of the pandemic as well as descriptions, decisions, actions and endorsement involved in each issue and decision raised
- the creation of the COVID-19 Response Committee Charter with a remit of icare’s people and business
- the establishment of the Pandemic Response Group, with regular meetings (between daily and weekly as the pandemic evolved) and reporting to the GET for effective decision-making
- an executive focused on customers, with a review of levers they could pull to provide assistance to injured workers (working from home claims, treatment, managing wellbeing) and find opportunities to provide premium relief where possible.

The response to the COVID crisis generated a sense of pride within the GET and the Incident Response team and we acknowledge this response as a strength in leadership.

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<sup>17</sup> Addressed in Chapter 6 - Issues identification, escalation and resolution

<sup>18</sup> 7 June 2019 GET meeting, Stakeholder Engagement Plan Briefing Note

<sup>19</sup> icare register of COVID advice and decisions



#### **Recommendation 10**

icare GET to set a clear tone from the top on the importance of the role of risk management and the role of SIRA as the regulator, by role-modelling expected behaviours and attitudes.

#### **4.3.2 GET forum remit**

The GET's weekly meetings operate as a gateway for management reporting to the board. It is the key way in which operational performance, risks and issues are brought forward for collective review and challenge by the leadership team. To ensure that leadership oversight is appropriately and consistently applied to the right issues, it is best practice for these meetings to have a clear remit and terms of reference.

Although the GET members have individual accountabilities and there is a performance scorecard identifying individual and collective accountability, there is no terms of reference governing its role and operations. Better practice would be to develop a terms of reference that addresses the GET's purpose, areas of focus for meetings, meeting logistics and decision-making governance. This should align with the outcomes the GET is accountable to deliver.

Despite the lack of terms of reference, icare maintains good records of the agenda and papers to the GET meeting, minutes, and an actions schedule with actions arising from meetings.



#### **Recommendation 11**

GET meetings to be governed by established terms of reference with mapped collective accountabilities to ensure that material decisions are made with appropriate GET oversight.

#### **4.3.3 GET composition**

The GET members bring a breadth and depth of experience and skills to icare's senior leadership. In particular, there are notable strengths in insurance industry expertise, actuarial skills, government and public sector knowledge, transformation and large project delivery experience, and personal injury. There is also clear evidence of strong interpersonal skills across the GET. Although there is a clear set of skills and strength within the GET, the inclusion of specific risk experience and perspectives in GET meetings has varied over the years.

icare has a mixed history of CRO attendance at GET meetings. From 2015 to 2019 the CRO attended GET meetings as a standing member. In August 2019, the CRO was stood down as a standing member of GET meetings and only invited to a limited number of meetings (approximately one a month) until November 2020 when the interim CEO approved their regular attendance again. In addition, interviews with executives indicated that many material leadership decisions were made outside formal GET meetings up until September 2020; the extent of CRO input and oversight in these decisions is also unclear. As a result, the 'voice of risk' has not been sufficiently represented in GET meetings and decision-making, which contributed to leadership's focus on delivery, vision and speed at the expense of risk assessment.

In September 2020, the interim CEO re-appointed the CRO and General Counsel as interim standing members of all GET meetings. This decision is an important and positive step towards improving risk management and decision-making at the senior leadership level. Further consideration of CRO membership of GET meetings is set out in Chapter 4. Risk management & compliance.

#### **4.3.4 GET's operations**

Over 2020, GET met as follows (as could be gleaned from calendars, agendas and minutes):

- Weekly: for up to 2.5 hours with five rotating agenda focuses: Risk, Finance, Projects, People and Customer
- Quarterly: GET icare Foundation meeting
- Quarterly: GET Culture and Leadership offsite day
- Twice yearly: GET Team Calibration, involving the GET calibrating talent across senior leaders reporting to the GET.

#### **Reporting**

Our review of GET meeting documents demonstrated strengths in the succinctness and consistency of reporting to the GET.

However, there were gaps in how information was reported at the GET, including performance metrics (such as NPS and RTW) being reported at an aggregate level rather than on a per-scheme basis, without sufficient commentary, and without a root cause analysis undertaken on incidents. The aggregation of operational performance has in some cases obscured the individual health of each scheme and means that issues or key risks are not sufficiently highlighted on a per scheme basis. It also facilitates a bias towards 'positive news' reporting and does not allow monitoring of remediation activities at the appropriate level.

Executive interviews noted that there was a lack of RTW reporting to the GET as the issue arose and it was not adequately discussed at the GET over 2018-19. A number of executives held the belief that the RTW decline was due to data rather than icare performance issues. Interviewees noted the reporting was "confusing". As a result, GET did not sufficiently address RTW in a timely manner. The cultural trait of *We are the experts* can be seen in behaviours that dismissed any evidence that was contrary to an established narrative or plan.

### **Decision-making governance**

Robust decision-making governance not only enhances transparency and clarity of decisions, it also embeds and encourages accountability for decisions and subsequent outcomes. While icare has demonstrated a number of positive governance practices (for example, a well documented actions register), some GET decision-making governance does not reflect best practice.

The cultural norms observed by GET members were that decisions on matters of materiality were often made "outside the room", also preventing input and challenge from the broader team. These actions can be explained by the In the tribe cultural trait which can be seen in exclusive decision-making among a select few, and *We are the experts* which can be seen in confidence in one's own capabilities to make optimal decisions. GET members also noted in interviews that until September 2020, it was not uncommon for individuals to seek the endorsement of the CEO on decisions before meetings to ensure they were passed. As a result, critical decisions may have lacked the necessary oversight, input and challenge that can be created by inviting multiple perspectives in a meeting or forum.

We also heard from executive interviews that there was a tendency for some executives to manage material issues within their function and not escalate them to the GET, as well as some executives being uncomfortable to constructively challenge issues in another part of the business. This meant that the GET did not always have the necessary visibility of material issues or the opportunity to challenge them as a team.

### **Real-time data**

An additional impact on the quality of decision-making by the GET was access to real-time data. Historically, claims management has been managed by scheme agents on their own claims platforms. The scheme agents reported claims management data directly to SIRA and SIRA then reported this on to icare after its own analysis. This meant that icare received information with a time lag of up to three months, inhibiting its ability to respond quickly to emerging issues. Today, EML, Allianz and QBE manage new claims on icare's Guidewire claims management system and, as a result, icare is able to access more timely reporting from scheme agents for new claims.

Although each executive holds individual accountabilities and decision rights, many issues have interdependency between executives and each member of the GET has unique perspectives to include in discussions. It is therefore crucial that critical decisions are made in the formal GET meeting setting, that issues are raised to this meeting, and that timely data and reporting enable effective and informed decision-making.



### **Recommendation 12**

Challenge behaviours of making decisions 'outside the room' and ensure GET brings its full capability and diversity of experience to the issues brought before it.

### **GET agendas**

GET meeting agendas are divided into standing items, decision matters, other business, and noting (no action required). There are reviews of different topics based on the rotating meeting agenda focus referenced above. A review of GET meeting agendas and minutes noted a considerable time spent on people and HR matters over 2019-2020. Focus groups and interviews also confirmed this, noting the GET had extensive oversight of personnel decisions within teams. This may be a reflection of new leadership for the people agenda, and also an intention to put people first and invest in issues such as human-centred design programs, executive recruitment updates and HR policy reviews. However, the relative time for strategy, operational or material risk matters was smaller as a result. There is an opportunity for the GET to review the relative time spent on agendas to ensure appropriate balance of risk and robust challenge during meetings.



### **Recommendation 13**

GET governance to ensure that decisions, risks and issues are discussed and decided at the right levels of the organisation using timely and relevant data and reporting.

#### **4.3.5 GET's oversight of risk**

##### **Risk committees**

Following the release of APRA's CBA Prudential Inquiry into the systemic issues with governance, culture, remuneration and accountability, icare's CRO tabled a paper to the GET summarising the report findings for their relevance to icare and addressing whether icare should take actions in response. The GET's subsequent review in February 2019 noted the effectiveness of icare's risk management procedures and did not note any further actions or weaknesses to be addressed. The GET minutes do not address whether it should form a non-financial risk committee nor did it address its gap in not having a management risk committee.

Following this, an Underwriting Committee was formed, which re-established as a Financial Sustainability Committee (FSC) in June 2019. This has a focus on underwriting and asset and liability financial risk and is chaired by the Chief Actuary. A number of Group Executives are members.

While icare has the FSC and a Compliance Working Group that report to the GET, it does not have an executive level risk committee or non-financial risk committee comprising all members of the GET and led by the CEO, to bring appropriate priority and focus to the management of financial and non-financial risk.

##### **Holistic risk profile**

A holistic profile of an organisation's top material risks and the agreed mitigations of those risks is an important tool for the executive to understand and manage the material risks affecting the business. An enterprise risk profile requires each executive member to undertake a bottom-up review of the risk profile for their function and feed this into an aggregated risk profile for the organisation, which then undergoes executive endorsement and ongoing review and monitoring.

Our review found that only two of icare's business units have a risk profile and while icare has an enterprise risk profile, it was not created from a bottom up exercise of each business line nominating their material risks. Other business units are currently developing a risk profile.

##### **GET agenda for risk**

Our review found that GET meetings have insufficient time dedicated to risk on the agenda. During 2019, for example, the GET meeting agendas committed an average of 1.5 dedicated hours per quarter on risk matters. Each quarter, the CRO tabled a quarterly risk report that would go forward to the ARC. The GET meetings did not contain standing risk management items, sections or discussion, and risk matters were mostly discussed in an ad hoc manner. Certain risk documents were tabled for discussion. However, it is evident from meeting agendas and minutes that risk received a disproportionately low level of attention which limited the effectiveness of risk oversight by the GET.

On a positive note, within a month of the Dore Report being released, Line 2 proposed to GET that it increase the time being spent on risk matters. This was acted upon in February 2020 and GET agendas now contain at least one hour a month dedicated to risk. Monthly GET meetings now include a 'Risk and Compliance Deep Dive' that covers monthly and ad hoc risk items; for example:

- Risk and Compliance Dashboard
- Internal Audit Management Actions tracking
- Conflicts of Interest register
- Risk Appetite Statements and Risk Management Frameworks
- CRO Reports
- Policy Governance Frameworks.

A risk and compliance dashboard prepared by Line 2 is now tabled to the GET monthly. It reports incidents by service line, rating and type, supplemented by commentary. Residual risk ratings are provided on material icare risks and there is an overview of active conflicts of interest by business function. Various papers are also reported to the GET for updates and approvals at each meeting, including Internal Audit GET reports and Internal Audit ARC papers. These are typically discussed for 10 minutes. The GET also receives a quarterly compliance report which contains icare's current regulatory and compliance matters.

GET members told us in interviews that risk conversations continue to happen outside the formal risk discussion agenda item in GET meetings, and that in particular there has been increased discussion since September 2020.

Although there has been an improvement, the time dedicated by the GET to risk continues to be insufficient for an organisation as complex as icare, especially given recent scrutiny and challenges. Furthermore, each function should also be providing a report of its financial and non-financial risks to GET or risk committee meetings to ensure full coverage of risks across the organisation.

Further recommendations relating to risk are set out in Chapter 5. Risk management & compliance.



#### **Recommendation 14**

Establish a financial risk management sub-committee and a non-financial risk management sub-committee with all GET members as standing members; committee meetings to be of a length to allow sufficient agenda time to discuss, manage and oversee icare risks and issues.

### **4.3.6 GET's oversight of the voice of the customer and customer outcomes**

#### **Continuous improvement in customer reporting**

Reporting to the GET on the 'voice of the customer' and customer outcomes has not armed the GET with the insights needed to respond effectively to customers' issues. Although icare has worked to continuously improve customer reporting over 2019-2020, it does not adequately address customer outcomes.

NPS has historically been the key metric used to guide the GET on the health of the customer relationship, and also used in determining executives' incentive payments. It was generally reported to the GET monthly. Although receiving NPS scores is an important metric of the voice of the customer, it was relied upon at the expense of other customer measures such as serious customer complaints or the health of drivers of customer outcomes.

In November 2018, the board received information about a complaint made to ICAC alleging a conflict of interest in respect of the third party providing NPS services to icare. This provided an impetus to change providers and increase reporting on the customer, tabled at GET meetings from mid 2019.

From June 2019 the GET began receiving a monthly customer experience performance report which provided significantly more customer insights, including:

- aggregate NPS score with trend information, providing insights at the customer segment level and to drivers of the customer experience
- NPS broken down into schemes: lifetime care, TMF and NI
- NPS broken down by customer segment; eg. Employers - NI
- social media sentiment
- verbatim comments from customers
- complaints analysis
- discussion on "Getting closer to what drives our customers' experience".

By October 2019 the GET began including a new agenda section to discuss customer-related items at the start of each meeting. Following this, customer dialogue matters were discussed weekly, with conversations regularly reviewed to ensure appropriateness of focus.

By mid 2020, customer-centricity and customer 'deep dive' sessions were being discussed at GET meetings at least monthly for up to 30 minutes each session. This increase in customer focus typically covers updates to discuss "How customer-centric is icare today?" and Customer-Centricity Committee updates and is also where the GET Quarterly Complaints Report is discussed. This is a further example of improved practices.

#### **Lack of focus on customer outcomes**

Despite improvements to customer reporting, icare customer reporting is focused on tracking the customer experience and high level NPS metrics, rather than tracking customer outcomes. For example, key desired outcomes for injured workers could include:

- being paid the correct wage entitlements without undue delay
- access to medical diagnosis and treatment in a timely manner to expedite recovery

- achieving fitness for work and RTW outcomes without undue delay
- being paid monetary amounts in settlement of claims in accordance with workers' compensation legislation.

Key outcomes for employers could include:

- receiving premium invoices in a timely fashion
- receiving accurate invoices
- early warning of any increase in premiums and an explanation of the drivers of this
- adequate involvement in return to work discussions
- getting their injured worker back to work as quickly as is reasonably possible.

Better practice would be for the GET to receive, on a monthly basis, a dashboard of leading and lagging metrics of customer outcomes, on an individual scheme basis. Some of these measures (such as payment to injured workers within seven days and production of timely injury management plans) are already tracked by icare as a compliance metric.



#### **Recommendation 15**

Enhance customer outcome reporting provided to GET by incorporating broader leading and lagging metrics on an individual scheme basis to complement NPS reporting.

### **Oversight of customer complaints**

icare receives complaints through a number of different channels. Customers may raise them directly with icare, via a scheme agent, or through SIRA or WIRO, which both have powers to investigate customer complaints.

icare does not have a centralised repository to capture and track complaints. This limits its ability to build a holistic picture of the number and nature of the complaints being made. While there is an effort to centralise complaints on icare's CRM (customer relationship management database), some complaints continue to be stored on several other platforms.

Scheme agents also use separate systems to manage complaints that come into their organisation. Governance of complaints operations occur in monthly meetings with EML, GIO and the icare Claims Operations team.

icare requires monthly reports from scheme agents covering frontline complaints not already recorded by icare. Complaints raised by SIRA and WIRO are entered into icare's system when received by icare.

The Customer and Community team has been providing a monthly report on complaints to the GET since July 2019<sup>20</sup>. The report details:

- complaint volumes by month and trend line
- complaint volumes by scheme
- claims complaints by customer type
- policy complaints by customer type
- claims complaints themes
- policy complaints themes.

The report also identifies themes such as the drivers of advocacy and experience measures with employers, what employers are saying, trends in key service metrics for injured workers, and feedback from disability workers. Issues relating to scheme agents are captured in report commentary. Customer complaints reporting is supplemented with customer quotes, both positive and negative, which is good practice.

Average handling time for complaints is tracked if the complaint is logged into the complaints management system, Guidewire. Historically, complaint handling times have been slow and classified as 'Resolved in more than 20 days' or 'Resolved in under 20 days'. Executive interviews revealed that the majority of complaints are resolved within two days, and complaints which take longer to resolve are escalated to the relevant GM.

<sup>20</sup> Customer Experience Performance monthly report.

The GET receives a variety of customer complaints reporting and information from a range of sources. While this broad oversight is positive, a lack of centralised repository of complaints means that the ability to analyse for systemic issues and themes is limited.

Customer complaints management and reporting is set out in further detail in Chapter 6. Issue identification, escalation & resolution.

# 5. Risk management & compliance

## 5.1 Summary

When icare was created it brought together all the specialist insurance services operated by the NSW government under one umbrella. As a result, icare operates a broad range of insurance schemes, such as Lifetime Care, Dust Diseases Care, NI and Sporting Injuries insurance. Each of them has a unique risk profile due to different customers, different funding arrangements, and relevant scheme reserve capital positions, as well as being governed by different NSW legislation. This creates complexity in icare's operations and ability to manage risk across its operations.

We observed considerable gaps and weakness in icare's risk frameworks and practices and in the operation of its three Lines of Defence (3LoD). Line 2 has been slow to establish a comprehensive risk management framework and policies to a level appropriate for the size and complexity of icare's operations. Line 1 demonstrates low risk maturity which has been influenced, in part, by Line 2 not being adequately resourced over time or having a strong enough voice to guide and challenge Line 1. We also saw the need to strengthen the Line 3 reporting line into the ARC into a hardline reporting line, to strengthen its independence.

icare has been undertaking important work over 2020 to strengthen its risk management framework, supported by the new Governance committee created in August 2020, but there remains significantly more work to be done. The business line risk profiles that feed into the enterprise risk profile require establishment or improvement. While icare has strengthened many risk policies such as procurement, outsourcing and conflicts of interest, it is too early to assess the extent to which they have been effectively implemented. Procedures are yet to be written, business line risk committees yet to be set up and significant work is required to enhance the risk awareness and training of employees to embed the improved risk standards and practices day-to-day.

The appointment of a new CRO in September 2020 and the approval by the GET in November 2020 of a new organisational structure and team for the CRO function are positive signs of a desire to build stronger risk capability.

icare needs to further mature its understanding of the stakeholders who have a role in supervising and overseeing icare's operations, including SIRA, NSW Auditor General, Motor Accidents Authority, Fair Trading, WIRO, ICAC, Workers Compensation Commission and IPC. This requires a strong tone from the top set by the board on a continuous basis.

We assessed icare risk management and compliance across the following areas:

1. Risk management framework
2. Financial risk management
3. Non-financial risk management
4. Risk reporting to senior leadership
5. Annual attestation process over audit and risk management
6. Risk and compliance training programs
7. Risk systems and tools
8. Three lines of defence (3LoD).

## 5.2 Context for this chapter

### Regulatory framework for risk management applying to icare

When SIRA was established at the same time as icare, it was vested with powers and oversight over three of icare's schemes but not all of icare's operations. When SIRA began in 2015, it also had to establish its supervisory approach and guidelines.



The regulatory standards set for icare on risk management include:

- Under the *Government Sector Finance Act 2018*, icare's board is required to establish and review an effective system for risk management, internal control and assurance (including by means of internal audits) and arrangements to protect the integrity of icare's financial and performance information. The NI is excluded from these requirements, but icare itself is not.
- NSW Treasury has published a number of risk guidelines that apply to icare as a NSW government agency, including TPP 20-08 Internal Audit and Risk Management Policy for the General Government Sector (replacing TPP 15-03 Internal Audit and Risk Management Policy for the NSW Public Sector, as of December 2020). In late 2020, Treasury also released the Risk Management Toolkit for NSW Public Sector Agencies<sup>21</sup>, Guidance on Shared Arrangements and Subcommittees of Audit and Risk Committees<sup>22</sup> and a Risk Maturity Assessment Tool<sup>23</sup>.
- TPP 20-08 requires icare to meet the standard of risk management set by ISO: 31000:2018 Risk Management. This requires icare to establish reasonable assurance that each material risk in icare's business is prudently and soundly managed, it has a board-approved RAS and a risk management strategy describing icare's approach to managing risk.

The risk management requirements set for icare in these regulatory requirements are broad in nature. They are designed for a wide range of NSW government agencies and do not address the specific risk management challenges of an organisation running complex insurance operations. The board and the GET have expressed their desire to comply with regulatory standards akin to an APRA-type standard in line with better practice, however this has not been reflected in policies, processes and procedures.

### Self-assessment

Aligned with better practice, the NSW Treasury requested icare to undertake a self-assessment in early 2019, akin to those undertaken by APRA-regulated institutions in 2018. icare conducted a high-level review in response and MinterEllison provided independent perspectives on the assessments undertaken by icare and other public agencies. MinterEllison's assessment identified opportunities for improvement in the management of non-financial and third party service provider risk.

### Three lines of defence

icare has adopted a three lines of defence (3LoD) risk governance approach from its establishment in 2015. The roles of Line 1, 2 and 3 are defined in the RMF and summarised below:

Figure 1: Three lines of defence at icare

<b>Line 1</b>	<ul style="list-style-type: none"> <li>• Line 1 owns and manages icare's risks and controls. It is responsible for identifying risk, monitoring the effectiveness of controls, promoting a strong risk culture, operating within icare's risk appetite and making risk-informed decisions.</li> <li>• Line 1 comprises all employees in the business lines operating icare schemes or insurance operations and in the functional teams supporting them.</li> <li>• Line 1 does include the assurance and quality team (A&amp;Q). This team has a reporting line to the Group Executive Organisational Performance.</li> </ul>
<b>Line 2</b>	<ul style="list-style-type: none"> <li>• Line 2: owns, oversees and challenges the implementation of risk and compliance policies and frameworks.</li> <li>• Line 2 consists of:               <ul style="list-style-type: none"> <li>○ Risk Management team - responsible for risk policies and processes, defining the risk appetite statement, risk reporting, data analytics and outsourcing risk</li> <li>○ Compliance team - responsible for compliance policies and processes, regulatory change, incidents and issues and compliance reporting.</li> </ul> </li> </ul>

<sup>21</sup> TPP 12-03b

<sup>22</sup> TPP 12-04

<sup>23</sup> TPP 20-06

### Line 3

These teams provide independent verification of icare’s control environment and risk framework and include:

- icare’s Internal Audit team which has a dotted line into the ARC
  - icare’s external auditor, EY, acting on behalf of the Audit Office of NSW
  - Finity Consulting, providing independent actuarial services and PwC as its peer reviewer
- Internal and external audit prepare an annual audit plan which is reviewed and approved by the ARC and the reports on the results of audits are provided to the ARC

The RMF identifies the following material categories of risk for icare:

- Strategic risk
- Financial and Investment risk
- Brand and Reputation Risk
- Operational Risk
- Customer Risk
- Insurance Risk.

The RMF does not define the material risk taxonomy or identify sub-categories under them (eg. cyber, fraud and conduct risk within Operational Risk), however a risk taxonomy is in development.

## 5.3 Review observations

### 5.3.1 Risk management framework

#### Risk and compliance management framework

icare has a documented Risk Management Framework (RMF) supported by a number of policies and procedures, including a Risk Appetite Statement (RAS). These documents are owned and developed by the Line 2 Risk and Compliance team, with the board reviewing and approving the RAS, and the ARC doing the same in relation to the RMF, annually.

The RMF is high level, identifying the core elements of icare’s framework, such as the importance of risk culture, icare’s governance forums overseeing risk, and the 3LoD. The RMF has several gaps to better practice; for example, it does not reference consequence management, risk in change, delegations of authority or the role of SIRA and other NSW government bodies with a role in the regulatory framework for icare’s schemes.

icare needs to undertake further work on its assessment and management of the material risks affecting its business. Although icare has a high-level enterprise risk profile, it was developed by Line 2 without input from the risk profiles of each BU. Two icare business units recently created a BU risk profile and the risk profiles for other business units are planned or in development. As a result, the icare enterprise risk profile needs further input and validation by Line 1.

icare has documented how it will manage compliance in line with regulatory and legislative requirements within a Compliance Policy and Compliance Management Program. The documentation sets out key principles and a proposed approach for managing regulatory risk and compliance risks. However, icare’s compliance management framework has not yet been adequately embedded and operationalised across the organisation.

A significant amount of work remains to embed effective risk management and address the material gaps in icare’s risk framework, in particular in the area of regulatory compliance. Line 2 has been slow to establish risk documentation and frameworks and has not provided sufficient guidance for Line 1, with employees generally acknowledging that they have a limited understanding of risk management frameworks. Moreover, leadership confidence that “people at icare understand how to use prescribed risk management frameworks, policies and procedures” is low, with only 36% of Chiefs and the GET, 41% of General Managers, and 27% of Heads Of agreeing with this statement.



#### Recommendation 16

Review and update the RMF to ensure there is a consistent approach to identifying, measuring and monitoring risks that reflects appetite. Consideration should be given to incorporating better

practice guidance from other key regulators eg. APRA, ASIC, and ensure the RMF is rolled out and communicated.



#### **Recommendation 17**

icare to create, strengthen and update risk profiles for each business unit using a bottom-up approach and roll out procedures, controls and other mechanisms to support implementation and operating effectiveness.

### **Risk appetite statement**

icare has a RAS which is approved by the board annually. Reporting against the RAS enables icare's board and GET to monitor whether material risks sit outside of icare's risk tolerance and appetite, to enable action in response. The board approved the latest RAS in June 2020. Previously, the RAS was arranged on a scheme-based approach with individual metrics tracked for each insurance scheme. However, the 2020 refresh of the RAS reorganised the measures and metrics to an enterprise rather than a scheme-centric level.

While icare has worked to enhance the RAS to date, further work is required to the underlying metrics in relation to the material risk classes. In particular, there are no, or limited, metrics for:

- outcomes for injured worker and other customers
- outsourcing
- data governance, security and cyber
- conduct risk and risk culture (as part of operational risk)
- regulatory or agency relationships (with SIRA, ICAC, IPC and other agencies)
- complaints resolution and outcomes
- control effectiveness.



#### **Recommendation 18**

In relation to the RAS, review and refine metrics to reflect the key risks, metrics and tolerance levels relevant to a business of icare's nature and complexity, and ensure tolerances reflect the appetite of icare's refreshed board.

### **5.3.2 Financial risk management**

Effective capital management is an essential and integral part of icare's RMS. To support this process, icare has established Capital Management Policies for each of its schemes, which are subject to annual review in consultation with Actuarial and Finance teams. In accordance with the Capital Management Policies, the measures of required capital are presented to the ARC, where the ARC considers a forecast of available financial resources and agrees on a strategy for monitoring required capital against them. Given that the outstanding claims liabilities were 92.1% of the total liabilities of the NI at 30 June 2020<sup>24</sup>, our focus in this section is on the impact of this key financial risk on the NI's funding position.

Core accountability for this has been delegated to the Chief Actuary who reports to the Group Executive, Organisational Performance. The Chief Actuary has significantly increased the competency and size of the internal actuarial team since 2015.

#### **Review of capital reserves of schemes**

The NI's funding position of the NI scheme has been in decline since 2015, due primarily to ongoing underwriting losses. An underwriting loss occurs when the total cost of operating the NI scheme exceeds total premiums collected from employers. In the insurance sector, an underwriting loss can often be offset by the total income earned from the investment of the assets of the scheme. (Assets can be invested according to icare's investment mandate with the intent of achieving a long-term investment return that is higher than risk-

<sup>24</sup> icare Annual Report 2020

free). Given the significance of recent underwriting losses and the impact of weak investment returns (particularly in 2020), this has not been the case.

There are a number of factors that may have contributed to underwriting losses and the decline in the funding position of the NI scheme (noting the list below is not exhaustive):

- The 2012 legislative reforms significantly improved the funding position of the nominal insurer at that time. However, the claims experience has subsequently emerged to be poorer than the assumptions made on matters such as annual total costs.
- Legislative changes in 2015, which gave injured workers higher entitlements to compensation (reversing some of the limitations introduced in the 2012 reforms).
- Accounting standards require claims liabilities be discounted at risk free rates of return. Government bond rates are at historically low levels, which has significantly increased claims liabilities.
- Investment performance in the period to 30 June 2020 has been poor as a result of economic challenges created by the coronavirus pandemic.
- RTW performance has declined, resulting in injured workers for new claims being paid for a longer period while off work, thereby increasing total claims paid out of the scheme.
- icare chose not to increase premium charges to employers in 2020 in response to the COVID pandemic and the challenges faced by NSW businesses.
- There has been an increase in medical costs paid out per injured worker, due to increases in the number and cost of medical treatments.

An independent actuarial expert values the insurance liabilities of the NI every six months. The icare board has also sought independent advice to perform an independent peer review of the liability valuation. Both provide their reports to the icare board.

The Auditor-General for NSW audits the accounts of the NI and engages an independent auditor to support this. The most recent reports from PwC and EY on the NI scheme's capital reserves have concluded that the assumptions used to calculate the capital reserves are reasonable to meet its projected liabilities. Each of these reviews assessed the reasonableness of the assumptions used to calculate the reserves and determined them to be reasonable.

The Auditor General has recommended that icare improve its documentation and processes for the allocation of services fees to the NI scheme and other icare schemes. When icare incurs operating expenses such as employee salaries and costs, facilities, claims management costs paid to scheme agents etc, these are paid for by the schemes via direct and indirect service fees to icare.

### **Financial risk reporting**

Financial and Actuarial matters are standing items on the ARC agenda. The items presented are typically led by the Group Executive, Organisational Performance and the Group Executive, Prevention and Underwriting. Time dedicated to financial matter oversight in the ARC was significant compared to the risk agenda. The Chief Actuary is a standing attendee and regularly presents.

Items are presented relating to outcomes that align to the cycle of financial audit and reporting over the year, for example annual financial statements, CFO certifications and insurance liability valuation reports.

In addition to items presented by the Finance and Actuarial teams, icare's CRO provides a quarterly risk report to the ARC (discussed in subsection 5.3.5) which includes reporting on icare's performance against its financial and investment risk appetite. This includes reporting against metrics relating to:

- capital ratio of NI, Lifetime Care and HBCF
- deviation of current year loss ratios from budget after adjusting for economic assumption changes for NI, Lifetime Care and HBCF
- prior year reserve movements after adjusting for economic assumption changes
- liability bond rate return for NI, Lifetime Care and HBCF
- average weekly earnings
- consumer price index
- compliance with the investment risk appetite statement.

Subsection 5.3.5 presents a broader consideration of risk reporting to senior executives.

There are a number of financial risks where improvement is needed in relation to the icare's document standards, controls and oversight. These include

- medical cost compliance and leakage: there has been an increase in medical costs paid out per injured worker, due to increases in the number and cost of medical treatments.
- How icare allocates costs to the NI scheme and other schemes: the NS Auditor General has recommended# that icare should improve its documentation and processes on the allocation of costs between the NI scheme and other icare operated schemes. Current icare documentation does not accord with how the costs are being allocated in practice



#### **Recommendation 19**

Take action regarding the various financial risks that require improvement via better documentation, oversight and assurance, including medical cost payment, compliance and leakage and the integrity of operating cost allocation between schemes.

### **5.3.3 Non-financial risk management**

icare has been working on making improvements to non-financial risk management; for example, the continuous improvement in the CRO's quarterly compliance report since November 2018 and icare's agreement with SIRA to commit to voluntary reporting of significant matters in September 2018. However, we observed that icare's management and reporting of non-financial risk is not at the same level of maturity as its management and reporting of financial risk. icare needs to improve its understanding and actioning of non-financial risks and their flow-through impact on the funding position of the schemes.

In this regard, we assessed icare's management and reporting of compliance risk, operational risk and conduct risk. We identified:

- While icare has established compliance obligations and some risk profiles, these are incomplete or not up-to-date. The result is that icare does not have a comprehensive understanding of its compliance obligations or key risks, nor taken steps to allocate accountabilities to individual managers to ensure management of them. This limits effective monitoring activity as well as the GET and board's understanding of icare's actual risk profile and whether material risks are out of tolerance.
- icare has not determined how it will implement the procedures, measures and controls to ensure compliance with regulatory obligations nor has it organised an adequate system of control testing by the three lines of defence to ensure measures are working as intended to meet these obligations.
- While icare's Compliance Management Program notes that there are "processes in place to identify new and changed laws", we did not observe these processes to be documented, how often the compliance register is to be reviewed or if there are assurance processes in place to oversee the timeliness and effectiveness of these processes.
- Policies and frameworks addressing operational risk were slow to be developed, are too high level and have gaps. While Line 2 has worked to redress a number of gaps over 2020, significant work is still required to develop and enhance foundational risk processes and procedures to support strong operational risk management.
- icare has a number of conduct risks to be managed such as conflicts of interest, gifts and benefits, wrongdoing or other misconduct. While icare has established an improved framework for the disclosure of conflicts of interests, it is unclear how a conflict will be resolved once it is disclosed. In addition, it is unclear whether all of the necessary controls, registers and work flows to support the effective implementation of the policy have been designed and implemented.



#### **Recommendation 20**

Develop comprehensive compliance registers and implement procedures, controls and other mechanisms to ensure compliance and effective risk mitigation.



#### **Recommendation 21**

Strengthen the non-financial risk framework and operationalise this through the development and implementation of policies and procedures, leveraging external better practice.



#### **Recommendation 22**

Further strengthen policies and procedures in relation to conflicts of interest and ensure this has been communicated and effectively implemented.

#### **5.3.4 Risk reporting to senior leadership**

icare's CRO provides a quarterly risk report to the ARC which reports on icare's performance against its risk appetite. This was historically an exception-based report, but since early 2019 icare has reported against all RAS measures in accordance with better practice. However, the depth and scope of reporting on operational, compliance and conduct risk needs to be significantly improved. For example, through regular reporting on:

- aggregation incidents, complaints, audit issues and breach data including numbers, ageing and divisional accountabilities for resolution
- outcomes of root cause analysis work undertaken to identify emerging risks and thematic control weaknesses including who is responsible and expected timeframe to resolve
- state of control health and outcomes of any monitoring activity, thematic reviews or deep-dives
- concrete plans providing clarity on what is being done to address risk sitting outside appetite, with follow-up actions for accountable people and due dates
- insights on key areas of concern and emerging themes and their impact
- upcoming regulatory change and ongoing communication with regulators or other key stakeholders.



#### **Recommendation 23**

Significantly strengthen the reporting of operational risk, compliance risk and conduct risk to enable consistent oversight of emerging risks, thematic control weaknesses, issues identified through internal audit, conduct risk and incident root causes and trends.

#### **5.3.5 Annual attestation process over audit and risk management**

Under TPP 20-08, the CEO of icare must sign an annual attestation of the following matters and publish this in icare's annual report:

- icare's CEO is accountable for risk across the organisation<sup>25</sup>.
- icare has established a risk management system consistent with ISO 31000:2018.
- icare maintains an internal audit function that operates to better practice standards<sup>26</sup> including independent reporting lines and consistency with the 'model charter'<sup>27</sup>.
- icare has established an independent board ARC with appropriate expertise to operate as an advisory committee to the CEO<sup>28</sup> and provide assistance on icare's governance processes, risk management and control frameworks.

icare publishes the attestation in its annual report and it is signed by both the chair and the CEO. We observe that the board reviews and approves the attestation before it is signed by the CEO and chair. The RMF does not make any reference to an assurance process to support this attestation.

Since July 2020, the RMF has referenced a periodic review of the RMF, to ensure it is fit for purpose and operating effectively. A triennial "or every 5 years" review by an independent third party is also suggested. However these processes are not linked to the annual attestation process and we did not see evidence of management supporting the board with outputs of any review activity as a means of supporting the attestation certificate before it is signed off.

<sup>25</sup> Noting that care's board is in fact ultimately accountable for risk under the SICG Act, unlike other NSW government agencies

<sup>26</sup> International Standards for the Professional Practice for Internal Auditing

<sup>27</sup> TPP 20-08 Model Internal Audit Charter

<sup>28</sup> Noting that icare's board is not an advisory body but a governance board, unlike the boards of other NSW government agencies



#### Recommendation 24

Update the RMF to reflect the TPP 20-08 attestation process and increase the level of rigour and assurance to support the signing of this.

### 5.3.6 Risk and compliance training programs

Training materials for Line 1 observed by PwC were immature and not sufficient to support employees to develop competency in risk. For example, they do not detail key areas such as roles, responsibilities and key operational risk processes that support icare's RMF, nor does the training cover matters such as incident management or the difference between compliance and risk.

In our survey, only 57% of employees reported that they "understand how to use prescribed risk management frameworks, policies and procedures". In addition, only 48% believe "there are consequences if people at icare do not use risk management processes and procedures". This has the effect of deprioritising risk in daily activities.

### 5.3.7 Risk systems and tools

icare has established a central database called GENIE, to capture risk records and provide up-to-the-minute status of the progress of risk management activity. icare's RMF notes that all risks, controls, action plans, issues and incidents need to be entered into GENIE by the accountable employee.

GENIE was upgraded in 2020 to improve workflows and ease of use, however there is a pattern of employees not actively recording all material risks and incidents into GENIE. We note that icare is aware of this gap and in July 2020 introduced training relating to incident reporting. Given the recent efforts to improve the risk policies and the significant additional work to be done, employee training requires a further review.



#### Recommendation 25

Enhance and roll out education and awareness activities to lift employees' understanding of icare's and individuals' risk and compliance obligations, the management of risk, key operational risk processes, systems and tools, incidents management, and relevant consequences for non-compliance.

### 5.3.8 The three lines of defence (3LoD)

#### Line 1

Line 1 is immature in its approach to the management of risk, and is unlikely aware of material obligations and how to manage key risks. Interviews, focus groups and document reviews revealed limited understanding of how to effectively identify risks and escalate them appropriately.

We note the Assurance and Quality team (A&Q) established in August 2018 which reports to the Group Executive, Organisational Performance. The A&Q team is charged with supporting the business and management in meeting policy and framework requirements, implementing risk controls and assisting in the documentation and recording of risk activities. The A&Q team has an assurance plan approved by the ARC, and the ARC receives quarterly reports on the outcomes of the team's reviews.

The following weaknesses in Line 1 were identified and cited during interviews:

- Whilst the FSC and Risk and Compliance Working Group act as forums for Line 1 and 2 to discuss and manage risk at an enterprise level across icare, there is a lack of Line 1 risk ownership for risk and compliance, with no business line risk committees or forums and no reporting on the management of the key risks or obligations relevant to their business.
- Although there are dedicated risk SMEs to support line 1 to manage risk in their business (being the A&Q team), they do not report into the business units they are supporting which can create a blurring of the lines<sup>29</sup>.
- There are unclear and blurred roles and responsibilities between Line 1 and Line 2 and this has been exacerbated by inadequate resources.

<sup>29</sup> A&Q report into the GE Organisational performance rather than the relevant business line they are supporting

- We saw some weakness in the quality of the A&Q team's program and reporting. For example we did not see systematic testing of the design and operational effectiveness of controls by the A&Q team<sup>30</sup>, the nomination of accountable persons for corrective action and due dates for completion of actions. Normally, Line 2 has the role of reviewing and challenging the effectiveness of Line 1's assurance program to ensure it is appropriately testing risks and controls, however this is not occurring.



#### **Recommendation 26**

Establish and implement a Line 1 risk committee to oversee risk and compliance in each business unit.



#### **Recommendation 27**

Build the capability and resourcing of Line 1 (including the Assurance and Quality (A&Q) team), by equipping and enabling people with greater risk awareness and an understanding of icare's frameworks, and encourage their use. Review the reporting line of A&Q.

### **Line 2**

From 2015, icare prioritised the resourcing and capability build of its internal audit (Line 3) and the A&Q team (Line 1) over building a strong and effective Line 2 risk and compliance function. The limited investment in Line 2 occurred with the CRO not having a continual presence at GET meetings, and not being invited to meetings with the regulator or managing the regulator response. Together, this had the effect of limiting Line 2's stature in the business and reducing the voice of risk.

icare recognises the need to increase the resourcing of the Risk and Compliance team and to this end has appointed a new CRO (from September 2020) and a Head of Compliance in April 2020. The CRO has proposed further changes to the Line 2 organisational structure and additional resourcing to strengthen icare's risk framework and the voice of risk. The enhanced operational structure of Line 2 was approved by the GET and presented to the ARC in November 2020, and included:

- Risk management: Responsible for the design and development of the risk management framework, as well as risk reporting, data analytics, business continuity management, risk governance and assurance activities.
- Risk and compliance business partnering: act as the first point of contact for business lines for risk and compliance matters. To be responsible for business-as-usual risk and compliance advice, incident management, risk and compliance training, risk culture activities and supporting risk and control assessments. This function is in the process of being established.
- Enterprise compliance function: Responsible for managing compliance policies and processes, regulatory change, regulatory breaches and incidents, assurance activities, data privacy, compliance reporting and compliance operations.
- Regulatory affairs function: To be responsible for regulatory reporting, responding to regulatory requests and managing all regulators, including SIRA. This function is in the process of being established.

While the above is yet to be implemented, interviews, focus groups and document reviews revealed:

- Until recently, there had been a lack of visibility in the level of oversight and challenge of the Line 2 Risk team.
- The current level of Line 2 resources and capability is not sufficient to support the size and complexity of all divisions.
- There is no proactive monitoring by Line 2 over Line 1. We note that icare has acknowledged the gap in Line 2's assurance processes, and has proposed the introduction of Line 2 risk assurance activities using a 'show me, don't tell me' methodology, to be owned by both the Risk Management and Compliance teams.
- Line 2 oversight of projects, lack of guidance and support from dedicated risk expertise, from the early stages of projects.

<sup>30</sup> Although icare advises some work has commenced on design effectiveness testing



- Reporting lines for the CRO to the CEO are interim only.

Although a new organisational model for risk has been approved, it has not been operationalised and should be reviewed to ensure the gaps described above are addressed.



#### **Recommendation 28**

Provide sufficient resources for Line 2 to design and communicate the risk management framework to employees to build awareness and understanding of their role in risk.



#### **Recommendation 29**

Install the CRO as a permanent, standing member of GET meetings with a direct reporting line to the CEO to ensure the voice of risk is heard.

### **Line 2 and the regulator relationship**

icare's relationship with SIRA was coordinated by the Head of Regulatory & Affinity Partners, who reports into the GM of Communications & Stakeholder Relations. We are informed by icare that the engagement of SIRA was managed at the direction of the CEO.

Historically, meetings with SIRA were attended by the Head of Regulatory and Affinity Partners and relevant Line 1 executives, but not by the CRO or other Line 2 representatives, who bore no accountability for the regulator relationship. The relationship between icare and its regulator has been strained, characterised in the Dore Report as involving "frequent misunderstandings and non-cooperation".

icare has adopted a Regulatory Compliance Incident Reporting and Management Framework which sets out protocols for icare's reporting of significant matters to SIRA. This framework needs to be broadened to address other bodies with regulatory oversight, such as ICAC, IPC and the Auditor General for NSW and to describe the roles, responsibilities and principles which icare will follow in dealing with regulators and key stakeholders. The framework should address matters such as breach reporting, responding to regulator or regulatory requests, and other mechanisms.

See Chapter 6. Issues identification, escalation & resolution for further discussion of the regulator relationship.



#### **Recommendation 30**

The CRO to be made accountable for management of the regulator relationship.

### **Line 3**

icare's Line 3 consists of an Internal Audit team, the external auditor (EY on behalf of the Auditor General of NSW), Finity Consulting as independent actuary and PwC as peer reviewer on actuarial matters.

There has been a significant increase in the size and depth of the internal audit program over time, with activity growing from 274 days to over 2000 days and the internal audit team growing from one auditor to 14. Internal Audit's annual plan for 2019-20 stated that over the three-year cycle ending 2019-20, 89.6% of material areas of the audit universe would be covered. Coverage is expected to reach 100% by the end of FY21. The ARC approves the annual assurance plans of both Internal Audit and the external auditor.

We observed the following in relation to internal and external audit:

- Audit activity has been affected by the underlying weakness of icare's RMF, RAS and controls. For example, Internal Audit did not undertake assurance over scheme agents in 2019 (see subsection 7.3.5).
- Record-keeping in relation to work undertaken by internal audit could be further strengthened, particularly in relation to matters referred to icare by ICAC and SIRA for Internal Audit investigation.
- While internal audit tracks and reports to the ARC on the status of overdue audit action items, further rigour could be introduced into their management. For example, high rated audit actions should involve the accountable Line 1 executive to explain the findings and remediation plans to the ARC in person and any extension of the due date for closure of a high rated item should be permitted only after review by the ARC, informed by Line 1 executive presenting the reasons for an extension.

- Reporting lines do not align to NSW Treasury guidelines that state icare must implement a direct (ie. hard not dotted) reporting line from Internal Audit to the ARC and attest to this.

The ARC has overseen a strengthening of Line 3 external assurance via the appointment of Finity Consulting to provide independent actuarial services to icare, which is peer reviewed by PwC. Independent auditing of icare was also strengthened by the appointment of EY to bring specialist insurance services to the Auditor General.



#### **Recommendation 31**

Internal Audit's reporting line to be changed from a dotted to a hard line into the ARC and the ARC Charter to be amended state that Internal Audit has unfettered access to that committee, to support its independence.



#### **Recommendation 32**

Internal Audit to strengthen record keeping in relation to investigations commenced due to ICAC referral or other relevant stakeholders.

The ARC to improve its oversight of the closure of high rated actions arising from audit reports.

# 6. Issue identification, escalation & resolution

## 6.1 Summary

icare's approach to identifying and responding to material risks and issues is a vital element of strong risk management. However, there are gaps in frameworks that are needed to support icare in identifying a risk or issue and providing the guidance to respond with the appropriate urgency and priority.

Policy guidance is in part immature, and processes do not drive the importance of and accountability for managing and remediating issues. To illustrate, the definition of an 'incident' is not clear, and though reporting channels are somewhat clear, employees do not have a mechanism to report wrongdoing with sufficient confidence that they will remain anonymous. Registers exist to capture risks and issues, but they have not been used in a coordinated manner nor have they captured all material matters.

There is no central complaints management system which records and tracks the end-to-end lifecycle of complaints made by customers or others, to support a single view of all customer complaints across the organisation. Instead, there are multiple reporting systems across business areas and scheme agents. This does not give management a holistic view of customer complaints and it hinders the identification of systemic themes to support future prevention.

icare has been too slow to escalate issues to the GET, the board or SIRA. This also resulted in delayed reporting and responses to significant matters. There have also been weaknesses in the governance and oversight of actions to remediate.

We assessed the effectiveness of issue identification, escalation and resolution across the following areas:

1. icare's Incident management, reporting and escalation framework
2. Significant matter management and reporting to the regulator
3. Complaints management (customers and third party complaints)
4. Employee 'speak-up.'

## 6.2 Context for this chapter

### Incident framework

The incident framework is icare's framework of policies, processes and management pathways to provide clarity and guidance for employees on the identification, management and reporting of incidents.

icare has an Incident Management and Reporting Policy approved by the CRO in July 2017 and supported by the Incident Management and Reporting Guidelines issued in August 2018. An incident is defined as "any event which resulted in or could have reasonably resulted in an adverse impact on icare, our customer or employees that was caused by a breakdown in processes, controls, systems, a workplace injury, illness or hazard, a breach of law, regulation or contract". The framework also defines a 'near miss' as an incident which has been narrowly avoided. The policy states, "Everyone at icare has a responsibility to identify and report incidents". icare operates multiple systems for reporting of incidents, depending on the type of incident.

When an incident is of a regulatory or compliance nature, icare needs to assess the matter to determine whether it is a "significant matter" in accordance with its agreement with SIRA and report it to SIRA within specific timeframes, described below.

### Regulatory breach framework

SIRA released a Compliance and Enforcement Policy in July 2017 describing the enforcement mechanisms it will use in the event of a compliance breach. In September 2018, icare entered into an agreement with SIRA to voluntarily report significant matters (as defined by the agreement) to SIRA in relation to workers compensation and Treasury Managed Fund matters, with the following protocols:

- icare must provide an initial notification of significant matters to SIRA within five business days of becoming aware that the matter is significant.
- icare is to provide updates to SIRA where there is a material change to the initial notification.

In November 2019, icare's board approved a Regulatory Compliance Incident Reporting and Management Framework (SIRA – Workers Compensation Insurance) that describes the process by which regulatory compliance incidents are identified, assessed, rated, reported and escalated, including the time period for notification of incidents to regulators. This framework supports the Incident Management and Reporting Policy.

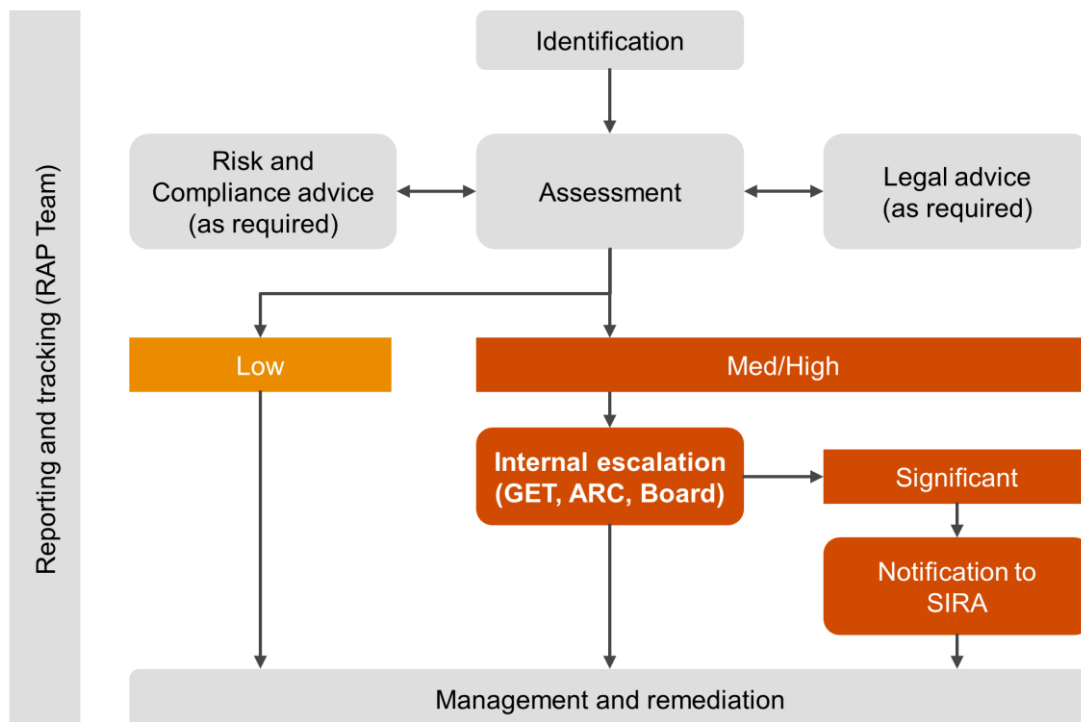
The framework differentiates between three types of incidents: a “regulatory compliance incident”, a “notifiable regulatory compliance incident” and a “regulatory incident”. The framework defines significant compliance matters.

Figure 2 shows icare’s management of regulatory compliance incidents, as reflected in the framework. The reporting process is as follows:

- The business notifies the Regulatory & Affinity Partners (RAP) team within 24 hours of becoming aware of an incident's capture in GENIE.
- The RAP team must notify the accountable GMs and GET members (low risk) within 24 hours and Risk & Compliance (including CRO) and the General Counsel and Company Secretary (medium/high risk) within 24 hours.
- The CRO must escalate regulatory compliance incidents (medium/high risk) to the ARC and/or board within 24 hours.
- The CRO must update the ARC and/or board at appropriate times of progress in the management of regulatory compliance incidents.

Each regulatory compliance incident will be reviewed by Legal for whether it is notifiable to SIRA because it is a significant matter, with ultimate decision-making authority residing with the CRO. We note that it is common practice by other organisations to report to the regulator before the board to ensure the organisation is able to comply with tight timeframes set for regulatory reporting.

**Figure 2: Management of regulatory compliance incidents (Extract: from the Regulatory Compliance Incident Reporting and Management Framework)**



The RAP team (which sits in Line 1) is responsible for the tracking (lodgement, monitoring and closing) of regulatory incidents, with the accountable business responsible for investigating, remediating and reporting outcomes to the RAP team.

icare has a Significant Matters Notification register<sup>31</sup> that contains records of significant matter notifications to SIRA related to litigation, compliance, privacy and “other” categories from September 2018 to November 2020.

### Complaints framework

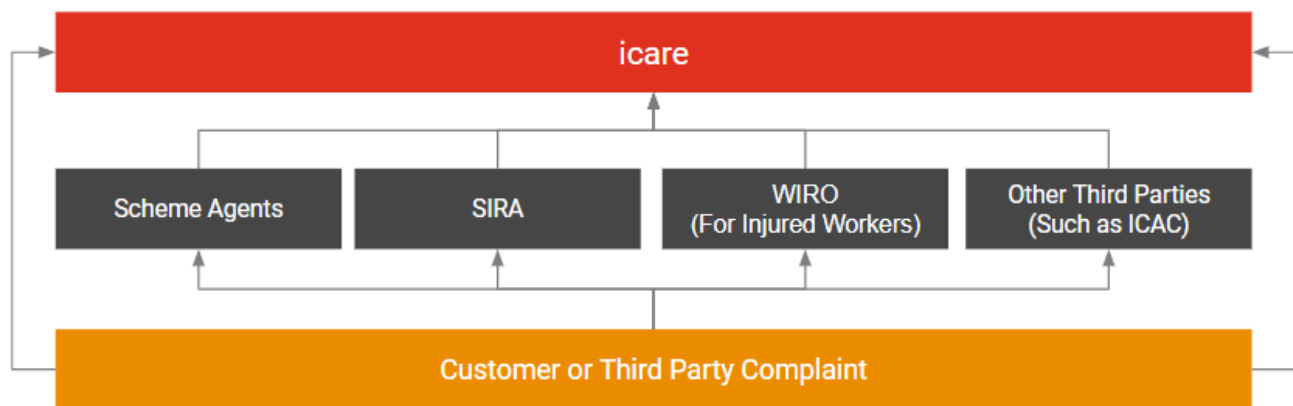
icare has an overarching complaints policy and framework that provides support and guidance to icare customers and relevant third parties such as scheme agents. The policy distinguishes between a complaint, a dispute, feedback and an enquiry. There is a separate “Managing Unreasonable Conduct by Complainants” policy which provides a complaints framework for specific areas such as Personal Injury, providing greater clarity to meet the needs of those areas.

There are numerous channels a customer or third party may use to raise a complaint, as shown in Figure 3:

- direct to icare
- to a scheme agent managing claims on behalf of icare
- to SIRA as regulator
- to WIRO in relation to injured workers disputes over workers compensation matters
- to other third parties, eg. ICAC, the Minister etc.

Both WIRO and SIRA have dispute and complaint resolution powers.

**Figure 3: Channels for receiving customer complaints**



Once a complaint has been received, various icare teams are responsible for recording, triaging and resolving complaints using different data repositories:

- Customer Advocacy team (CAT)
- PI Complaints teams
- Ministerial & Parliamentary Services (MAPS) for ministerial complaints
- icare PU teams including Service NSW
- Privacy team
- Scheme agent teams (x5)
- Lifetime Care & Workers Care
- DDC.

Complaints are captured through multiple systems. icare’s CRM is the predominant system and additional systems include the scheme agents’ CRM and GENIE (used by the Privacy team). SIRA and WIRO complaints are manually transferred into icare’s CRM. WIRO customer complaints are now managed by icare, which adds an additional intervention in the process - previously, claims went direct to the case manager and resulted in more efficient resolution.

Complaints are ‘ticketed’ and managed through the system to enable transparency and accountability; however, there are a number of existing and ongoing challenges, such as inability to see a customer’s previous history of complaints, resulting in multiple recordings of the same customer. There are also silos such that a

<sup>31</sup> Significant Matters Notification register was provided to PwC

customer complaint in one complaints team cannot be viewed by another complaints team, which led to multiple teams working with the same customer on the same or different complaints.

Governance of scheme agent complaints management occurs through monthly meetings with EML, GIO and the icare Claims Operations team. Due to the low volume of complaints, there are no monthly governance meetings with other tail claims service providers, or with authorised providers.

After the Dore Report, a Customer Advocate was appointed by icare to work independently and investigate targeted areas of concern, namely the complaints submitted by customers submitted as part of the Dore review. icare received a number of recommendations from the Customer Advocate and has acted on them.

icare also has a framework to hear employee complaints. Policies are documented that encourage employees to speak up on matters of wrongdoing or misconduct, including the Reporting Wrongdoing Policy, Code of Conduct and Ethics Policy, and Fraud and Corruption Control Policy. icare has induction and mandatory training that covers 'speak up', however it does not cover reporting wrongdoing.

icare has established a number of specific channels to encourage 'speak up':

- Town Hall sessions: a public forum led by management which allows people to speak up.
- Reporting through Public Interest Disclosures (16 recorded since August 2016).
- External channels such as (but not limited to) ICAC, SIRA, WIRO and the Minister.
- A more recent addition is the speak-up email where employees are able to share grievances with management (we observed more than 10 instances of this happening).

Informal mechanisms are also in place such as speaking up to managers and HR team members and the round of listening sessions introduced in 2020 (see section 10.4).

### Management of wrongdoing

icare established a Reporting Wrongdoing Policy, approved by the ARC in February 2019, to encourage employees to report public interest disclosures in accordance with the Public Interest Disclosure Act 2013. Employees can access the policy, along with the Reporting Wrongdoing Form and a supporting Reporting Wrongdoing Fact Sheet, on icare's intranet HUGO. Interviewees said the policy and process are often referred to in internal communications.

The policy sets out the framework for icare's response to employee complaints over matters of misconduct, corrupt conduct, maladministration or serious and substantial waste. It encourages icare employees to "report wrongdoing, provide protection to employees who make a 'public interest disclosure' (as defined by the Act) and ensure the disclosure is properly investigated."<sup>32</sup> The board stated that the policy incorporates "all elements of a Whistleblowing Policy as well as additional information covering what to do prior to 'whistleblowing'"<sup>33</sup>.

The policy provides protection to those making a public interest disclosure under the Act from reprisals by other employees, which would include serious corruption, serious maladministration, serious and substantial waste of resources and breaches of the *Government Information (Public Access) Act 2009*.

## 6.3 Review observations

### 6.3.1 Incident management, reporting and escalation

#### Identifying an incident

Our review of the incidents management policy suggests that the policy has not been kept current (last review 2017 and it should be reviewed on an annual basis<sup>34</sup>) and is not providing the necessary guidance to employees to support rigorous incident identification and management. With this weakness, governance roles are not clearly defined to support effective escalation and actions in response.

We observed a weakness in documentation and management of incidents. The definition of 'incident' varies across different documents<sup>35</sup>. 'Near misses' are vaguely explained without providing examples or further guidance to employees. Potential regulatory breaches are not defined and employees would have to seek guidance from SIRA's Regulatory Compliance Incident Reporting and Management Framework.

The policy owner is unknown due to absence of document control information. icare has advised the policy was approved by the ARC in May 2017.

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<sup>32</sup> Fact Sheet - Reporting Wrongdoing Policy: November 2018

<sup>33</sup> ARC Committee November 2018: Reporting Wrongdoing Policy

<sup>34</sup> Next review date is shown as 25 May 2018

<sup>35</sup> Definition of 'incident' differs in Incident Management and Reporting Policy and Incident Management and Reporting Guidelines



### Recommendation 33

Expand the incident management policy to describe the roles, responsibilities and accountabilities for:

- effective identification and escalation of incidents
- the risk assessment and rating of incidents

Also reconsider the roles, responsibilities and reporting of the Regulatory & Affinity Partners (RAP) team in light of the 3LoD principles.

## Reporting an incident

icare has recognised that incidents are generally under-reported by employees<sup>36</sup> and there is a need to improve employees' awareness and understanding of their role in reporting incidents.

icare operates multiple systems for reporting incidents, depending on the type of incident. There is a register for incidents within the GENIE platform. A current extract<sup>37</sup> from the GENIE incident register contains 1027 incidents. Of those:

- 31% (319) incidents are not rated
- 23% (246) are rated high
- 48% (118) of those rated 'high' relate to compliance breaches, including icare policy breaches, legislation breaches, fraud/corruption and privacy breaches.

Unrated WHS incidents are rated in the WHS system but this rating is not shown in GENIE. Due to the high percentage of unrated incidents, the number of incidents rated high is likely higher.

For employees reporting an incident, we observed multiple reporting channels depending on whether the incident relates to a privacy breach, process breakdown, fraud and corruption, cyber security or system failure. Procedures are vague (eg. "Speak to your people leader") and do not provide enough guidance. Escalation within icare is unclear (eg. to the GET, ARC board or other committee) and the process for notifying external parties such as SIRA, ICAC or law enforcement agencies of a relevant incident is vague.



### Recommendation 34

Add a risk rating to all incidents in the incident register and take the necessary action required based on the rating and significance of the incident.



### Recommendation 35

Improve record-keeping over incidents and ensure appropriate monitoring and oversight over closure.

## Escalation of material incidents to the board

We observed delays in the way that incidents are escalated, reported to the board and responded to. We provide two detailed examples (PIAWE and RTW) to illustrate.

*Example 1 - PIAWE (Pre-Injury Average Weekly Earnings):*

The PIAWE matter relates to the underpayment and overpayment of average weekly earnings to approximately 10,000 injured workers over an extended period. It has been widely published that the calculation process for PIAWE is particularly complex, so we have included this example to explain the process of raising the issue both internally and with the regulator, rather than the time taken to mitigate the issue.

Timeline of events:

<sup>36</sup> Quarterly Risk Report November 2018

<sup>37</sup> As of 9 December 2020

**Figure 4: Timeline - PIAWE**

<b>March 2019</b>	<ul style="list-style-type: none"> <li>icare commenced an internal risk discovery review in March 2019 as a result of errors identified over 2017-2018 in the calculation of weekly payments for injured workers between 2012 and 2018 (KPMG review).</li> </ul>
<b>October 2019</b>	<ul style="list-style-type: none"> <li>Incident logged in GENIE noting it was identified on 15 October 2019; incident rated 'high'.</li> </ul>
<b>November 2019</b>	<ul style="list-style-type: none"> <li>Incident first reported to the icare board, and the board was informed that management had first discovered the issue in May 2019.</li> </ul>
<b>February 2020</b>	<ul style="list-style-type: none"> <li>Incident self-reported to SIRA in breach of the reporting obligations agreed between the two parties to report within five business days on any matter that may have a significant regulatory impact, has the potential to bring a government agency, SIRA and/or icare into disrepute, or be of significant public interest.</li> </ul>
<b>March 2020</b>	<ul style="list-style-type: none"> <li>icare was still working to quantify the scope of the issue and prepare a remediation plan. In March SIRA expressed serious concerns.<sup>38</sup></li> </ul>
<b>November 2020</b>	<ul style="list-style-type: none"> <li>icare invited injured workers who received weekly workers compensation payments over 2012–2019 to come forward if they believed they had been underpaid their weekly entitlements by their insurer. Applications are still open and the remediation process is ongoing.</li> </ul>

This timeline highlights the inadequacies in managing a 'high' rated incident and the delays in raising the issue to the board and to SIRA to ensure appropriate communication and oversight.

*Example 2 - icare's response to the decline in RTW (Return to Work)*

This example shows the decline in RTW for injured workers in the NI scheme over 2018-2020 and provides observations of the management of RTW issues. The decline in RTW has adversely affected many individual injured workers and their employers and, while it has not had a material impact on capital reserves, this could change in the future if the RTW issues were not sustainably resolved and are able to permeate into the longer tail reserves of the NI scheme fund.

A high-level chronology of reporting to the icare board, ARC and CITC on RTW is set out below.

<sup>38</sup> SIRA letter sent to icare CEO on 3 March 2020



**Figure 5: Timeline - RTW**

January 2018	<ul style="list-style-type: none"> <li>Go-live claims management model, EML managing 100% of new claims</li> </ul>
May 2018	<ul style="list-style-type: none"> <li>RTW metrics available for the new claims model</li> </ul>
October 2018	<ul style="list-style-type: none"> <li>EML requested ~150 more staff to operationalise the new system; however, icare management declined. An icare team of ~80 people was established to demonstrate the new system could be effectively run by a smaller team</li> <li>Management still working towards agreeing definition and measurement of RTW</li> </ul> <p><i>(Board CITC report)</i></p>
November 2018	<ul style="list-style-type: none"> <li>External consultant raises material issues on deterioration of EML/icare relationship and drivers of poor performance</li> </ul> <p><i>(The Bridge International &amp; AT Kearney report)</i></p>
December 2018	<ul style="list-style-type: none"> <li>External consultant raises material issues on EML's ability to operate at scale, gaps in the implementation of governance, reporting inaccuracies and integrity, capacity issues, customer issues</li> </ul> <p><i>(PwC paper)</i></p>
June 2019	<ul style="list-style-type: none"> <li>External consultants raise the service model quality issues, poor outcomes. Advice to icare to focus on EML upskilling and the development and retention of people to address systemic operational issues</li> </ul> <p><i>(The Bridge International)</i></p>
July 2019	<ul style="list-style-type: none"> <li>Management report to ARC on the front end deterioration of RTW and was having an adverse impact on NI scheme financials; Management advised that improvements were expected and it was not expected to be an ongoing issue</li> <li>ARC questioned the root causes behind the poor RTW results and the degree of certainty over whether the improvement in RTW would rectify in the merium term. Management provided reassurance that "no big changes...are anticipated". Agreed action to invest in training and upskilling of EML</li> </ul> <p><i>(ARC Committee reporting)</i></p>
October 2019	<ul style="list-style-type: none"> <li>SIRA and ARC note different RTW measures between icare and SIRA</li> <li>ARC advised the issues with the claims model had not resulted in a material impact on scheme total liabilities; "the Committee noted that to date issues with the Claims Management model have not had a material impact, but the Committee is acutely aware that this could alter in the future if the RTW issues were not resolved and permeated into the longer tail".</li> <li>SIRA stated there was a need to view RTW as about customer outcomes, not just financial</li> <li>SIRA expressed concerns over the absence of root cause analysis on issues</li> </ul> <p><i>(ARC joint meeting with SIRA board on draft Dore Report)</i></p>
November 2019	<ul style="list-style-type: none"> <li>Board requested an explanation of different RTW methodologies of icare and SIRA</li> <li>Management report to board issues with the performance of the NI that were more systemic and more difficult to turn around than previously indicated. Recommends (large) employer has choice of the scheme agent they want to use (GIO, Allianz or QBE)</li> </ul> <p><i>(Board reporting)</i></p>

Feb 2020

- "...net \$357M deterioration in current and prior accident year results due to Return to Work (RTW) performance...The experience of the lower RTW rate and higher active claims has already negatively impacted scheme results"  
(ARC reporting)

Through this chronology we observe gaps in governance frameworks and systems for raising and managing issues in a timely manner and in the board holding management to account. icare management was slow to raise the RTW issue with the board and its committees and did not demonstrate an appreciation of the impacts of a RTW decline. Management's *Positive news bias* (see Chapter 10) was not adequately challenged, nor was adequate respect demonstrated by management for the concerns raised by the regulator.

Behaviours and actions to defer accountability (data issues, service provider issues) were prioritised ahead of actions such as root cause analysis and interventions that would have otherwise addressed the decline in RTW.

Incident reporting and management is considered in further detail in Chapter 3. Role of the board and Chapter 4. Senior leadership oversight.



#### Recommendation 36

Improve awareness and training of icare employees on the importance of escalating incidents in a timely way. Update the incident management policy to better define both an incident and governance roles, to support effective escalation and response actions including remediation.

### Root cause analysis

The incidents management policy does not provide guidance or emphasis on the importance of root cause analysis to allow the organisation to learn and prevent recurrence. In addition, there is no threshold set for when an independent investigation is required to prevent a conflict of interest from a team or executive investigating an incident in relation to their own performance.



#### Recommendation 37

Extend the incidents management policy to incorporate root causes analyses of material or high rated incidents by Line 2, 3 or an independent reviewer (where relevant) to bring an objective and unbiased approach to identifying root causes.

### Remediation

There is no remediation framework that sets out an obligation to develop a remediation plan and no reference to principles of remediation, including both making customers whole and strengthening control weakness to prevent future similar incidents.

There is no reference to consequence management for employees who contributed to the incident arising or for failing to report an incident as required by the policy. We did not observe procedures for the CRO to report against the incident register and feed this into discretionary remuneration outcomes.



#### Recommendation 38

Define and document a remediation framework which sets the guiding principles, roles, responsibilities and accountability for when and how a remediation program should be established and the governance required to oversee remediation activities.



### Recommendation 39

Improve Line 1 and Line 2 reporting on incident identification, management and closure and feed into consequence management as appropriate.

## Thematic review of incidents

The CRO provides reporting on incidents to the GET on a quarterly basis through the GET Risk Dashboard and includes matters such as WH&S, system failure (workflow or technical), process breakdown, privacy (external and internal), fraud/corruption (external), cyber security, contract significant matter and legislative compliance breach. We examined the current database<sup>39</sup> of incidents which shows 1027 reported incidents<sup>40</sup> between August 2017 and November 2020. Of these, 23% (246) are rated 'high' of which 48% (118) relate directly to compliance breaches (icare policy breaches, legislation breaches, fraud/corruption and privacy breaches).

Approximately one-third of the registered items do not have a rating. icare advises that unrated incidents are reported to the GET and the board.

### 6.3.2 Significant matter management and reporting to the regulator or other agency

We observed weakness in the framework and documentation that would provide guidance on significant matter reporting. icare's Regulatory Compliance Incident Reporting and Management Framework has high-level information on the escalation process to be followed for regulatory and compliance significant matters. However, this framework only applies to SIRA Workers Compensation Insurance and does not cover other relevant agencies, such as ICAC. The Regulatory Compliance Incident Reporting and Management Framework is vague on the detail of process, timelines and information to be provided to SIRA and there is limited detail on the types of issues that give rise to a SIRA notification.

The incident framework outlines icare's undertaking to report significant matters to SIRA within five business days of becoming aware that the matter is significant. The internal process for escalating a significant matter specifies 24 hours and the board must be alerted within three days. icare does not have a regulatory breach committee to expedite actions and decisions to support icare in meeting its five-day reporting obligation to SIRA. Instead, icare's framework places reliance on the business line responsible for resolving the issue, but offers no further detail on the point of responsibility, principles for remediation and governance. We note, icare is committed to further engagement with SIRA to improve the voluntary reporting process.

The Significant Matter Notification register records 12 matters reported to SIRA between September 2018 and November 2020: 7 litigations, 1 privacy matter, 1 compliance matter and 3 classified "other".

The register appears incomplete: the PIAWE incident is missing, despite SIRA being informed of the breach on 27 Feb 2020 and it being a significant matter. An improvement in icare's processes regarding the identification, tracking and analysis of regulatory significant matters is required, as well as further training to lift employee understanding of what icare's compliance and regulatory obligations are. icare should also look to better practice significant matter reporting regimes, such as the guidance provided by ASIC to Australian companies, to help guide management to understand what event will trigger a requirement to report to SIRA.



### Recommendation 40

Establish a significant matter committee to assist with expediting decision-making regarding what should be reported. This should be supported by terms of reference and appropriate composition.



### Recommendation 41

Uplift employee awareness of icare's commitment to report significant matters to the regulator SIRA within five days.

<sup>39</sup> As of 9 December 2020

<sup>40</sup> The total number of incidents in the GENIE register includes active, draft and closed incidents

### 6.3.3 Complaints management (customers and third party complaints)

Across icare, there were ~24k customer complaints in FY20<sup>41</sup>. This was down 33% from 36k in FY19 and the average resolution time fell from five days in FY19 to three days in FY20. Most complaints relate to individual policies or claims across the schemes that icare operates.

#### Complaints resolution

The lack of a single complaints management system, and issues in the recording of complaints, do not allow for sufficient analysis of data to perform a root cause analysis of key themes and to pinpoint systemic issues. There are no standardised processes for 'deep dives'/ root cause analysis of key themes, and there are missed opportunities for continuous improvement and actions to increase the capability and awareness of icare teams.

The Customer Insights team has started reporting quarterly and presenting 'deep dive' themes to the GET. There are opportunities to expand this with A&Q and frontline teams. For example:

- The Complaints Quarterly Report Q4 FY20 (Apr-Jun) includes a deep dive into Aged Complaints. It was revealed that a sizable portion of cases had actually been resolved but the agent failed to close the complaint in CRM. An increased administrative and management focus will be necessary to reduce numbers significantly moving forward.
- The Customer Insights team's PI Monthly Report (July 2020) includes a deep dive into the impact that changing a case manager has on injured workers' experience.

icare does not track the percentage of complaints resolved in favour of the complainant and report this under its RAS, in accordance with better practice.

#### Improving complaints management

Internal Audit's review of complaints management in April 2019 did not identify high rated issues<sup>42</sup> but highlighted broad areas for improvement. The audit confirmed icare has an established framework for complaints management that is broadly aligned with the Australian Standard for complaints handling.

To drive further improvements in the complaints management process, icare established an internal Complaints Working Group in March 2019<sup>43</sup>. This team meets monthly and includes representatives from operational complaints teams, customer insights, quality assurance, CRM and the Customer Advocate. This working group initiated the Complaints Uplift Project in May 2020, with specific actions for 13 areas to improve understanding of complaints, create efficiencies, and increase capability to use complaints as a source of insight to drive continuous improvement. The action plan was endorsed by the GET but did not go to the board. To date, one of 13 actions has been completed: the complaints policy was finalised in August 2019 (however they have been slow to operationalise). Implementation of the new complaints policy and that of the framework are still underway.

The Complaints Working Group will provide a progress update to the GET in early 2021<sup>44</sup> and will address<sup>45</sup> readiness for complaints (framework and policies, working towards one complaint management system), response to complaints (quality of data capture, quality assurance), and learning from complaints (enterprise-wide reporting and connecting Complaints, Customer Insights and QA teams to drive continuous improvement).

Work is also underway within Personal Injury to review its complaints model, including the overall strategy, a review of levels/tiers, escalation points, reporting internally and reporting by scheme agents.



#### Recommendation 42

Improve coordination of complaints management to provide oversight/reduce duplication and ensure learnings from complaints are more routinely sought as feedback loops into design and execution.

### 6.3.4 Employee 'speak-up'

#### Speak-up channels

icare recognises the importance of creating a speak-up culture, and we observed effort to create speak-up

<sup>41</sup> icare Annual Report for FY20

<sup>42</sup> Complaints Management Audit (April 2019)

<sup>43</sup> As per email from icare employee, Manager of the Customer Advocacy team

<sup>44</sup> As per email from icare employee, Head of Organisational Effectiveness

<sup>45</sup> As per GET Briefing June 2020 - Complaints Uplift update

norms that not only enable employees to speak up but also to see action taken to address concerns. This is particularly important in the current environment as the organisation responds to a greater level of scrutiny.

Speak-up channels are listed above in section 6.2. Through our review we observed a flow through these channels and a disaggregated approach to capturing the issue and assigning an accountable owner. We observed a proactive approach to creating new opportunities to be heard, such as the creation of listening sessions and the speak-up email to address the more recent impacts of the media scrutiny. The channels are actively promoted; for example, on taking on the role in September 2020, the interim CEO sent an organisation-wide encouragement email to encourage speak-up. However, policies, procedures and guidance supporting this process are hard to navigate and make it very difficult to understand what type and to whom certain matters should be escalated.

### **Confidentiality and independence**

Of note is the extent to which the speak-up channels give employees confidence in the assurance of confidentiality regarding public interest disclosures (which have obligations to keep the complainant anonymous) and other sensitive matters.

Until early 2021, an employee wishing to lodge a wrongdoing complaint had to do so by sending it to an internal icare email address, with the complaint reviewed by the designated icare employee. This was not better practice for a company of the size and complexity of icare. An independently operated service helps to build the confidence of employees to raise matters of concern due to its independence. In late 2020, icare appointed an independent third party to provide a “Speak up” hotline service. This is expected to become operational in early 2021.

### **Encouragement to speak up**

A further weakness we observed is the role of managers across the business being adequately equipped to support the formal and informal mechanisms with the response and behaviours required to address matters as they are raised.

We observed numerous evidence points where individuals felt that although the channels were in place, cultural elements did not support disclosure. At a Town Hall session, the then CEO, in seeking to create a culture of openness and speak-up, asked a team member who asked an anonymous question to reveal their name. The culture trait of Commitment to vision is revealed here, as multiple executives pointed out in interviews that the then CEO sought to create an open culture where people could speak up (the Commitment to vision), but failed because of the sharp delivery of the message in seeking the desired outcome.

We heard from interviewees about matters where budget constraints were driving workarounds and their speak-up was not addressed. In focus groups we heard examples where employees were asked to tell a more favourable narrative in reporting but they could not address this directly with their manager. Another interviewee was uninvited to follow-up executive conversations on strategic matters following a challenge on a strategic move.

In the 2019 state-wide People Matters Employee Survey (PMES) 92% of employees stated they were comfortable notifying their manager of any risks, but only 52% were confident in the way icare resolves grievances (48% in 2018).<sup>46</sup> The PwC survey revealed consistent findings, with only 51% agreeing that matters were handled in a timely manner and 52% in an effective manner. Further, 32% of icare respondents agreed or strongly agreed “there is a negative consequence if I raise a risk, issue or difference in opinion” and this was amplified in the Care division at 44% and Customer and Community at 47%. Further verbatims were consistent with some of the interview themes, for example “if you voice your concerns you are not heard” and “there was often a lack of action, particularly when it involved negative news”. Although we acknowledge the 50% of issues that staff do feel are heard and managed in a timely manner, there is work to be done to further encourage speak-up at icare.



#### **Recommendation 43**

Update and implement policies and procedures in relation to wrongdoing to enable and better support ‘speak-up’.

Ensure reporting channels are in place to support the anonymity, safety from potential reprisal and independence of the wrongdoing process.

Any changes should be communicated to all staff.

<sup>46</sup> Noting that in 2019 the average NSW public sector response to this question was 41% (11% lower than icare)

## Taking action

The types of issues raised vary in nature and degree. As such we do not expect a uniform approach to their management and action. However, there were gaps in central coordination of providing visibility of matters raised of a material nature.

Public interest disclosures and general complaints are managed by the risk team with support from the Internal Audit and Legal teams, while employment-related grievances are managed by the Human Resources and Legal teams, and both require regularly scheduled discussions. There is no overarching approach to matters of wrongdoing, which interviewees described as “ad hoc”. There is no central tracker or set of trackers that present the collective set of matters icare is dealing with. Because of this fragmentation, the challenge in understanding the full extent of matters being dealt with, and due to the necessity for confidentiality in managing sensitive matters, we are unable to determine the extent to which these matters are systemic. Likewise, management and the board would also be challenged to understand thematic and appropriate actions in response.

For those cases we were able to consider, we observed that investigation procedures for internal complaints have been thorough and comprehensive. External providers have been engaged to conduct independent investigations where necessary, although responses appear slow, particularly in starting. Matters that are slower to start fail to send an early signal of importance or responsiveness. The wrongdoing policy commits icare to provide the complainant with an acknowledgement that their complaint has been received, within 45 days of the disclosure being made to icare, in accordance with the *Public Interest Disclosure Act 2013*. However, for non-PID matters, employees are not offered assurance that their matters will be dealt with in a timely manner.

Interviewees noted a marked change in the commitment of leaders over time, referencing how leaders have “come a long way since when they were a start-up,” and noting that the “level of vigilance is higher than ever before”. However, icare leaders still have a long way to go. The lack of feedback loops on completing investigations should be remedied and communicated to icare employees, where appropriate, to instil confidence that issues are dealt with appropriately. We recommend that icare pursue its intention to implement “a system for feedback following an investigation to help inform future behaviours and to ensure lessons are learned.”<sup>47</sup>



### Recommendation 44

Coordinate and report to ARC on the complete set of material grievance and wrongdoing issues to provide oversight and an understanding of systematic themes. Implement a system of feedback to help inform future behaviours and ensure lessons are learned.



### Recommendation 45

Ensure that management takes action efficiently and effectively in formal and informal matters of wrongdoing and other complaints and there is effective communication in support of this.

<sup>47</sup> Media Issues Response for the icare and SICG Act Independent Review - September 2020

# 7. Scheme agents

## 7.1 Summary

This chapter is focused on icare governance and oversight of scheme agents providing services to the NI.

icare's scheme agents play a critical role in enabling the delivery of icare's service mandate to customers. icare has outsourced the majority of its claims management in the NI to specialist third party providers to act on its behalf: insurers EML, GIO, Allianz and QBE. Today, EML manages the majority of NSW workers compensation claims, however a recent change has implemented an Authorised Provider model enabling larger employers to choose their claims provider from between GIO, Allianz QBE or EML.

icare has experienced significant issues in the claims management of workers compensation, on behalf of the NI, resulting in poor customer experiences and customer outcomes, including a decline in RTW in relation to new claims.

The nature, scale and types of services provided by the scheme agents to icare are significant, requiring appropriate arrangements to manage the risks effectively. We observe that in November 2020, icare improved the policy expectations set for the management of its outsourcing arrangements. This helps to set the guardrails for the scheme agent relationships, but significant work remains to build this out further and operationalise it. An improvement in reporting to the board and the GET is required and icare's assurance activities are too heavily reliant on external audit rather than utilising the full checks and balances across the three lines of defence.

We assessed icare's governance and oversight of scheme agents in the following areas:

1. icare's outsourcing policies to assess, select, oversee and govern scheme agents
2. Outsourcing agreements in place, including service levels and performance requirements
3. Roles, responsibilities and accountabilities for the NI scheme agents
4. icare's supervision and oversight of scheme agent performance across the 3LoD.

## 7.2 Context for this chapter

At icare's inception five scheme agents provided services to the NI, with each scheme agent having its own platform and processes. In April 2017, icare announced it would move to a single service provider model for most new claims, selecting EML as the service provider. GIO and Allianz continued to manage the claims in their portfolio that were lodged before 1 January 2018 and to manage some larger customers who did not wish to move to a new scheme agent. icare changed the model in 2020 to provide employers paying premiums over \$500,000 a year with the option to choose their claims manager.

Each scheme agent is appointed by icare and governed by one or more contracts between icare and the agent. The agreements entered into between icare and each of GIO, QBE and Allianz are Authorised Provider agreements while the agreement between icare and EML is a Service Provider Agreement.

In late November 2020, icare announced an extension of the EML contract for one year and its intention to run a new tender process in mid 2021 for claims management services to the NI. The remuneration arrangements in the EML contract were changed to acknowledge their role in driving intended RTW outcomes.

## 7.3 Review observations

### 7.3.1 icare's outsourcing policies to assess, select, oversee and govern scheme agents

#### Outsourcing policy

icare established its first outsourcing policy in May 2019; however, the first iteration of the policy (operating until November 2020) was very high level and did not incorporate clear guidelines or expectations in relation to the selection, setting up and oversight of outsourced providers. The new policy expressly states the intention to align with the requirements of APRA's prudential standard CPS 231 relating to the outsourcing of material business activities.

Key improvements include:

- the requirement for a materiality assessment of proposed outsourced business activities (and contract renewals) overseen by Line 2



- a new Outsourcing Committee, chaired by the CRO, to oversee proposed material outsourced arrangements and monitor them. This is a positive development to enable the voice of risk to be heard and facilitate better GET challenge of scheme agent performance
- mandatory contract clauses to be included in icare outsourcing arrangements
- material outsourcing arrangements requiring endorsement by the GET and ARC and approval by the board
- SIRA to be informed of material new outsourced arrangements or changes to existing ones (for SIRA regulated schemes), as early as possible
- full risk assessments required before offshoring services
- the obligation for ongoing monitoring of the outsourced provider to ensure they are meeting their KPIs and for adequate icare resources to be in place to do so.

The Outsourcing Committee is vested with the following delegated authority:

- to oversee the management of outsourcing risks associated with material outsourcing arrangements
- to report to the ARC on any relevant issues relating to material outsourcing arrangements.

The material outsourcing agreements that are currently in place with scheme agents (other than the extension to the EML contract approved in November 2020) were entered into before November 2020 and therefore did not have to comply with these higher standards for the management of risk in outsourced arrangements. icare considered the compliance of the EML extension against the terms of the prior outsourcing policy and indicated an intention to comply with the updated November policy however, we did not see evidence of confirmation provided to the Board on this matter.

### **Strengthening the outsourcing policy further**

The policy could be further strengthened by including the following requirements:

- Reinforce the principle that although icare may outsource day-to-day management of a business activity, icare itself remains accountable for complying with all regulatory requirements and for the outcomes delivered to stakeholders.
- Provide more details on the prerequisites that must be met for new outsourcing arrangements, including preparing a business case, adequacy of due diligence of the chosen service provider, disclosing icare policies to be complied with, and disclosing the selection criteria and assessment process.
- The requirement for a full risk assessment of the outsourcing policy (not just in relation to offshoring).
- Specify the role of Internal Audit to pre-approve outsourcing arrangements.
- Provide more specific guidance on monitoring and oversight practices that must be met, such as the obligation on the contract owner to undertake control testing.
- Provide more specifics on contract requirements such as:
  - a statement of the content, frequency and format of services being provided
  - service levels, performance requirements and KPIs to be met and timelines for delivery
  - access by internal or external audit to undertake on-site inspections and sampling to confirm the adequacy of risk management systems and compliance to performance standards
  - escalation provisions to govern how icare can escalate action for ongoing performance issues by an outsourced provider (eg. warnings, tracking of performance issues, requirement for a remediation plan, financial penalties, ability to remove services, or to terminate).

As the new outsourcing policy has only recently been approved, we are unable to fulsomely observe the effectiveness of the mechanisms to implement it. That said, Line 2's involvement in the EML contract extension process is promising.



#### **Recommendation 46**

Strengthen and further embed the outsourcing policy and design the underpinning processes and procedures to fully operationalise and implement the updated policy.

## Outsourcing committee

As of February 2021, the outsourcing committee is not yet in operation. We would expect standing members to be appointed and terms of reference to be put in place. When setting up the new outsourcing committee, icare should also give consideration to its interface with:

- the joint committees between icare and each scheme agent (pursuant to each outsourcing agreement) which reviews agent performance to KPIs, for icare to receive and monitor reporting, review audits etc
- icare's remuneration committee<sup>48</sup> (reporting to the Group Executive PI) which authorises payments of remuneration to agents in accordance with relevant agreements; and
- the exercise by standing member executives on the outsourcing committee of their individual accountabilities.



### Recommendation 47

Set up the proposed outsourcing committee with standing members of GET members and relevant executives involved in outsourcing, with a terms of reference providing a clear remit which considers the committee's interfaces with other committees and roles and includes the requirement to escalate material issues to the GET and ARC.

## 7.3.2 Outsourcing agreements in place, including service levels and performance requirements

icare has a number of contracts in place with its scheme agents to manage different tranches of claims within each claims book. The agreements follow similar templates and have similar clauses.

icare's 2018 contract with EML reflected icare's intention, at the time, to move to a different operating model to that used in the GIO, Allianz and QBE arrangements. The new operating model was intended to bring EML closer to icare and give icare greater control over elements such as the claims procedures and processes, delivery of the customer experience, recruitment, ways of working and significant decision rights. The remuneration of EML under the 2018 contract was also very different, with a cost plus model, low incentives and no financial penalties.

icare has agreed changes and an extension to the EML contract (to apply from 1 January to 31 December 2021). The new arrangement:

- changes the governance and removes the significant decision rights vested in icare
- changes the incentives and financial penalty arrangements for EML performance
- improves the mechanisms for EML to cooperate with SIRA.

icare also announced a number of operational changes relating to nominated case managers, reducing claims management team sizes and aligning teams to industry lines. When icare announced on 26 November 2020 an extension to the EML contract for one year, it was not clear that the requirements of the recently approved outsourcing policy were finalised and confirmed to the board.

Our review of the agreements highlighted:

- further clarity is required in relation to the key services being outsourced and level to which they are to be delivered. Currently the agreements refer to the "Highest Standard" and in accordance to applicable laws (such as NSW Workers Compensation legislation)
- the requirement on icare to notify the scheme agent in writing of internal icare policies that the scheme agent must comply with. We did not observe evidence of how icare notifies scheme agents of these policies, or ensures scheme agents are performing to those icare policy standards.



### Recommendation 48

Review existing key material outsourcing contracts against the revised outsourcing policy requirements and update accordingly.

<sup>48</sup> We did not receive a terms of reference for this committee



#### **Recommendation 49**

Improve the governance over scheme agent adherence to relevant internal icare policies and ensure that scheme agents are performing to these standards.

### **KPIs and performance standards**

All the icare scheme agent agreements establish a set of KPIs that scheme agents' performance is to be monitored against, with some of these determining remuneration outcomes. Each of icare's contracts should have a detailed list of KPIs to be complied with across categories such as customer, operational, financial and people. Example metrics include RTW, timeliness of key activities and the efficiency, effectiveness and cost of claims. Each KPI sets out the details of the performance metric to be used, assessment frequency, methodology for measuring the KPI and the accountable individual for reporting.

However, our review highlighted further work was required in relation to the KPIs. Many are lagging rather than leading indicators and more work is required in the compliance and customer service KPIs. This will provide better early warning of service failures that may cause longer-term issues in the tail.



#### **Recommendation 50**

Review the KPIs used to measure scheme agent performance. Ensure they adequately capture compliance with regulatory requirements and include leading measures as well as lagging measures focused on the injured worker.

### **7.3.3 Roles, responsibilities and accountabilities for the NI scheme agents**

#### **icare executive accountability for scheme agents**

APRA standard CPS 231 states that a person or committee should be nominated as accountable for the management of an outsourcing arrangement.

The EML contract nominates an Account Manager to act on behalf of the Nominal Insurer Principal as the first point of contact for the Service Provider Principal. All other scheme agent contracts (eg. Allianz and GIO) have a similar provision.

Our review of the icare executive role descriptions shows they need to specify who has overall accountability for each individual scheme<sup>49</sup> and also state explicitly the accountability for the performance of scheme agents. For more information on this, see Chapter 8. Accountabilities.

#### **7.3.4 icare's partnering relationship with scheme agents**

icare's relationships with scheme agents are intended to be a partnership. Within the NI, the relationship in practice worked quite differently from the perspectives of EML (as the largest provider to the NI) and other scheme agents (Allianz, QBE and GIO) also providing services to the NI.

In the past, there was a sentiment, more pronounced in EML, that icare created a 'master-servant' relationship rather than treating the agent as a valued partner. At least in part, this was attributed to a lack of clarity over hand-offs and accountabilities between icare and its agent and in our focus groups with scheme agents; icare was reported to take on accountabilities and oversight which effectively "shadowed" and / or micromanaged the scheme agent. Decision rights were held tightly by icare that could be more appropriately delegated or decision rights in grey areas left actions in a void. As an example, a scheme agent reported an alleged privacy breach by a customer, was unable to make a determination and believed contractually, they were not in a position to do so. icare also did not make a determination putting the onus back on the scheme agent, which ultimately left the case unresolved and the customer's complaint unaddressed.

A further concern voiced by scheme agents was a perceived 'double standard' between themselves and icare: "when icare wants something, we have to reply in hours but when we need something, we can wait months for a response". Whilst it is recognised icare's intent was to control delivery outcomes and implement the less-adversarial operating model (an example of the 'commitment to vision' culture trait), this often created additional process steps and subsequent delays for the scheme agents and impacted their ability to partner effectively.

<sup>49</sup> Some schemes have a GE nominated with overall accountability for the scheme, yet others do not

There were, however, indicators that the relationships between icare and scheme agents are improving with further room for growth. Following a heavy consultation period between icare and EML in the period prior to extending the contract (approved in November 2020), icare recognised the need to pull back from its approach to tightly manage EML through control of day to day decisions and in turn implemented new decision rights in its contract extension. In the period during which we conducted interviews (just prior to the contract extension), there were references from both EML and icare to notable shifts in the behaviours of icare staff and leadership role modeling that were empowering EML in certain areas to expedite decisioning and deliver customer value.

At an operational level, through our focus groups we also observed positive experiences between icare and the scheme agents, particularly those outside of EML, where mid-level staff just got on with issues that they could resolve when not bound by contractual inefficiencies. A focus group participant explained that “when we were able to share, open up and be honest about how things were going we were able to work together to find the best solution for the customers”. icare’s ability to leverage the essence of this productive partnering will provide the rapid response and beneficial outcomes all parties are seeking to achieve.

### 7.3.5 icare’s supervision and oversight of scheme agent performance across the 3LOD

The November 2020 outsourcing policy states that the business is to maintain appropriate levels of regular contact with the service provider and have a process for regular monitoring of performance under the agreement, including meeting service level criteria.

To this end, each scheme agent contract includes a “Performance Management Governance Framework” which describes the processes, decision-making and performance assessment framework used by icare and the service providers in reviewing the scheme agent’s performance against KPIs and other standards. This is described in Schedule 4: Performance Management and Remuneration of the agent agreements. The schedule outlines the following key interactions with icare and scheme agents:

- Monthly Operational Meetings - to monitor performance commitments to support the delivery of the services. Members include the principal account manager, claims manager, account manager and other nominated personnel with relevant levels of experience and expertise.
- Operational Escalation Meetings - as and when required, escalation meetings address escalation items that have not been resolved at operational meetings. Attendees are the principal authorised representative, the claims manager authorised representative, principal account manager and the claims manager account manager.
- Quarterly Strategy and Performance Meetings - to consider strategic issues relating to the claims manager and the management of the portfolio, scheme trends and portfolio performance. Meetings involve the discussion of operational issues that have been escalated via escalation meetings, but have not been resolved, facilitating initiatives of continuous improvement in achieving scheme outcomes. Attendees are icare’s Group Executive Personal Injury and the scheme agent’s executive representative, authorised representative and account manager.

The effective deployment of the three lines of defence by icare over scheme agent operations is vital to give confidence to the GET and the board that outsourced providers are performing effectively, providing value, and delivering outcomes to customers against the promises made by icare and to regulatory requirements. Figure 6 below summarises the current status of icare’s monitoring and supervision assurance approach over scheme agents.

Figure 6: Monitoring and supervision of scheme agents

3 LoD	Monitoring and supervision activity over ongoing scheme agent performance
Line 1	<ul style="list-style-type: none"> <li>• Scheme agents are required to undertake detailed supervisory activities according to the contract.</li> <li>• The A&amp;Q team undertakes scheme agent and service level reviews.</li> </ul>
Line 2	<ul style="list-style-type: none"> <li>• Line 2 does not currently perform any activity over scheme agent</li> </ul>
Line 3	<ul style="list-style-type: none"> <li>• Outsourcing contracts have relevant provisions for access and the execution of independent audits.</li> </ul>

There is a need for icare to develop more detailed procedures and principles to govern ongoing oversight over scheme agent performance. Our key findings in relation to monitoring and supervision over scheme agents indicate the following:

- Obligations, risks and control measures as they relate to service delivery by scheme agents have not been defined or documented.
- Further clarity is needed on roles and responsibilities for monitoring and overseeing the scheme agents. This includes procedures to escalate risks, incidents and/or performance issues, and any impacts they may have on payments.
- Reporting in relation to the outcomes of Line 1 activities could be strengthened, as they are currently focused on activity rather than providing insights and analysis on key issues/risks identified and their impact
- Line 2 does not undertake monitoring of scheme agent oversight processes and controls.
- There was no internal audit activity over the scheme arrangements during 2019-2020 due to ongoing deferrals by management, although Internal audit activities recommenced in the 2020-21 period.
- External audit performed testing of financial controls, in the context of their audit of financial statements, but did not test non-financial controls in 2019/20. An external audit firm has been engaged to undertake a detailed service standard review and internal controls work to improve the control environment.
- Insights from monitoring and supervision teams do not appear to be systematically analysed to identify trends and root causes of issues.

The ARC has recognised the need to uplift controls in relation to scheme agent operations and to improve audit activity to achieve end-to-end coverage and has been working to improve this.



#### **Recommendation 51**

Identify and map the key obligations, risks and controls related to claims management and how roles and responsibilities are delineated between icare and the scheme agents.



#### **Recommendation 52**

Once obligations, risks and controls have been documented:

- document assurance roles and responsibilities in relation to scheme agents across the 3LoD
- significantly improve assurance activities by the 3 LoD over scheme agents in accordance with a documented framework, supported by procedures, reporting and governance oversight.



#### **Recommendation 53**

GET meetings to receive regular individual scheme agent scorecards to ensure visibility and accountability of scheme performance.

# 8. Prioritisation & decision-making

## 8.1 Summary

Throughout this report we have raised a number of observations and recommendations in relation to decision-making. In this chapter we focus more specifically on how icare prioritises proposed projects for investment, decision-making through the project lifecycle and how it manages risk through prioritisation choices and delivery. We have considered the balance between the voice of finance, customer and risk.

From 2015 to 2020, icare has been undertaking an ambitious program of change. Management and the board have spoken proudly of the way that icare embarked on a “world class” transformation, based on a global scan of better practice. While icare has delivered on many aspects of its change program, the focus on transformation projects has resulted in significant challenges.

While documentation and guidance exist to support the evaluation of proposed projects and prioritisation, our observations include:

- an emphasis on larger transformations up until 2019 (eg. NISP), which led to a lack of focus on other projects or requirements that were critical in making sure the infrastructure to deliver icare's operations was set up correctly
- multi-dimensional prioritisation criteria were lacking, which resulted in narrow evaluations of proposed projects and the portfolio of projects in order to make trade-off decisions
- Limited ‘risk in change’ guidance from Line 2 to guide the management of risk when business change is underway
- a tendency to take on a much higher level of risk, for both icare and customers, in decision-making during program execution, than management has been aware of
- a failure to embed mechanisms that would look for, and enable action on, early warning signals of issues
- inconsistency in how risk management was applied in project execution
- an absence of adequate reflection, learning and course-correction as part of project management.

There has been growing recognition in icare that the organisation tried to take on too much, too soon, and likely did not have the right skills and experience to drive the scale of transformation undertaken. Many of these issues are anchored in the way icare approaches prioritisation and a weakness in managing ‘risk in change’. A stronger approach would require icare leadership to stand back and objectively consider the customer outcomes and potential impacts, apply a rigorous review of “what might go wrong?”, consider whether these investments would lead to the best outcomes for customers, work through scenarios in a disciplined way and to ‘think around corners’.

We assessed how well icare balances investment in risk management capability, systems and processes against investments in customer outcomes and performance, by examining:

1. Investment prioritisation and governance
2. Trade-off decisions and the balance between transformation, risk objectives and customer outcomes
3. Voice of risk during program execution and course-correction.

## 8.2 Context for this chapter

### Delegation of authority

icare uses its Instrument of Delegations which provides the framework for approval of various types of expenditure, as well as the roles which have the authority to give or to delegate approval at particular levels of expenditure. The Instrument of Delegations is largely focused on financial remits including those relevant to investment and funding decisions. It also extends to other items such as personnel, travel, sponsorships and general expenditure categories.

In July 2020, icare reviewed and updated its Delegations of Authority (DoA). This was supported by icare-wide training and communications to relevant employees, including a mandatory training module which had very high completion rates.

From a project and contracts perspective, icare's Instrument of Delegations specifies financial thresholds for approvals, but does not specify other criteria to be considered, such as the size, materiality and risk associated with a proposal. The 2020 Instrument of Delegations<sup>50</sup> specifies the following financial thresholds:

- Projects and contracts of up to \$1M may be approved by selected GMs (with support from GET members as the project sponsor). The CEO must be informed of transactions of this value.
- Projects and contracts between \$1M – \$3M may be approved by a GET member. The CEO must be informed of transactions of this value.
- Projects and contracts between \$3M – \$15M may be approved by the CEO. The board must be informed of transactions of this value.
- Projects and contracts in excess of \$15M must be approved by the board.

A GET member may exercise their discretion to delegate their approval limit within the respective division. If they do so, they must first establish and document how the Financial Delegations and Authorities apply to their division. It is the relevant GET executive's responsibility to determine the level and nature of risk associated with the relevant projects, rather than it being formally defined within the instrument.

The new delegations framework, which took effect on 1 July 2020<sup>51</sup>, requests employees to acknowledge and accept their standing delegated authority on the Performance and Learning Dashboard at the start of every financial year<sup>52</sup>.

For projects which exceed \$10M for infrastructure, \$10M for information and communication technology, or major projects which are recurring and exceed a total cost of \$100M over 4 years or \$50M, icare is subject to additional government oversight at various stages during the project's lifecycle pursuant to the NSW Government's TPP 17-01 Gateway Policy.

### **Decision-making framework**

icare has not had a long-standing decision-making framework which has been uniformly applied across the organisation. Noting this as a gap, in February 2019, icare's management team worked with The Ethics Centre to develop a whole-of-icare Decision-Making Framework (DMF). Its purpose is to incorporate ethics-based thought processes and approaches into decision-making across the organisation. Establishing the DMF is a positive step for icare in evolving the maturity of decision-making processes.

The DMF incorporates decision principles of:

- Impactful
- Socially accountable
- Observant and thoughtful
- People-centric.

Despite the existence of the DMF, we did not observe evidence of its use in GET decision-making practices, icare has indicated it is looking to reinvigorate the DMF for roll out.

### **Annual strategy and business planning process**

Each year, icare is required by the SICG Act to develop a Statement of Business Intent and submit it to the Treasurer. The statement is to include icare's objectives for the year, the nature and scope of the activities to be undertaken, and the performance targets and other measures by which the performance of icare is to be judged. icare is required to share its annual business plan with SIRA and then address any matters that SIRA raises.

As part of its annual strategic planning process, icare develops the strategy and business plan in the lead-up to its board strategy offsite held in December each year<sup>53</sup>. The roll-up of icare's annual strategy and business plan process by the GET results in icare's annual strategic plan. In July 2020, icare's strategic plan for FY20-22 was published publicly, highlighting icare's strategic priorities, enablers and specific focus areas for FY21.

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<sup>50</sup> icare Instrument of Delegations - 2020

<sup>51</sup> Board Meeting Minutes - 29 June 2020

<sup>52</sup> icare Delegations Factsheet - 1 July 2020

<sup>53</sup> FY21 Business Plan

## **Prioritisation and selection of projects**

In the past, there were governance bodies in place to provide collective oversight of icare's selection and prioritisation of major projects, and strategic pillars to which they align, however there were some gaps in the execution of the process. Through our interviews, we heard multiple instances where leaders would often consider their projects (and funding requests) within silos with an absence of consideration as to what an increase in their spend might have on other organisational priorities. With processes and practices newly developed or already embedded by Finance that sought to curb over-runs and bring further discipline, leaders had, in the past, found effective workarounds such as going direct to the Board to gain funding approvals. The balance is shifting and we note there is greater maturity continuing to be injected into project prioritisation and funding. Embedded behaviours will however need more time to weed out previously inconsistent practices or lacking rigour.

A number of people made reference to strategic planning workshops which occur annually in December each year, wherein proposed strategic initiatives are assessed for alignment against the strategy and the benefits are assessed over different horizons. The CEO determines the forward, three-year view of discretionary investment priorities based on GET inputs, and this is submitted to the board. The outcomes of this work feed into the strategic plan which is shared with SIRA on an annual basis.

Over FY20, there was increased focus on prioritisation of projects. In FY20, the GET met multiple times to build themes, performance targets and a "scalability review" to produce a revised set of initiatives that better aligned to its strategic priorities. As part of this, planned initiatives were considered and decisions made to deprioritise or reprioritise accordingly. In FY19, total project expenditure was at 15% of total controllable expenses. icare is forecast to reduce this to 3% by FY22, reflecting an intention to stabilise the business and enter the operations<sup>54</sup> phase of its plan, but also the requirement to continue to prioritise with discipline.

## **Governance over project execution**

Under the Group Executive, Strategy & Governance sits a Portfolio Governance and Delivery team that provides governance and oversight of icare's program of initiatives, by, for example:

- standardising the way icare delivers projects - publishing a Project Management Handbook which acts as a 'how to' guide for delivering projects
- operating a stage-gate approach to managing project phases
- supporting program sponsors to provide appropriate program governance
- recommending sequencing, and developing an integrated strategic program roadmap
- reporting on execution and delivery of program benefits
- reporting to the GET as the forum providing governance oversight of strategic project initiatives.

Once a project has been prioritised and launched, icare sets up steering committees to oversee the project, including members of the GET and SMEs. The role of steering committee members is to make decisions on key elements of the project, including approving progress between stage-gates, driving successful project completion and realising the agreed benefits.

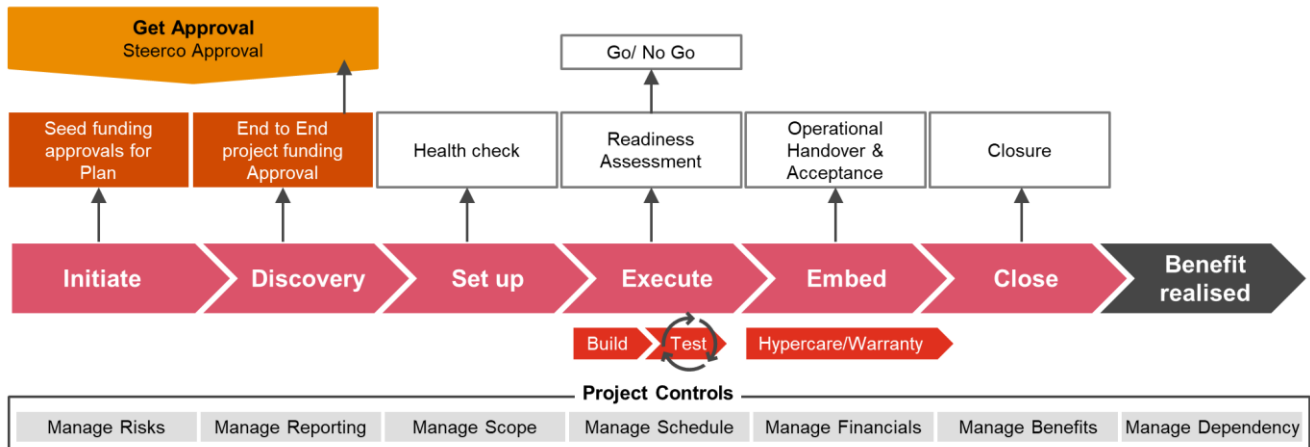
The handbook sets out the expectations, responsibilities and reporting lines across icare's organisational structure throughout the seven phases of a project, set out in Figure 7 below.:

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<sup>54</sup> Expense Savings Board Paper - 12 November 2020



Figure 7: Project lifecycle framework from icare’s Project Management Handbook



Under NSW Government’s TPP 17-01 Gateway Policy, a number of government agencies play a role in creating risk-based frameworks for assessment and independent review of icare’s progress against project plans.

### 8.3 Review observations

#### 8.3.1 Investment prioritisation and governance

As previously mentioned, icare employs its Instrument of Delegations in order to guide decision-making across the organisation. In reviewing this instrument, we noted that there is a strong focus on expenditure thresholds, but limited guidance on the identification, assessment, thresholds and tolerance for risks associated with projects and program expenditure. It is the relevant GET executive’s responsibility to determine the level and nature of risk associated with the relevant projects, rather than it being formally defined within the instrument.

Without having specific thresholds for the materiality of risk, icare is exposed to poor investment decisions. There was some evidence that lack of controls around delegations had led to a lack of prudent decision-making, even when within delegations. For example, interviews and focus groups indicated that when leaders had funding available, they would push ahead with projects outside business and strategic planning, without detailed or holistic consideration of whether this was appropriate at the organisational level. Whilst this was not always the case, this would, at times, create inefficiencies and duplication across icare.

**Recommendation 54**

Review and update icare’s Instrument of Delegations to ensure it considers the materiality of risk in addition to project financials. Examples of this are risk to strategy, brand and reputation risk, operational risk (eg. IT, cybersecurity, delivery) and customer (eg. experience, outcomes, retention).

The prioritisation of large transformations, such as the NISP, has meant such large transformations have been at the forefront of icare’s delivery effort and historically overshadowed smaller projects across the organisation. As a result, the breadth of projects which occur across icare, and still serve important purposes, have not received sufficient attention and focus. icare’s tendency to search for a positive news story and seek alignment has, at times, biased the necessity or inflated the outcomes of projects, and evaluation has typically only focused on cost and benefit assessments. In a number of interviews with the board and executives, as well as through focus groups, we heard such comments as:

- the “transformation-ethos” and “project obsession” within icare has historically received a lot of “support and thrust”, detracting from senior leadership’s ability to look across the broader portfolio of projects
- there is inconsistent application of the guidance on strategic planning and prioritisation of projects, for projects undertaken both in support of the strategic plan, and outside it
- inputs to decisions were often tunnel-visioned in terms of their considerations and there are examples where establishment of projects had been decided outside governance forums

- Line 2 risk has not always been adequately represented or consistently involved in project steering groups or prioritisation decision-making forums, although this has shifted in the last year
- limitations in accessing the information required to make informed decisions, but also an acknowledgement of a lack of rigour and discipline in asking more specific questions at the point of making decisions
- when prioritising projects, inconsistent view of the whole project slate of inflight and proposed projects, creating perceived duplication and strain on capacity as it drove significant transformation with high complexity and size of change
- limited alignment of portfolio resourcing requirements to enterprise resourcing capacity.

While work in understanding and reconciling the number of projects has begun, we observed that icare does not currently:

- make active trade-offs between projects using comprehensive evaluation criteria and principles
- seek to understand the size and complexity of concurrent changes across the set of projects
- evaluate the sequence or prioritisation of projects as a portfolio across the organisation.

Had such assessments been made historically, this would have required articulation of costs and benefits across multiple dimensions and enabled clearer trade-offs between different objectives such as benefits for customers, financial impacts, strategic impacts, alignment to the ethical decision-making framework and risk.



#### **Recommendation 55**

Document icare's approach to strategic planning and prioritisation of projects.



#### **Recommendation 56**

Define and embed multi-dimensional criteria that consider customer outcomes, financial impacts, strategic alignment, risk appetite and alignment to icare's ethical DMF. This will allow independent evaluation of the feasibility of each project, as well as support trade-off decisions across projects.



#### **Recommendation 57**

Line 2 to establish a formalised 'risk in change' approach. This should consider the nature and types of change that can affect the risk environment and the need to assess icare's capacity, appetite, impact, complexity, interdependencies and dependencies as it relates as a result of change (including project change).



#### **Recommendation 58**

Ensure Line 2 risk capability has a continuing presence and is embedded as a standing member of material steering committees and in prioritisation forums.

### **8.3.2 The voice of risk during program execution and course-correction**

An ongoing consideration and focus on risk is critical to effective program delivery for any organisation. Without this, program delivery teams fail to recognise and respond to key challenges which can derail project timelines, and reduce benefits realisation. icare's Project Management Handbook sets the expectation around project stage-gates, reporting lines and obligations with an intent to manage controls over project delivery. However, we did not receive any strong evidence to suggest that the voice of risk had been adequately and consistently embedded or applied throughout this, creating challenges for how icare monitors, evaluates and takes actions on risk. Chapter 9. Accountabilities also speaks to a number of shortcomings around this observation.

In considering icare's application of project management discipline and specifically the focus on risk management, we observed a number of weaknesses:

- Teams were unaware of the true extent of risk being taken on in a project. While risk, compliance and customer outcomes are increasingly being considered in inflight change programs, icare has not always been consistent in giving these matters sufficient time or emphasis.
- Projects have gone live before they were completely ready to do so (eg. Guidewire II proceeded to go live despite some stage gate criteria not being passed), despite feedback from key stakeholders that the project was not ready to go live.
- Although icare’s project teams regularly undertake a review at the close of a project, there is a need to uplift this approach to Post Implementation Reviews (PIRs) conducted by a party outside of the immediate project team who tests whether the project has been effective in delivering the business case, in particular the promised benefits. PIRs provide an important mechanism to step back, reflect on the events that have occurred and identify successes and challenges to improve project execution in the future. We note in November 2020, the icare board has requested a PIR be undertaken on the 2018 single claims operating model program.

This was validated through interviews and focus groups where the following was cited:

- There was a tendency towards “tunnel vision” when projects were in progress, creating challenges for how operational risks and delivery issues were managed. One interviewee mentioned that “we were so focused on transforming, that we didn’t pause and assess whether what we were doing was right”. The over-emphasis on delivering to icare’s visions encouraged blind spots that turned into issues that icare would later have to react to.
- Priority was placed on timeliness of delivery rather than outcomes, management of interdependencies, visibility and management of risk, leading to oversight and inaction during project execution.
- Warning signs were sometimes missed or ignored and focused on timely delivery of tasks. For example, one individual said that “when they wanted something done, if others could not help, they were told to get out of the way...we’ll [icare] build the team internally and deliver against the ambitious timeframes we’ve set.”

Without clear accountabilities for risk, and appropriate discipline in reflecting, learning and course-correction, icare will continue to encounter financial, reputational and customer challenges in future initiatives. Ultimately, a balance across all three of these outcomes needs to be reached.



**Recommendation 59**

Clarify and operationalise accountabilities for risk management within program roles and improve the management and oversight of risk in project decision-making and delivery.



**Recommendation 60**

GET to bring a stronger risk management and governance lens to decision-making on the magnitude and complexity of change across multiple programs of work.



**Recommendation 61**

Further embed the key elements of the Program Management Handbook and ensure key project principles (eg. post implementation reviews, benefits realisations, risk assessment) are adhered to and with sufficient quality/depth or documentation so that lessons can be learned for future projects.



## **Section B: Accountability**

# 9. Accountability

## 9.1 Summary

We observed a poor cascading of accountabilities through the organisation and a failure to build a strong and connected system that links clear individual accountabilities to KPIs and performance targets, to incentive design, and then to consequence management.

icare people do not sufficiently understand their accountabilities, as indicated in the PwC survey, where only 51% of respondents agreed that people are clear about their accountabilities. Although there are prominent examples of the board applying consequence management to executives over FY20, the governance framework for consequence management needs to be further strengthened and cascaded to levels below the GET.

We also observed gaps in collective accountabilities where icare has not demonstrated sufficient accountability to SIRA in the context of the NI nor fully appreciated its accountabilities as a NSW government agency.

However, in the last 4-6 months we have seen a shift in attitudes and a growing sense of accountability by icare as a significant NSW government agency.

We assessed the effectiveness of both individual and collective accountability in the following areas:

- The regulatory regime for accountabilities which applies to icare
- The extent to which icare sets clear accountabilities for its people
- How icare embeds accountabilities in its systems, governance and ways of working
- Individual performance and consequence management to hold its people to account
- Accountability of icare to its stakeholders.

## 9.2 Context for this chapter

icare must ensure that it meets its legal and policy compliance obligations and community expectations of probity, accountability and transparency<sup>55</sup>, and deliver to customers in accordance with the requirements of each insurance scheme operated by icare and governed by different Acts.

An effective accountability framework ensures that employees “fully understand, agree and readily accept their responsibilities as appropriate to their role, see objectives as attainable to achieve desired outcomes, and are prepared to accept the consequences of achieving (or not) those outcomes”<sup>56</sup>.

Clarity of individual accountabilities is the foundation for establishing collective accountabilities. Collective decisions are managed through icare’s governance forums such as the GET, through steering team oversight of projects, and when employees come together to work on shared initiatives. Individual accountabilities make it clear how ownership of an end-to-end process will work and how hand-offs are to occur.

Our review assesses the adequacy of not only the accountability framework but also the clarity of accountabilities and extent to which they are embedded, as evidenced or perceived through staff consultation and managed through consequence management.

## 9.3 Review observations

### 9.3.1 The regulatory regime for accountabilities which applies to icare

At present, there is no accountability framework in place for NSW government agencies that is similar to the BEAR (Banking Executive Accountability Regime applicable to banks) or FAR (the Financial Accountability Regime to be rolled out to other financial institutions, including all Australian private insurers).

Voluntarily adopting an enhanced individual accountabilities regime would bring several benefits for icare: it would help the GET in its understanding of the board’s expectations; it would clarify the implications if things go

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<sup>55</sup> TPP 12-03b Risk management toolkit for NSW Government agencies

<sup>56</sup> APRA. April 2018. Prudential Inquiry into the Commonwealth Bank of Australia p.57 <[https://www.apra.gov.au/sites/default/files/CBA-Prudential-Inquiry\\_Final-Report\\_30042018.pdf](https://www.apra.gov.au/sites/default/files/CBA-Prudential-Inquiry_Final-Report_30042018.pdf)>

wrong; and would support the board in holding executives to account and applying improved consequence management for high and poor performance outcomes.



#### **Recommendation 62**

Adopt a better practice accountability framework that provides clarity on standards, holds people to account with strict board and GET governance and oversight, cascades accountabilities through the organisation, and effectively applies consequence management. Ensure these accountabilities are documented and communicated and consideration given to leveraging practices and requirements set by other regulators.

### **9.3.2 The extent to which icare sets clear accountabilities for its people**

The board is ultimately accountable for “all decisions relating to the functions of ICNSW (icare)”, under section 6 of the SICG Act. Under section 8(2), the CEO has responsibility for “for day-to-day management of the activities of ICNSW (icare) in accordance with the general policies and specific directions of the ICNSW (icare) board”<sup>57</sup>.

Accountabilities are defined through formal frameworks, including the charter of CEO delegated authority limits, position descriptions, delegations of authority, internal controls, and in various committee charters and terms of reference. The 2020 Challis & Company evaluation of the icare board emphasised a lack of clarity over executive accountabilities and recommended that icare prepare and maintain a guide clarifying the responsibilities of the GET<sup>58</sup>.

#### **Setting clear accountabilities**

The board has a dedicated People and Remuneration Committee (PRC) which has responsibility for a wide range of people matters, including talent, inclusion and diversity, leave policies, flexible working, etc as described in Chapter 3. Role of the board. This committee is also responsible for overseeing the remuneration framework and reviewing the “performance assessment processes and results for the CEO and Group Executives as they reflect the capability of management to realise the business strategy and report to the Board as required”<sup>59</sup>.

However, the PRC’s charter does not refer to its role in overseeing the establishment of clear accountabilities for GET members that are cascaded down. Accountabilities are a cornerstone requirement for the board to be able to challenge executives and hold them to account. Remuneration decisions also need to reference back to clear accountability statements and aligned performance targets and KPIs of the individual executive.

The board approves delegations of authority as they are updated based on structural changes. Better practice would suggest a review of delegations should be undertaken on a regular and more structured basis.



#### **Recommendation 63**

Amend the People and Remuneration Committee’s (PRC) charter to include a role to oversee the setting-up of an effective accountability framework for icare complementing a new consequence management framework, and including the cascade of this through the organisation.

### **GET role descriptions**

Each GET member has their accountabilities documented in a role description and a list of delegations attached to the role, which links back to icare’s delegation of authority charter. However, role descriptions are not always clear or straightforward in describing what is expected of the executive. For example, Group Executive Customer and Community is accountable to “negotiate and provide persuasive and commercially sound advice and solutions in a complex and dynamic environment of divergent views and agendas, legislative requirements and conflicting priorities.”<sup>60</sup> Similarly, Group Executive Digital and Technology is accountable to “provide persuasive, commercially sound, professional advice and solutions in a complex and dynamic environment of time pressure, divergent views and agendas, legislative requirements and conflicting

<sup>57</sup> *State Insurance and Care Governance Act 2015 No 19*, Section 6(1).

<sup>58</sup> Challis and Company Board Report on the Board Effectiveness Review, 29 May 2020

<sup>59</sup> People & Remuneration Committee Charter, Version 4.0 - Board Approval: 25 March 2019

<sup>60</sup> RD-Group Executive Customer and Community

priorities.”<sup>61</sup> Unclear, conflicting or inconsistent roles and responsibilities have had the effect of diffusing accountability.

Our review of the icare executive role descriptions shows they need to be clarified to specify who has overall accountability for each individual icare scheme<sup>62</sup>. For example the GE of PI is stated as accountable for the NI, however, not all schemes have this clarity. Role descriptions should also explicitly state the accountability for performance of scheme agents, where relevant to a scheme.

Other gaps in the GET role descriptions relate to risk accountabilities. Due to the deficiencies described in icare’s risk management and compliance frameworks, the accountabilities of owners of controls, audit issues and incidents are not well defined or understood. This has resulted in a blurring of accountabilities across the three lines of defence (as described in Chapter 3. Role of the board).

We noted in some role descriptions in levels below the GET; for example, within PI and PU, there were some accountabilities tied to risk and compliance. However, these were not specific to the roles, responsibilities and accountabilities of the individuals concerned.

### **Understanding the interdependencies between GET accountabilities**

We heard from executives that executives have clearer accountabilities since the functional organisation model was introduced. There is day-to-day interaction between executives on joint initiatives and inter-dependencies between roles however, for continuous improvement, we would expect the further step of running structured sessions on accountabilities at the point of inter-dependencies as would occur with the introduction of an Accountability regime.

In July 2019, a new scorecard was introduced for the GET involving 70% of remuneration linked to a common list of KPIs. This had the effect of encouraging more open and frank challenge between executives and reduced the former ‘siloes’ approach to individual accountabilities.

### **Accountability cascade**

While GET members have a high level of confidence in understanding their accountabilities, this confidence is not shared by employees further down the line with significant more work required to improve accountabilities deeper in the organisation..

Despite accountabilities being documented in job descriptions, delegations of authority in place and dashboard reporting against KPIs, many employees are not clear on their accountabilities. icare executives stated during interviews “our accountability frameworks are not sufficiently mature”, resulting in low clarity of performance expectations. Through the cascade, we saw a ‘frozen middle’ where only 31% of middle management (below the GET) agree that people at icare are clear about their accountabilities.

All icare employees have a role description summarising the primary purpose of the role, key accountabilities, key relationships, role dimensions and delegations, and there is an expectation that delegations be approved online on an annual basis. However, updates to role descriptions, along with delegations of authority updates, tend to occur as required or when structural changes occur. Better practice would be to consider each role description and apply to the setting of individual performance objectives on an annual basis and ensure alignment to the strategy and risk appetite.

Interviews and focus groups highlighted the issue of icare’s accountability environment, with many participants sharing their frustrations and concerns about lack of enforcement and clarity of accountability.

However, some areas of icare provide more clarity than others. Our survey revealed 63% of employees in Digital and Technology agree that people at icare are clear on their accountabilities, compared to 37.9% in Strategy and Governance.

### **Unclear accountabilities in risk management**

A number of interviewees called out a lack of clarity between the roles of the 3LoD. We saw, for example, in Chapter 6. Issue identification, escalation & resolution that the accountabilities between Line 1 and Line 2 in relation to assurance have been blurred, resulting in a lack of checks and balances.

There has also been historical weakness in employees’ understanding of their accountabilities in risk management. This has resulted in employees being unaware of material obligations and how to manage key risks. For example, as noted in Chapter 6, icare has not clearly defined responsibilities for issue identification and escalation and there is no policy asking employees to identify, assess and report risks up the line.

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<sup>61</sup> RD-Group Executive Digital and Technology

<sup>62</sup> Although some schemes have a clearly nominated accountable executive, others do not



#### Recommendation 64

Improve role descriptions of the GET and their teams to ensure that accountabilities for scheme agents, risk and other matters are clearly captured and then cascaded through the organisation. Ensure there is a process of regular review.

### 9.3.3 How icare embeds accountabilities in its systems, governance and ways of working

While icare has worked to increase the clarity of the GET's accountabilities, more work is required to build and embed a connected system that links individual accountabilities to individual performance targets and KPIs, to the design of incentives, and then to consequence management.

#### Collective accountability

icare has an enterprise scorecard which aligns performance metrics to icare's strategy at a high level. 70% of GET member Annual Performance Payment (APP) incentives are linked to the enterprise scorecard metrics, with 30% driven by individual performance targets.

The board approves the enterprise scorecard and receives a report against it in the CEO's report to the board at every meeting. The board discusses icare performance against the scorecard throughout the year.

Employee perception is that performance targets have been set too low, limiting the stretch required to achieve them. A focus group participant noted "KPIs often are subjective and aren't hard targets". This was also observed by SIRA in relation to RTW targets for FY20.

In FY21 we observed further increase and board challenge on the performance targets. The FY21 scorecard includes risk and compliance and prevention initiatives with clear single-point accountability and a notable improvement in the rigour applied to the most recent performance target setting process. The scorecard also provides clarity at the executive level where there are intersecting functions or processes for single point accountability and collective responsibility.

The GET does not have a charter in place to describe its remit (as described in Chapter 3) This should include a statement on the collective accountabilities of the GET.

#### Communicating the enterprise scorecard

In 2019, the enterprise scorecard was cascaded, in PaL (icare's Performance and Learning portal), to employees who are eligible to participate in the APP plan, under the updated 2019 remuneration framework<sup>63</sup>.

In 2020, the enterprise performance scorecard was shared with all employees on icare's intranet site HUGO and has been widely discussed at town halls and other employee sessions. While icare is currently working to cascade the scorecard to team and individual performance objectives, in addition to establishing stretch targets, the alignment to organisational strategy and the performance scorecard varies, depending on eligibility for APP payments. As noted in icare's performance scorecard FAQs for employees, "For some employees, the performance scorecard is directly related to bonus potential. For others, less so". icare should revise its performance metrics and review assessment process to reflect the changes being introduced by the updated performance scorecard.



#### Recommendation 65

As part of the better practice framework, develop an accountability map for icare as a whole, referencing how accountabilities come together from individual schemes to ensure there are no gaps or overlaps.

### Leading people

icare has spent significant time in developing senior managers and executives. Leadership reviews and succession planning is undertaken to assess collective and individual talent against desired skills. Leaders have participated in the Leadership Circle's 'Collective Leadership Assessment', although references to risk attitude are absent from assessment criteria. However, the *Leadership at icare* briefing tabled in the June GET meeting emphasised that measurement of progress towards "improved leadership effectiveness will be developed and piloted in Q1 FY21 in the form of a Leadership Effectiveness dashboard", reflecting an increased focus on leadership accountability.

<sup>63</sup> Executive Remuneration Policy - PRC Meeting 22 August 2019



We also acknowledge the approach to managing people risks is a new and notable addition to the PRC agenda (tabled Nov 2020) and includes definitions and drivers for major people risk categories, namely:

- WHS
- Grievances and legal matters
- Capability, engagement performance
- Talent attraction and retention
- Leave
- Role clarity and ways of working.

The completion of this framework would see executives each understand their individual accountabilities in the context of people risk, and how they will be held to account for management of these risks.

### 9.3.4 Individual performance and consequence management

Individual KPIs and scorecards are set through a performance planning and review process, whereby employees establish and manage performance objectives with their people leader through PaL. The Performance Planning and Review Policy details individual responsibilities including “developing and maintaining clear and measurable performance and development objectives that are approved by your people leader”<sup>64</sup>. However, while these performance measures should be linked to the organisation’s objectives, the alignment between individual performance and its contribution to the wider icare performance could be clearer. Numerous respondents to the PwC survey reflected on feeling unclear in the performance expectations, with one employee stating “really bad days for me are due to staff not taking responsibility or not performing their role, often due to lack of role clarity”.

In our survey, only 47% believe people are held to account for their decisions. Furthermore, 77% believe that process and system inadequacies affect the ability to fulfil accountabilities. Interviews and focus groups highlighted the issues of icare’s accountability environment, with many participants sharing their frustrations and concerns about lack of enforcement and clarity of accountability.

icare’s accountability framework is not sufficiently mature in the area of consequence management. While employees see icare as doing well in the way that it recognises and rewards good behaviour, it has not taken a sufficiently hard line on poor performance over time. This was observed in focus groups, with one participant stating that some employees “aren’t doing their jobs well but nothing is being done about it”.

However, there is evidence of this shifting, with two recent examples where the board has demonstrated robust consequence management:

- First, in 2019, when the previous CEO failed to declare a conflict of interest in relation to the employment of their spouse, the board applied remuneration consequences by removing the CEO’s APP and one year of LTTP (long-term performance payment) and applied a 50% reduction in APP for two other executives.
- Second, the GET and the CEO received a zero APP for FY20. Multiple factors were considered by the PRC in making this determination, including the COVID-affected economic climate, pressure on icare expenses, lower RTW rates and issues with icare’s transformation. During the same session it was decided not to pay the FY17-19 LTTP to two remaining executives eligible under this scheme, and while acknowledging COVID-19 impacts on performance, still cited failure to meet LTTP hurdles.

One board member shared the regret the board felt over not taking the further step of making all employees aware of this consequence management action, to create a signal and catalyst for the organisation to emphasise the importance of risk management and performance. The organisation had not understood the action taken by the board, other executives did not understand the facts, and so its significance did not permeate through the organisation.

#### Addressing poor performance

We observed documentation to support a number of examples of performance management at the executive level and throughout the organisation over the period 2019-2020. There was, however, feedback through our review that suggested poor performers were not managed out of the business. Whilst we acknowledge the challenge and sensitivity in communicating messages to teams to demonstrate proactive management and lessons, there does remain a view this could be improved going forward.

The Managing Performance Framework has mechanisms to uplift employee performance, as stated below:

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<sup>64</sup> Performance Planning and Review Policy - August 2020

“Everyone is responsible for:

- Participating in the performance planning and review process by establishing and managing your performance objectives in consultation with your people leader using our Performance and Learning portal (PaL);
- Using your performance objectives as the basis of real time conversations, discussing appropriate workplace behaviours, providing two-way feedback and coaching with your people leader;
- Actively participating in the performance plan process;
- Documenting informal and formal performance conversations as advised in the Managing Performance Process; and
- Completing any mandatory training associated and/or is agreed to when applying this policy.”

Despite this framework, icare’s cultural trait of ‘Positive news bias’ (described in Chapter 10) results in a tendency to overlook the negative and emphasise positive aspects of a situation. This inherently creates a challenge for icare’s people to manage and enforce accountabilities. Both internal and scheme agent focus groups noted that accountabilities are often not enforced due to lack of clarity or a desire to avoid “hurting someone’s feelings” when performance has dropped. Leaders noted that even when an employee was not meeting their accountabilities, it was difficult to raise the matter and performance-manage that individual due to a reluctance to avoid confrontation and hold negative conversations. This theme is reinforced in PwC survey responses in which only around 22% of middle management respondents believe that people are held to account in the decisions they make.

### **The link between risk outcomes and remuneration outcomes**

icare’s board and PRC set out the remuneration policy, which establishes how icare leaders are paid. This is reviewed at least every three years, using independent external consultants with expertise in executive remuneration.

The independent review ensures icare’s remuneration practices meet the better practice standards of the publicly listed company environment, with consideration given to recommendations coming out of the Banking Royal Commission with regards to executive remuneration practices.

Recognising the need for executives to take greater accountability for risk, the board approved an updated executive remuneration policy in September 2019 which allows for risk-based adjustments of remuneration to align outcomes with prudent risk-taking: “the Board may adjust variable remuneration awards, including to zero, where a person or group of persons has been found to have exposed icare to risk beyond its risk appetite or control or where role accountabilities have not been met”.<sup>65</sup>

Remuneration governance has been strengthened by including the CRO with the CEO and CHRO when assessing performance against risk and compliance obligations as an input to variable remuneration recommendations to PRC and the board. The CRO assesses all eligible participants (except their own) in the APP and LTPP incentive schemes for adherence to the code of conduct, risk management in line with the RAS and the consistent demonstration of behaviours to icare values. In addition, Line 2 reviews policy implementations periodically for “compliance with regulatory requirements and alignment of remuneration with the icare risk framework”.

### **Consequence management framework**

icare needs to build on the steps it has taken to date to develop and embed a stronger culture of accountability, which includes demonstrating to employees that there are consequences, both positive and negative, for performance and behaviour.

This will require more robust processes to ensure that all risk, issues, reputation and conduct-related matters are specifically considered when determining remuneration outcomes and that this is consistently signalled to employees (recognising that icare must comply with Individual Employment Agreements (IEA), relevant awards and certain public sector obligations in the way it manages this out for some employee groups).

icare should clearly articulate to employees that consequences will be applied over incidents and risks (where the employee has accountability) and conduct issues such as breach of icare policy or misconduct. Mechanisms may include:

- further training
- the removal of delegated authorities or permissions

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<sup>65</sup> Board Meeting Minutes - 23 September 2019.

- a reduction in APP, including to zero
- a reduction in LTPP (for relevant executives)
- impacts on promotion
- a formal warning letter
- termination of employment.

The framework should consider whether certain conduct issues should be treated as a 'gate' to an APP or LTPP incentive payment or involve discretion to apply a percentage reduction in remuneration.



#### **Recommendation 66**

Define and document a consequence management policy and/or approach that considers other levers besides financial consequences.



#### **Recommendation 67**

Continue to reinforce balancing of performance measurement with reward and recognition through increased risk assessment monitoring, guidance over the inclusion of customer and risk metrics in individual performance goals, and enhanced leadership capability in managing performance.

### **9.3.5 Accountability of icare to its stakeholders**

We acknowledge the large number of external stakeholders that icare is accountable to. Along with this accountability is a need for open and cooperative relations and a recognition of the public scrutiny which comes to icare as a NSW government agency.

During our interviews, an executive reflected that icare was not always open to public scrutiny and accountability: "we wanted more time to fix our issues in a silo and we did not recognise the need for accountability to the broader community and stakeholders who supervise us and to whom we are accountable as custodians of the funds".

#### **The NSW Treasurer and NSW Treasury**

icare has a number of obligations under the SICG Act to keep the NSW Treasurer informed, including by submitting an annual Statement of Business Intent. We address the role of the board in Chapter 3.

The powers of the Treasurer to issue directions to icare have some limitations (eg. they must be in the public interest, exercised after consultation and any decision must be published in the Gazette). Although NSW Treasury has published its expectations for public financial corporations (of which icare is one) including the need to advise ministers of critical current and emerging issues affecting the businesses, icare stated in its submission to the McDougall review "For the avoidance of doubt, icare is not accountable to NSW Treasury...". It also goes on to say however that icare is bound by various NSW Government directions, policies and guidelines, as well as specific legislation which regulates the activities of government agencies.

We saw evidence in 2020 of icare sharing its Statement of Business Intent with Treasury and inviting Treasury to an annual review of performance and also saw icare providing the Treasurer and NSW Treasury with regular updates on core challenges, operational matters and items to be noted.

#### **SIRA**

We have made a number of recommendations in earlier chapters on the need for icare to improve its regulatory engagement with SIRA and for the board to receive enhanced reporting on the voice of the regulator.

A further recommendation is for the board to implement a regime placing personal accountability on the CEO and other executives, to engage with the regulator in an "open, constructive and cooperative way"<sup>66</sup>. Remuneration decisions for the CEO and other key executives would be determined, in part, by the quality of their engagement with the regulator.

<sup>66</sup> BEAR requires an accountable person to deal with APRA in an open, constructive and cooperative way. ADIs must defer a minimum percentage of a senior executive's variable remuneration for at least four years and have a remuneration policy that provides for reduction of the deferred variable remuneration where a senior executive has not met this and other obligations under BEAR. Commissioner Haynes recommended that s37C and 37CA of the Banking Act 1959 (Cth) be amended to extend this obligation to ASIC as well as APRA



### **Recommendation 68**

icare to implement a regime imposing individual accountability on the CEO, CRO and GET executives to engage with SIRA in an open, constructive and cooperative way.

### **Other NSW agencies and regulators**

As described in the compliance and regulatory risk section of Chapter 5. (Risk management & compliance) icare needs to have a much stronger appreciation of other NSW Government agencies that play a regulatory or other role in relation to icare, such as ICAC, WIRO and IPC.

We observed that executives have not always felt accountable as a NSW government agency and at times there has been a perception that due processes tended to “get in the way”. The weaknesses in procurement processes identified in Chapter 5 demonstrated a tone from the top of an organisation that did not see itself as accountable to the requirements of a NSW government agency over 2016-2020. Work is underway to address this.

### **Employers**

For the NI as an employer-funded scheme, icare needs to build a stronger sense of accountability to employers and listen to their concerns and feedback. There have been instances when icare has not acted on the concerns of employers in a timely manner. This includes understanding outcomes sought by employees and building better day-to-day involvement of employers in supporting injured workers’ recovery, among other mechanisms.

### **Customers**

icare needs to bring a sharper lens to the unique customer groups that are served by each scheme and move away from the tendency to manage the business using an aggregate NPS score.

### **Stakeholders in general**

When icare developed its first stakeholder matrix and approach in January 2019, the tone of the management proposal was more about icare’s control and influence over stakeholders and less about listening to stakeholders and responding to their concerns.



### **Recommendation 69**

Develop a formal stakeholder accountability framework and develop and communicate to employees clear expectations on how icare must engage with its stakeholders in a positive, open and constructive way.



## **Section C: Culture**

# 10. Culture

## 10.1 Summary

icare's culture, like that of any organisation, has both strengths and challenges. It is without doubt that many at icare seek every day to do the right thing for their customers, and we acknowledge the contribution and commitment of these people. The actions and behaviour of some have contributed to poor outcomes and negative perceptions, but in any weaknesses in governance and accountability, we did not observe malice from any person in icare. That is to say that we did not receive evidence that any major failures were as a result of fraud, corruption or deliberate self-interest by any one person(s).

This chapter supplements the governance and accountability chapters by assessing cultural aspects such as helpful or unhelpful behaviours that have enabled and reinforced the strengths and weaknesses observed and allowed practices to become accepted norms.

Our review of culture identified five cultural traits that are generally common to all of icare, irrespective of scheme, level, function or team. The scope of our review was broader than that of other governance and accountability reviews, acknowledging that there is a cultural ecosystem that extends beyond the NI. We also know the impacts of the media scrutiny will go beyond the NI.

In the commentary behind each trait, we share stories and examples of both the strengths and challenges, highlighting where possible the functions, cohorts or teams from which these emerged.

The cultural traits we observed at icare, and their associated strengths and challenges, are set out in Figure 8 below.

Figure 8: icare's cultural traits

Cultural trait	Strengths	Challenges
<p><b>Commitment to vision:</b></p> <p>Strong commitment and unity around icare's 'vision' as it relates to both focus on customers and the vision of transformative change</p>	<ul style="list-style-type: none"> <li>• Driven by positive intent for customers</li> <li>• Courage and confidence to transform</li> <li>• Resilience in times of adversity</li> </ul>	<ul style="list-style-type: none"> <li>• Speed over process and execution discipline</li> <li>• Tunnel-vision when on a path</li> <li>• Overlook 'hygiene' factors, such as active management of risks and issues</li> </ul>
<p><b>Alignment seeking:</b></p> <p>The value of collaboration and consensus and pride sought from the influence of others</p>	<ul style="list-style-type: none"> <li>• Collaboration and collective problem-solving</li> <li>• Strong task deliverable focus</li> <li>• Generates momentum and engagement</li> </ul>	<ul style="list-style-type: none"> <li>• Decisioning outside formal channels</li> <li>• Consensus-bias</li> <li>• Lack of robust challenge</li> </ul>
<p><b>We are the experts:</b></p> <p>Self-reliance and confidence with a high value placed on expertise and robust design</p>	<ul style="list-style-type: none"> <li>• Confidence and self-reliance</li> <li>• Navigate uncertainty and ambiguity</li> <li>• Pride in leading others</li> </ul>	<ul style="list-style-type: none"> <li>• Over-reach in activity management</li> <li>• Lack of trust</li> <li>• Dismissiveness of advice</li> <li>• Limits productive working partnerships</li> </ul>
<p><b>In the tribe:</b></p> <p>Tight connections and support for team members exist in icare with an ability to form tight teams across functions</p>	<ul style="list-style-type: none"> <li>• Belonging and loyalty</li> <li>• Tight connections and support for colleagues</li> <li>• Rapid formation of cross-functional teams</li> </ul>	<ul style="list-style-type: none"> <li>• Incongruence in priorities</li> <li>• Lack of uniform identity across icare</li> <li>• Protection of 'patches' and combative behaviours</li> </ul>

**Positive news bias:**

Positive news energises the team around a common sense of achievement and a strong recognition of good performance

- Energises the organisation around sense of achievement
- Recognition of strong performance
- Provides sense of achievement
- Complacency and ineffective response to risks
- Selective reporting and positive spin
- Inhibits speak-up, raising concerns and confrontation

Each trait describes how people within icare tend to behave or make decisions in their day-to-day work. The traits are neither good nor bad, but rather, reflect a propensity to behave either positively or negatively in different circumstances. These traits, both individually or collectively, explain some of the findings and observations with respect to governance and accountability. For example, the avoidance of robust challenge and debate during decision-making is reinforced by the challenges of being tunnel-visioned (ie. Commitment to vision) and an overemphasis on selective reporting (ie. Positive news bias). Similarly, obfuscation of risks can be created by a tendency to explain away data through technicalities (ie. We are the experts) as well as groupthink (ie. Alignment seeking).

For icare, an awareness of how strengths can be leveraged or challenging behaviours avoided is the first step in ensuring that failures of the past do not predict challenges of the future. We observed that the awareness of these challenges has been maturing within icare, and that they are starting to be addressed in a number of initiatives icare has introduced to shape its culture.

Our recommendations are framed around creating behavioural shifts that will improve governance and accountability. Addressing these recommendations is no easy feat - it will require sustained effort across icare and most notably strong leadership and role modelling and the time for cascade supplemented by changes to the infrastructure and environment that currently enables and reinforces unhelpful behaviours.

## 10.2 Context for this chapter

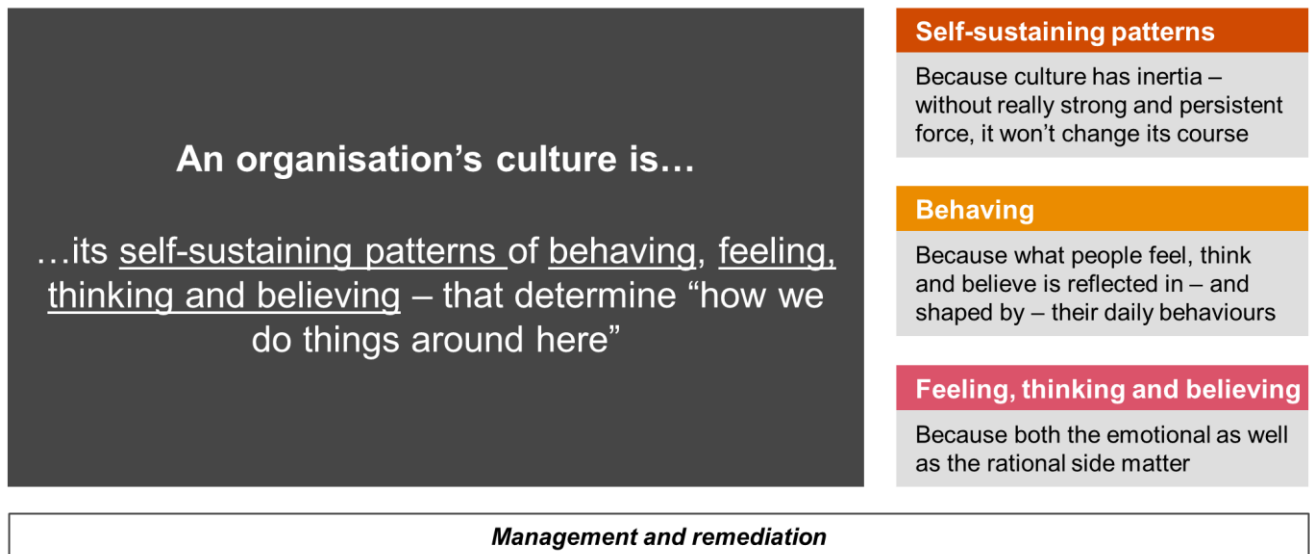
### What is culture and why is it important?

Organisations, whether public, private, small or large, have formal processes, procedures, frameworks and other infrastructure which are used to manage their day-to-day operations. As we have observed at icare, these formal mechanisms vary in their maturity and while they play a key role in managing practices, they seldom explain in isolation why failures to achieve better practice occur. It is ultimately the way this infrastructure is interpreted, implemented and adopted that contributes to explaining effective or ineffective behaviours and the resulting outcomes. These practices and norms form part of the culture of the institution, and they can present both sources of advantage, and challenges.

Culture can be thought of as an organisation's "self-sustaining patterns of behaving, feeling, thinking and believing"<sup>67</sup>, which ultimately determines how things are done within an organisation. It is self-sustaining because an organisation's culture has a natural inertia – without a really strong and persistent force, it does not change quickly or easily. The behaviours which people display reflect not only what people feel, think and believe, but what is reinforced by the systems, processes and people around them.

<sup>67</sup> Katzenbach, J., Thomas, J.; Anderson, G. 2018., 'The critical few - Energize your company's culture by choosing what really matters'. Produced in collaboration with the Katzenbach Center Community of Practice. Berrett-Koehler Publishers, Inc.

Figure 9: PwC's definition of culture



### Our approach to conducting the culture review

Our review focused on understanding the culture of icare as a whole, including the perceptions of board members, senior executives and employees. As with every organisation, sub-cultures within functions, teams and specific cohorts of people can exist. We did not receive any strong evidence to suggest unique traits exist in different parts of icare, however there was some evidence that the traits were more pronounced in some areas than others. Where relevant, we share examples where this is the case in discussion of each trait.

A number of principles shaped the approach we took to understanding icare's culture:

- Culture is rarely all bad or all good: We consider each trait to be neutral, in that it reflects a tendency or predisposition. Each trait is examined for both positive and challenging aspects to identify short-comings, and strengths to build on.
- Culture is persistent: Organisational cultures don't change quickly or easily. Much like a personality trait, they remain fairly stable over time creating behavioural tendencies which are pronounced (positively or negatively) when the organisation is under stress or in crisis. Behaviours can be adopted, and in icare's case have been adopted with the change in leadership at the board and executive, to make rapid gains in remedying gaps in governance and accountabilities.
- Both the formal and informal organisation contribute to creating culture: Organisational culture can be understood through norms, commitments and mindsets, but also through the formal organisation which exists and reinforces patterns of behaviour; for example, structures, decision rights, processes and procedures. This chapter focuses primarily on what we observed from people, noting that the impact of the formal organisation has shaped or enabled patterns of behaviour. In considering actions to remedy gaps in governance and accountability, icare should consider the critical few behaviours that will have a disproportionate impact on outcomes, and how these are reinforced by formal elements of icare.

### 10.3 icare's current cultural realities

Five dominant cultural traits emerged in our review. These provide context for a number of findings observed in the preceding chapters, but also offer insight into the cultural realities facing icare today as it seeks to re-build. The five traits are:

- Commitment to vision
- Alignment seeking
- We are the experts
- In the tribe
- Positive news bias.



In the following sections, we outline stories that illustrate behavioural norms associated with each trait, and the key factors which have contributed to and reinforced it. Specific examples for each trait have been redacted to protect the anonymity of individuals who contributed to this process.

### 10.3.1 Commitment to vision

People within icare are committed and energised by the organisation's vision, and the contribution it makes in "providing best-in-class services to people, businesses and communities"<sup>68</sup>. icare's 'vision' in this context includes both icare's purpose "to protect, insure and care for the people, businesses and assets that make NSW great", as well as the internal transformations that have progressed to date, for example the implementation of a single claims management platform.

Being committed to icare's vision was a trait observed across all levels and functions of icare, from the board through to operational staff who directly serve customers day-to-day. Our review highlighted the value people place on doing the right thing by customers - it was a unifying and connecting ideology that was consistent across icare. A number of icare's people noted that this is what attracted them to join icare in the first instance, and why they continue to work at icare today.

However, being so committed to vision has also created a number of challenges for icare, especially as highlighted through a number of examples in the transformation agenda of the NI. Throughout our review, it was remarked that icare's focus on transforming around a vision was akin to being "cult-like", and that an unwavering focus on what icare wanted to achieve had, historically, created blind spots in terms of delivery.

#### Strengths of Commitment to vision

People at icare are galvanised by their purpose to create better outcomes for customers. Whether it is injured workers or employers or victims of the summer 2020 bushfires, the sense of energy and intent to do the right thing was unwaveringly positive. To illustrate, focus group participants recalled with pride their work to support and "follow the journey" of NSW residents affected by bushfires in 2020. Moreover, in the context of icare's response to legislative changes on benefits capping (Section 39), we observed strong commitment to provide additional support for injured workers who were experiencing significant change to their weekly benefits. We saw a further moment of pride from the Care team frontline case managers who teamed together to support a mentally-injured claimant over the course of a week, in order to ensure the right support and treatment was being provided. In another example, we heard pride in a junior staff member elevating an idea on the proactive early intervention of a medical condition, and having their voice heard by senior leaders across the organisation. People clearly valued the ability to bring new ideas that would help drive better customer outcomes to the table.

Working in an organisation that operated as a 'start-up' in its early years signalled the desire and intent to move at speed when driving toward the vision. Whilst this language has been phased out as icare has matured, when interviewing board members and the GET, especially those with tenure dating back to the formation of icare, it was apparent that the challenge of being a "start-up with \$32B of assets under management" added to people's motivation. We heard a number of examples around projects, but also in the context of setting up business-as-usual operations, where individuals were given licence to rapidly form teams and drive towards an outcome. For instance, a team member from Organisational Performance spoke about the establishment of new financial reporting mechanisms (eg. ledgers, dashboards and reports) that were set up in "weeks, rather than months" because of the buy-in they had from leadership to take a "clean sheet approach". The mindset that icare had to "build from scratch" amidst a significant agenda gave people a clear sense of purpose, direction and licence to move at speed.

Commitment to vision has also provided icare's people with the courage and confidence to transform. This is best evidenced by icare's FY19 review of costs, where approximately 15% of controllable expenses were allocated to programs of work. Senior leaders, as well as junior team members, have not been afraid to take on transformative agendas. For example, we heard many people being supportive of icare's decision to move to the single claims operating model, noting that the intent to simplify and create single source-of-truth platforms was a positive initiative. In pursuing ambitious objectives, people have felt courageous about stepping into bold, stretching projects and leaning into uncertain situations. We heard anecdotes of people considering those working on icare's transformations as "talent", given the complexity, challenge and ambition behind their work.

We also observed that when things haven't gone so smoothly with icare, Commitment to vision has generated resilience amongst employees. That is, they were able to rationalise challenges in the context of the broader aspiration and continue to move forward in the face of adversity. A number of staff, especially within PI and Organisational Performance, reflected on the size and complexity of the changes icare was undertaking through the period of transformation, and have accepted the challenges that have come with it. One

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<sup>68</sup> Our strategy: icare. <<https://www.icare.nsw.gov.au/about-us/our-strategy#gref>>

interviewee noted that in hindsight, “declines to RTW were somewhat inevitable” given “we took on the largest merger and technology transformation at the same time”. Another person noted that given icare was set up “to make it more injured worker friendly...it was going to be inevitable that the RTW would suffer to an extent”, because of not simply forcing people back into work. They noted that challenges like this were “underplayed” in the media, with focus being more on the metric itself..

### **Challenges arising from Commitment to vision**

Despite the energy and momentum created by icare’s vision for customers and transformation, the over-emphasis of this trait has created a number of challenges, particularly relevant to icare’s governance of performance in the context of transformation within the NI.

First, commitment to vision has, at times, led to the prioritisation of speed over outcomes, process compliance and execution excellence. icare has committed to transforming within specified deadlines, and this has come at the expense of detailed design for implementation (eg. challenges with the policy and billing system developed during release 1 (R1) of the single claims operating model, which whilst outsourced, sat with icare for oversight and management) or a tendency not to align feasible milestones to overall timelines (eg. selection of appropriate external vendors during procurement processes). Evidently, this undermined achievement of intended outcomes. As reflected in survey responses, only half of respondents (53%) across icare believed that “people at icare are effective at enacting change”.

Prioritisation of speed was particularly challenging when the outcomes being delivered were not clear - that is, whether an initiative was targeted towards commercial outcomes (eg. financial management of the scheme) or customer outcomes (eg. NPS). For example, in the Guidewire R1 implementation, icare moved too quickly from design to implementation and release before adequate quality control checks and balances were made. A number of executives and board members interviewed noted that “[icare]..needed to be able to stop, challenge and pivot if projects aren’t working”. When the vision around transformation, and in particular speed to transform, was prioritised, we observed that this caused leadership to focus less on performance outcomes (eg. declining RTW rates). Ultimately, this has had impacts both internally for icare, as well as for its customers.

Second, people also noted that when it came to transformation, icare became so focused on the path that had been set and activated, that stopping, reassessing. course-correcting and challenging was not prioritised or carried out effectively. Particularly emphasised by those outside of the NI, words like “fixed mindset”, “tunnel vision” and “in hindsight” were used to describe icare’s posture during periods of transformation. So strong was this focus that people became uncomfortable in raising timely challenges, which in turn had implications for effective governance, given the failures to raise risks and take necessary action. One participant observed that no action was taken to improve the outsourcing policy that was used to select, manage and oversee contracts with the NI scheme agents until third party service provider issues reached the media (November 2020). That is, Commitment to vision led to a lack of response until the issue had reached a crisis point. As further support for this observation, we noted that inadequate time and attention was spent on due diligence and compliance-type activities; for example, confirmation of GIPA compliance requirements during the implementation of the NI single claims operating model. Complacency about risks or issues, which could have been anticipated at the outset of transformation activities meant that hurdles downstream had to be met reactively, rather than with proactive mitigation.

The third challenge arises when the focus on transformation and achievement results in a tendency to look past the hygiene elements of its operations, and deal with risks and issues reactively rather than proactively. Although working in a ‘start-up’ environment has positive aspects, some of the behaviours associated with start-ups run counter to the proper and consistent operation of a public organisation, for example compliance with NSW procurement processes. icare’s tendency to be “project obsessed” and “ambitious” had led to behaviours counterproductive to disciplined risk management; for example, lack of regularly updated compliance register or focus on compliance and legislation, as evidenced by significant gaps in the operation of icare’s three lines of defence. One interviewee noted “it is fantastic what’s been achieved in three years, but we’ve rewarded and talked only about the [people working on] transformation.. [we have] left behind the great workers who do the more boring roles”, indicating an overlooking of business-as-usual operations during this period.

### **10.3.2 Alignment seeking**

A good day at icare, regardless of the team we consulted, is often described as when “everyone agreed with the approach so we could move forward”. The trait Alignment seeking sits at the core of how icare works, how it operates and where it places emphasis. It directly influences the preparatory work people put in to develop a board paper, how presentations are delivered to the GET, how icare prepares for its engagement with stakeholders like SIRA, and even in the way cases are managed. Consensus through rapid collaboration and alignment of individuals within icare was a key to “getting work done”, and an indicator of how people view whether they were successful in their roles.

Alignment seeking manifests itself in different ways across the organisation, and in particular across the levels of management. For board members and the GET specifically, Alignment seeking is apparent in the desire to influence others and in “being heard”. An executive shared a moment of pride in being able to credibly present their point of view, and for this to be acknowledged and heard by their executive peers, board members and external stakeholders like the regulator. At the middle management level, success was less defined by influence, and driven more by the ability to “work together to get this done”. Evidently, the idea of working efficiently, quickly and without roadblock was valued as a key contributor to icare’s ability to drive progress on new ideas. At more operational and junior levels of the organisation, Alignment seeking is a means to drive progress and to generate a sense of contribution.

This trait has a number of associated strengths. It creates a strong outcomes orientation and focus, which can help navigate situations of uncertainty. At the same time, it can create a sense of collegiality and a perception that “we are in it together”. However, Alignment seeking can also result in a lack of robust challenge or confrontation, because of trying to please others. It can also lead to a tendency to make decisions outside formal channels, and a reluctance to accept or own change.

### **Strengths of Alignment seeking**

For icare, Alignment seeking has at least three positive attributes. First, the ability for people to collaborate and collectively problem-solve is highly valued. Particularly in terms of cross-functional project teams, individuals noted that the ability of teams to come together and solve problems was an energising experience, and something which contributes strongly to the fabric of how work is performed within icare. One example cited was in the development of icare’s strategic priorities, which involved internal workshops where people from different functions co-designed these ahead of executive presentations. A number of people who were involved in this program from both within and outside the NI, noted the ability to come together and work productively as a memorable experience.

Second, Alignment seeking was also observed to be a particular strength in situations where a rapid turnaround on a key deliverable was required. A number of staff cited examples concerning an urgent request for a board paper or presentation, where their teams were able to quickly coalesce around the problems, define the plan of action, complete the analysis and produce outputs. In an environment where the frequency of reporting and requests for information are voluminous, staff noted that gaining rapid alignment and buy-in from key stakeholders was typically a positive experience. They also pointed out that this led to a can-do attitude among many of their peers, with confidence being developed through repetition and validation of progress.

The third strength is the sense of momentum and engagement this trait creates across icare. Throughout focus groups and executive interviews, people often reflected on others within icare as being “nice”, “collaborative” and “dedicated”. Numerous people commented on the fact that within icare, people are generally easy to work with, future-focused and collegial when the direction being taken is clear and aligned. In particular, people took pride in influencing others on key decisions or inputs to a decision, and when recognised for this, felt a heightened sense of contribution. For example, one executive commented on the support she received from other executives during an external presentation as a key moment of pride, noting that in that moment it was clear to them all “their role and why they were here”. Many staff quoted icare as being a “nice place to work”, a key reason staff continued to work there.

### **Challenges arising from Alignment seeking**

Alignment seeking has also created a number of challenges for icare. At the executive level, the need for alignment manifests in instances where executives seek alignment and endorsement from select individuals outside forums. This can lead to a lack of robust challenge through formal governance, given key individuals are already briefed. One interviewee, when asked about a significant presentation being made to an external party, noted that in an “ideal world” they would have had the chance to do a dry run and “gather feedback” from the CEO in advance of the session. When adding that due to timelines this was not possible, they stated that this experience was a significant source of “stress” for them, because they wanted the “buy-in” and “support” of the CEO before the presentation. The impact of such approval-seeking can be pervasive on governance. It can lead to a lack of visibility and meaningful discussion if influencing and decision-making are conducted ‘outside the room’. Our review highlighted a number of situations where this was the case, and as a result people who could have contributed to robust discussions were (either intentionally or unintentionally) excluded.

The tendency to seek alignment also creates consensus-bias, which can further limit effective and robust challenge, as well as create hurdles in terms of delivery. A participant in our survey referred to “incestuous groupthink” resulting in the avoidance of confrontation, unwillingness to reflect and opportunities to learn being overlooked. For example, board members reflected on the Policy and Claims Management technology release and the lack of “interrogation” of the CITC sub-committee on risk matters. It was noted that in “all of the excitement to design and build...there was a focus on whether it [technology solution] worked, rather than

whether it complied". Clearly this has implications for the board's effectiveness in overseeing and governing risk as well as in interrogating management.

Finally, we observed that Alignment seeking can also result in a lack of awareness of potential blind spots in decisions and actions. In examples such as the ongoing RTW metric decline, we noted that selected GET members who held accountability for RTW metrics aligned others, including board members, around their belief that RTW metrics appeared to be in such decline due to data problems. In such examples, board members reflected on the lack of "robust questioning" that in hindsight was necessary to get to the bottom of this (noting however the complexity of this metric and the expertise required to fully unpack the underlying workings of this as a limitation to effective challenge) . A participant in a listening session noted a lack of "open[ess] to change/owning mistakes", suggesting a tendency to support each other with a risk of turning a blind eye to errors or failures. It should, however, be noted that icare's awareness of this particular matter has been heightened, and more deliberate actions are being taken by leadership to introduce effective challenge in formal governance and decision-making forums.

### **10.3.3 We are the experts**

icare people believe icare is the expert in the services it provides (eg. workers compensation, personal injury, care of dust diseases) and the functions it manages (eg. financial management, legal services and technology). This belief has its roots in the board and leadership teams set up at the creation of icare, when they were brought together because of their skills and experience in administering state insurance and care schemes. The belief that icare is the glue that holds together the ecosystem of institutions that together deliver workers compensation, lifetime care, dust diseases care and other state-based insurance services was consistently promoted by interviewees. icare's identification with such a pivotal role in delivering state-based insurance services is encapsulated in the We are the experts trait.

This mentality often translates to the view that - particularly given the complexity of the schemes icare manages - only icare's employees and experts can solve the issues that arise within its unique operating environment. Most recently in the case of COVID-19, we heard that executives were connected to daily updates and changes in mandate being provided by the State Government. However, some actions to respond to the pandemic (for example, communications to staff) were independently developed by icare without leveraging crisis management teams of other state departments (e.g. NSW Treasury). There was frequent reflection on icare's complexity, particularly in the NI, which was often used to explain the context behind decisions, but also a justification for previous failures. During executive interviews, the phrase "we know best" was mentioned in several contexts, including icare's engagement with regulators, instances when business function activities were deemed to be inadequate, or concerns over process quality were being raised to previous CEOs and their executives.

#### **Strengths of We are the experts**

We are the experts leads to confidence and self-reliance, and emerges because of the value placed on being leaders in their field. For example, in both their position on which RTW metric to use, as well as their decision to push ahead on the introduction of the single claims operating model, we observed that icare was willing to defend key decisions made and contest 'conventional wisdom' from other parties.

Confidence and self-reliance are strong assets for icare, particularly as they have been required in the past to support transformation. A number of leaders and staff reflected on the experience of establishing icare as a 'start-up', and the ability of icare to draw on its internal expertise to support the setting-up of key frameworks, tools and processes. One focus group participant noted that the "clean slate" offered at the establishment of icare provided an opportunity to reevaluate the accounting and financial management frameworks which could be introduced without the "overhang" of legacy practices and systems.

The sense of expertise also allows icare to navigate uncertain or ambiguous situations. The value and emphasis placed on internal expertise was high across all levels. For example, leaders emphasised the individual capabilities and experience of various board members and senior leaders, and at more operational levels, people called out with pride the pockets of unique skills and expertise that were available to support them in their work. As an example, one focus group attendee noted an instance where an individual with specialist psychological skills in crisis management was able to help them navigate the requirements of a complex case.

In lower levels of the organisation, this trait was best noted when subject matter expertise was affirmed. Focus group participants and PwC survey respondents appreciated being in the "spotlight" and being acknowledged publicly for their work. One respondent noted that "being able to help another area through providing subject matter expertise...to further the analysis" was a specific moment of pride. Receiving "positive feedback" for the "effort" spent on work activities, such as preparation for a meeting, workshop or analysis was consistently highlighted.

#### **Challenges arising from We are the experts**

The challenges of this reliance on one's own - or icare's - expertise were discussed in the context of internal affairs as well as of interactions with external stakeholders.

A number of focus group participants reflected on leadership's strong desire to control outcomes, based on how they "wanted to approach things". The tendency to trust one's judgement rather than needing to consult is best exemplified in the disparity between responses to one survey question: "When leaders make decisions, they seek input from people across the organisation". 93% of the GET and Chiefs agreed with this statement, whereas just one level down in the General Manager cohort, only 53% of respondents agreed. Multiple survey respondents detailed instances where decisions were made that directly affected them "without any discussion or involvement". One survey respondent described negative experiences of "updates from executive groups, GET updates, executive decisions announcements lacking operational staff input".

External stakeholders also commented on icare's unwillingness to listen or tap in to external expertise. One interviewee, when asked about RTW, flagged that icare "have not engaged with the community of practice that includes academics and are absent from the knowledge base of this industry". They noted that icare's tendency to be "confident" in their position has led to failures to look for best practice. icare's self-reliance has led to an ignorance about adopting empirically-based methodologies and practices, which has resulted, on occasion, in poorer customer outcomes.

At operational levels, this trait explains instances where subject matter expertise was disregarded or devalued. Contrary to the examples of positive affirmation, a number of people highlighted "frustration" with situations when their opinions or voice were not heard. In listening sessions conducted in October 2020, a key point of reflection from icare people was that they would like to see more "trust in, and reliance on people's expertise on the ground". One focus group participant commented on being instructed to change RTW metrics displayed on a dashboard, despite being confident in their analysis. This person's manager consequently provided a directive and instead relied on their own judgement, rather than the data available. Ultimately, actions like this can lead to an undermining of governance processes because it creates an over-reliance on one point of view, rather than trust in data to inform decision-making.

This trait has also flowed on to interactions with external parties more broadly, as outlined in previous chapters. In executive interviews, there was acknowledgement that SIRA, as the regulator of the NI scheme, was held at "arm's length", especially when "performance issues were emerging". It was commented that while there was "no obligation of continuous disclosure", it would have "provided confidence that they [SIRA] know what is going on in our organisation and the issues we are working on". Similarly, with regard to the contractual arrangements and interactions with scheme agents, there has been a noted tension around the "master-servant" relationship that has transpired, and the over-reach that has occurred in managing contracts. Some scheme agents, such as GIO and Allianz, reflected on positive interactions with icare where there was mutual trust and respect. However, the overwhelming impression of how icare manages its relationships was that it reflected a transactional, contractor-based relationship, rather than partnership. In the case of EML for example we heard that icare was so focused on embedding tighter controls around certain spend categories, which certainly has an upside, it also lost sight of customer outcomes. Similarly, the decision to funnel complaints from WIRO, in some instances inadvertently created process inefficiencies and challenges to effective customer outcomes.

To illustrate the nature of the relationship between icare and scheme agents, one participant reflected on a situation as recent as April 2020, in which an escalation was passed to icare regarding an alleged privacy breach. In line with its contractual arrangement and decision rights framework, icare was required to make a formal decision on this matter and relay it to the scheme agent. The participant noted that more than six months later no advice or ruling had been provided. Significant time delays in responding, or no response at all, was considered the typical interaction with icare. "When we [scheme agent] request information, it can take weeks, however when icare requests it, they expect it in hours".

Historically, the barriers to building productive working relationships with other institutions in the workers compensation ecosystem has been challenging for icare. In particular, icare's emphasis on expertise has been perceived as "arrogance" and even internally, there has been reflection that icare can appear to be "dismissive of advice" provided to it.

#### **10.3.4 In the tribe**

icare teams are tightly connected and tribe-like in their mentality. When individuals are In the tribe, they are supported by their peers, highly collegial and loyal. However, when individuals are perceived to be outside the tribe, they can be met with combative and territorial behaviours while people attempt to "protect their patch".

Tribes within icare can take different shapes and forms - they are not simply divided by functions. We observed tribes reflecting different teams, different functions, different leadership cohorts, and the old (ie. legacy schemes such as WorkCover, Lifetime Care, Dust Diseases Control, etc.) vs new (ie. employed into icare) employee segments.

The existence of tribes manifests itself in numerous interconnected ways, and has created sources of advantage, as well as disadvantage, for icare.

### **Strengths of In the tribe**

Individuals within icare's tribes are deeply connected to one another, and this has created a sense of belonging and loyalty among staff. Particularly apparent in tribes that were functional in nature (eg. Personal Injury, Care), a number of focus group participants noted the support both provided and received from their immediate colleagues as a key contributor to positive work experiences. Loyalty to an individual's immediate team, grounded in purpose and sense of direction, was a stand-out feature for many individuals. This may go in part to explain the relatively low attrition rates icare has maintained over the past five years<sup>69</sup>, despite the amount of media scrutiny and public criticism the organisation has received.

We observed that when tribes have formed, they have been deeply connected to a uniting purpose or element of icare's vision. For example, we noted the consistent way in which icare's customer-facing workforce speak about their role and the evident singularity of their thought and direction - for example, regarding the delivery of appropriate and timely care services for those less fortunate. The tribe's 'purpose' was seen to be both a uniting and motivating factor for those within the tribe.

Operating as tribes was also observed to be an advantage when it comes to projects, especially when coupled with the Commitment to vision trait. A number of people noted that they found purpose and connection through common projects or activities. For example, in icare's response to COVID-19, there was a rapid formation of an incident response team, whereby executives and response specialists worked in tandem to ensure delivery of customer outcomes through this phase. The ability of icare to rapidly mobilise and then demobilise cross-functional program teams was perceived to be a real strength, such that when people were called on to be part of a team, they were able to do this seamlessly. Examples were cited where teams across the business had collaborated effectively to solve a problem. This was particularly amplified when there was a perception of having the "right people in the room" - in other words, the tribe having the right skills and experiences to progress the work. However, people also noted a tendency for icare's tribes to defend themselves and represent projects favourably to the rest of the organisation.

### **Challenges arising from In the tribe**

On the flip side to working collegially, when outside a tribe, participants mentioned incongruence in priorities across leadership levels, functions and even projects as a source of both distraction and conflict. icare was noted to be "operat[ing] as separate schemes" in the experience of both internal icare people and external service providers. Particular to the NI, we heard multiple examples of the emphasis and priority given to this scheme over and above others within icare.

Fragmentation in the identity and behaviours of different tribes was observed through a number of stories and anecdotes shared in our review. In one focus group, a service provider who interacted with icare across multiple schemes noted that the processes, experiences and responsiveness of teams varied significantly across both the NI scheme and the TMF. They shared their experience of working with different teams who perform similar functions across each of the schemes, but do so in vastly different ways. This suggests effective practices are not shared and potential efficiency opportunities are ignored. In addition, within the NI, this service provider described limited visibility of key stakeholder contacts and accountable owners for selected processes. For example, it was not uncommon for service providers to be told they would need to contact "another team" within icare in response to requests for information or guidance. In practice, the tribal mentality of icare has meant that hand-off points between teams are fragmented, resulting in a poor service experience for providers, delays in response to requests and ultimately a negative impact on customer outcomes.

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<sup>69</sup> ARC August 2020: Headcount and Attrition Aug 20

At the executive level, a number of interviewees also noted the divergence in mindset among staff and teams as to either being icare first and team second, or vice versa. One respondent commented on their personal fear that the current media scrutiny and public debate would amplify the fragmentation across the business, noting “it feels like we have gone backward”. The challenge of uniting functions, teams and cohorts of staff into a single identity is significant. We note that while it is normal and often healthy for pockets of an organisation to have distinct identities, it becomes difficult when the identity of separate tribes is stronger than the collective. For icare at large, and more so in specific tribes where this is more pronounced, a reluctance to accept institutional knowledge and practices is apparent. In this regard, a number of participants in focus groups drew awareness to “shadow” processes, which have become accepted across the organisation. For example, the adoption of the new platform to be used to capture customer complaints data has not been uniformly adopted across functions and teams within icare. The flow-on impact of this is a lack of ability to report accurately across all of icare, as well as additional effort required to reconcile numbers in each reporting period to “stitch together the icare-wide view of customer complaints.

Finally, the protection of patches also emerged as a symptom of operating in tribes. Particularly prevalent between leadership levels, as well as functions, there is a perception within icare that individual “agendas” have historically shaped the work of teams rather than consistency in objectives at the enterprise level. Lack of clarity and enforcement of accountabilities was hypothesised to be the cause of this. In response to our survey question “People at icare are held to account for the decisions they make”, only 47% of respondents agreed with this statement. Even at senior levels, only 57% of the GET and Chiefs agreed with this statement, and the number decreased to 22% and 24% agreement at the General Manager and Head Of levels, respectively. Protection of patches was also used to explain a range of combative and poor behaviours internally and externally, in the interactions with service providers. While we didn’t receive strong evidence of widespread bullying, and nor was the scope of this review specifically geared at understanding the magnitude of it, a number of examples were shared where the use of “raised voices” and “blame” were seen to be normal in interactions. As discussed in subsection 6.3.3 Complaints management, the encouragement of speak up can be hindered by such behaviours, particularly as they relate to creating an environment with the required psychological safety for individuals to raise issues.

### **10.3.5 Positive news bias**

We observed a wide-spread tendency to share good news across the organisation, with a bias towards the positive aspects, and to ignore negative aspects. The focus on positive news, and over-emphasis on selective reporting, was identified consistently across all levels and functions. It was also reinforced by service providers in their reflections of messaging provided in their dealings with icare.

Internally, the tendency to share positive news was described as “inherited” particularly from the period of icare’s establishment. Board members and executives interviewed noted the behaviour arising from a need to “prove” icare and wanting to be the best. Interviewees and focus group participants referred to icare as “Australia’s largest start-up”, referencing the complex journey of establishing the organisation.

#### **Strengths of Positive news bias**

Demonstrating and communicating progress is a powerful symbol. We heard from a number of board members and senior leaders that the sharing of positive news, especially in the earlier stages of icare’s establishment, was critical in motivating staff. In this regard, the tendency towards sharing positive news has been an effective lever to generate momentum.

Employees both within and outside the NI noted that they have felt energised by the sense of achievement and accomplishment within icare, and that the sharing of positive news has been a key contributor to this. Good news, for example the successes of key projects and individuals, has amplified the motivation of staff to work harder, faster and better. The ability to contribute positive stories has led staff to innovate and think outside the box for solutions to some of the challenges present in workers compensation. A participant in one focus group from Strategy and Governance shared a story about their team’s drive to introduce early detection technologies into the proactive detection of specific diseases, noting that this would have the benefit of receiving internal recognition.

The propensity to spread positive news also means that people tend to recognise each other’s contributions more frequently than would be normal practice. Recognition of performance is a valued currency at icare. Certainly, people we interviewed and engaged placed great importance on standing out and wanting to be the best in the eyes of others, particularly when expertise is valued so greatly. The desire amongst staff to be right and to be seen as a valued contributor, coupled with affirmation on doing so, has been a motivation for some. One respondent to our survey noted that a memorable day for them involved “unprompted positive feedback” and that this “confirmed that I was doing a good job”. Equally, people leaders and managers that we interviewed suggested that positive affirmation was common practice, and the norm in this organisation. Recognising others and giving thanks are common practices in many organisations, but we note the higher importance of such behaviours in an organisation like icare, which exists for social purpose. To this extent,

managers should be commended for explicitly expressing gratitude for the hard work and effort put in by their teams, and for reinforcing desired behaviours and the performance of their teams.

### **Challenges arising from Positive news bias**

Awareness of this trait is common. In response to our survey question “People at icare are reluctant to share bad news”, over 55% of all staff agreed with this statement. Interestingly only 14% of the GET and Chiefs agreed, whereas almost 71% of Heads Of agreed. When investigating why bad news wasn’t shared, reasons such as reputation sensitivity, avoidance of confrontation and impacts to morale were often discussed.

icare’s tendency to share only positive news results in problems that include a sense of complacency, and at times, ineffective responses when significant risks are raised. People, particularly those who worked in Personal Injury, regularly highlighted instances where challenges were raised either to their immediate manager or to an executive, and the responses were to ignore or downplay the nature of the risk. Our survey also supported this, identifying that more than half of the organisation’s people (52.4%) do not believe that “risks and issues raised within icare are dealt with in a timely or effective fashion”.

Selective reporting and positive spin were also observed to be issues in the broader organisation. In one example, a focus group participant described a situation where the data being presented on an executive-level dashboard was repeatedly “re-cut” in order to convey the message their leader wanted to present. The participant mentioned that, while no data was falsified, senior management was making a judgement call on what data would be displayed to the board based on the messages the GET wanted to convey. The participant described the shaping of the information as building a “grand narrative”, but there was no evidence that implications of the changes were considered for their impact on customer outcomes. In another example, a survey respondent mentioned that their leader had asked them to “specifically give positive feedback to balance the negative voices” in our (PwC’s) review. In other words, an overt request to create and maintain a positive narrative occurred in the collection of data for our review.

The consequences of not openly reporting, sharing or discussing bad news have had far-reaching implications for icare, both strategically and operationally. At the strategic level, a lack of transparency of facts and information has led to false expectations. Board members commented on being “surprised” and “caught off-guard” when a more accurate description of affairs emerged. While acknowledging that more could have been done by the board to “interrogate” facts, there were examples noted of the management team putting their “best foot forward”. The tendency to ignore risks - or to not actively manage them - for example, those associated with the new claims operating model, was observed frequently. Without acknowledgement of errors, failures or risks, the opportunity to look for improvements, learnings and to course-correct are nil. In other words, this trait undermines the opportunity to improve or learn.

Similarly, bias towards positive news has created barriers for staff in speaking up and raising concerns, whether through formal escalations or informal questioning. We observed a number of marked signals for this. First, and perhaps most tellingly, a number of individuals from across different functions contacted our review team for confidential discussions about instances of poor behaviour and practices, despite having opportunities to provide this feedback through our survey and focus groups. In discussions with these individuals, it was apparent that the perception of safety to speak up for at least some individuals was not apparent, and that trust in formal avenues of escalation were low. Our survey results also supported this, with almost 30% of the organisation agreeing that there “are negative consequences if I raise a risk, issue or difference in opinion”. In focus groups, the construct of learned helplessness was discussed with a number of participants reflecting on icare’s leadership tendency to dismiss or ignore the concerns raised by its people. While the majority of staff acknowledge that there are sufficient mechanisms in place to raise risks and issues to leaders, a potential failure to create psychological safety for all individuals - and the perception that timely and effective action is not taken to address issues raised - has reduced the use of such channels, and in turn has implications for how icare can constructively challenge and act on issues.

At the operational level, the reluctance to discuss bad news has also had implications for staff morale and development. Among focus group participants, it was agreed that bad news was often identified through informal channels and what they had heard second-hand or via corridor talk. One participant from the Care team noted that hear-say was a key mechanism by which they accessed information, and that often key pieces of information would “come as a surprise” to them. This trait has caused a lack of formal and open dialogue about instances of icare’s performance, the reality of progress in key projects, and key decisions being made across the organisation. In one focus group, it was stated that the transparency of communication on the “realities” was very manager- or leader-dependent. In pockets, staff felt that they had access to information freely and openly, but this was certainly not uniform across icare.

Avoidance of confrontation and difficult - or even candid - conversations is another byproduct of this trait. Specifically, poor performance appears to be seldom addressed within icare (as discussed in Chapter 9. Accountability). One participant mentioned that “when performance isn’t at the right level, it [is] basically a taboo to mention it or raise it with people. We don’t like hurting feelings or creating a negative light”. The desire



to protect others and save face has come, for certain teams and individuals, at the expense of constructive development feedback. The result of this, in pockets, is an appetite for greater discernment of performance; high performers are discouraged by poor performance not being addressed and a sense of complacency ensues.

## 10.4 icare's recent work on culture

Historical challenges and failures within icare are well documented and understood across icare. In fact, the multiple reviews, commissioned reports and media articles that have been written (or are being written) on icare have resulted in positive reaction, even if sometimes delayed as noted in previous chapters. People within icare have acknowledged that changes have started to occur in response to these reviews, multiple hearings at the Law & Justice committee, public scrutiny and recent leadership changes. In response to our survey question "I have observed significant changes in the way that icare works over the past 18 months", approximately 79% of respondents agreed.

Over the past two years, icare has progressed a range of initiatives that demonstrate culture as a priority for the organisation. While the scope of our review did not include assessing the effectiveness of these actions, we acknowledge some of the mechanisms that icare has put in place to remediate cultural challenges and leverage existing strengths. Examples of this work are provided below.

### Hearing the voice of icare's people

icare has invested, and continues to invest, significant time, effort and resources into hearing the voice of its employees. The emphasis and attention placed on listening to employees is commendable, and is symbolic of shifts in leadership behaviour, particularly during the last 12 months in which a number of issues have been made public. Such initiatives are early steps in helping icare overcome the challenges of Positive news bias and We are the experts, in that they give leaders the opportunity to listen, reflect and action change by hearing the voices, both positive and negative, from individuals on the ground. They also reflect an opportunity to leverage the strengths of traits such as Commitment to vision and Alignment seeking, in that they invite collective problem-solving around how icare can improve for its customers.

Throughout our review, we were made aware of three examples which showcase icare's commitment to hearing the voice of its people:

- Over the course of 2018-2020, staff eNPS has been measured twice a year. icare employees are given opportunities to say whether they would promote icare as a place to work, share reflections on what icare does well, and share sentiments on customer service.
- During 2018-2020, icare participated in the state-wide People Matters Employee Survey commissioned by the NSW Public Service Commission. While this survey is not compulsory, it is open to all staff who work in the NSW public sector and we note that icare has historically promoted participation to its staff, resulting in higher than average response rate.
- Between September and October 2020, the GET conducted virtual listening sessions which consisted of 31 facilitated forums across the organisation. Group Executives and Senior Leaders moderated open dialogue sessions with approximately 250 employees in order to understand where icare's values are best demonstrated, where they have lagged, and what in icare's culture must start or continue. While the actions arising from this are yet to be mobilised, insights from these sessions have been collated into a report for board sub-committee consideration.

### Defining values-led leadership competencies and behaviours

Over the last two years, icare has striven to be a values-led organisation, and placed increased attention on what this means for its leaders and people. The work on defining values began in 2016, and has been a key anchor for much of icare's work on culture. Defined by its people, icare was founded on the values of displaying integrity, courage, accountability, respect and empathy.

We note that these values are not only a foundational component of all induction, training and communications processes, but that they are continuously referred to and used to guide leadership development and behavioural change initiatives. For example, in 2019 the GET and the SLT completed a project to translate these values into a set of key leadership culture priorities. Each value was further defined into key leadership competencies, sub-competencies and indicative behaviours as to what would be required to live the value day-to-day.

While further work is necessary to codify expected behaviours into individual performance agreements, development plans, and embed as behavioural norms, this will help icare in both establishing consistency in the tone from the top, and facilitating the behavioural changes required to overcome a number of the challenging aspects associated with each cultural trait. For example, by aligning and reinforcing expectations around active

listening, leaders will be able to build more productive working relationships across icare and with external partners.

### Investing effort in creating a more diverse and inclusive workforce

icare is showing commitment to create a more welcoming and inclusive workforce, whether it be through recognition of under-represented communities, or through acknowledgement of people’s working preferences.

Plans and initiatives were provided to us in support of this, including diversity and inclusion website pages (HUGO), the Multicultural Inclusion Action Plan, and the Disability Inclusion Action Plan. We also note that over the past four years, a number of celebrations and acknowledgements of diverse peoples have occurred across icare, including NAIDOC week, Mardi Gras, and religious festivals.

Investing in diversity and inclusion is positive in two aspects. First, the recognition, participation and celebration of such events is valued by icare’s people, and supports the organisation in recognising the contribution of individuals across the business. Second, it helps to overcome challenges of traits such as In the tribe and Positive news bias, in that it invites people to share, reflect and consider how their actions affect others in the organisation. Through ongoing dialogue about diversity and inclusion, implicit barriers between functions, teams and individuals can be broken down and help foster an environment where people feel safe in speaking up and bringing their authentic selves to work.

### Defining clear strategic and enabling priorities that unite the organisation

icare operates in a complex system. It manages eight distinct schemes and must balance their respective purposes, obligations and operations. Creating alignment and unity across these is no easy feat. In order to move the organisation towards common goals, icare revisited its 2020-2022 strategic plan based on feedback received from SIRA, its customers and on reflection of the current operating environment. As part of this plan, icare produced its FY20 strategy-on-a-page.

We acknowledge the work involved in creating this strategy, and in particular the way icare has connected its external-facing objectives with its internal priorities to achieve it. Defining and uniting icare’s people to a consistent and clear set of strategic priorities enables icare to harness the strengths of Commitment to vision and Alignment seeking. People are clear on where the organisation must focus and what they are contributing toward, at the highest level. It also helps overcome challenges associated with We are the experts and In the tribe, in that the strategic priorities are symbolic of having listened to external parties and demonstrating leadership’s commitment to working more collaboratively internally and externally in delivering improved customer outcomes.

## 10.5 Implications of icare’s culture on governance and accountability findings

As highlighted throughout this report, the culture of icare underpins a number of the key challenges and findings we have observed. These are provided in Figure 10 below.

Figure 10: How icare’s culture contributes to governance and accountability findings

G&A findings	Underpinning cultural traits
<b>Unclear identity of icare as a NSW government agency</b>	<ul style="list-style-type: none"> <li>● Commitment to vision - speed over outcomes</li> <li>● We are the experts - inward orientation</li> </ul>
<b>Lack of governance discipline in hearing the voice of customer and execution excellence</b>	<ul style="list-style-type: none"> <li>● Commitment to vision - focus and courage to transform</li> <li>● Alignment seeking - lack of openness to change/own mistakes</li> </ul>
<b>Absence of effective challenge around risk and compliance</b>	<ul style="list-style-type: none"> <li>● Alignment seeking - groupthink</li> <li>● Positive news bias - ignoring action on risk</li> </ul>
<b>Challenges to identification, escalation and management of risks and issues</b>	<ul style="list-style-type: none"> <li>● Positive news bias - conflict avoidance</li> <li>● Commitment to vision - ignoring of evidence that challenges grandiose vision</li> </ul>

<b>Strained relationships with external stakeholders, for example SIRA and EML</b>	<ul style="list-style-type: none"> <li>• We are the experts - dismissiveness of advice</li> <li>• Positive news bias - selective reporting and spin</li> </ul>
<b>Absence of consequence management for accountabilities, outcome delivery, and poor performance</b>	<ul style="list-style-type: none"> <li>• Positive news bias - conflict avoidance</li> <li>• In the tribe - bystander effect</li> </ul>
<b>Insufficient investment in reflecting, learning and course-correcting from previous experiences</b>	<ul style="list-style-type: none"> <li>• Alignment seeking - lack of openness to change/own mistakes</li> <li>• Commitment to vision - tunnel-vision</li> </ul>

Even with the best practice infrastructure, artefacts, tools, and processes, cultural norms can undermine the adoption of change. Therefore, while it is critical that these cultural tendencies are addressed by removing the mechanisms that reinforce them (eg. unclear articulation of accountabilities), sustainable change can only be achieved if complementary behavioural intervention is enacted. Without a focus on both the formal and informal levers of change, icare can expect failures of the past to repeat themselves in the future.

The good news, however, is that icare's culture also provides sources of strength which can be used to overcome such challenges. By focusing on how it can use its culture as a source of advantage, icare can work with the predispositions of its organisation to accelerate change. For example, icare can:

- utilise its orientation and energy on wanting to do the best by customers (ie. a strength of its Commitment to vision) to better listen to feedback and galvanise around future change outcomes
- leverage its propensity towards collaborating and influencing others (ie. a strength of Alignment seeking) in order to drive improved partnering with external agencies such as SIRA and scheme agents (some of which has already been observed in the most recent engagement)
- drive its focus around Positive news bias to create good news stories for how the broader ecosystem of partners have worked together in improving outcomes for injured workers and employer customers.

## 10.6 Where behavioural shifts could improve governance and accountability

Ultimately, evolving any organisation's culture is a multi-year journey that will require sustained effort not only from icare's leadership team, but from all its people and in some cases with support from ecosystem partners as well. Cultural change does not occur quickly or easily – it requires a dedicated program with purposeful action, clear allocation of responsibilities and follow-through.

For icare, effective governance and accountability practices can only be embedded with deliberate and focused attention on staff behaviours. The first step in this journey will be for icare and its people to acknowledge their cultural predispositions and draw awareness to these as they manifest day-to-day. Awareness of challenges as they emerge 'in the moment' creates a powerful platform and prompt for changes to behaviour. These will be particularly evident when moments of stress arise for people or for icare.

Creating a plan to evolve culture is complex. There's a lot that can and should be done, however timing, sequencing and readiness for change are all important factors to be considered before investing time and effort. Our review suggests that icare needs to place its focus on addressing seven key recommendations.

### Defining meaningful cultural aspirations which enable icare's strategic priorities

As part of its FY20-22 strategic planning, icare has set a bold ambition to deliver three strategic priorities: delivering value and affordability; improving injury outcomes; and enhancing quality of life outcomes. Setting these strategic priorities is a positive first step in unifying the organisation around what it needs to deliver and by when.

However, while the strategy defines the aspirations for the organisation as a whole in terms of its business objectives, it does not articulate how icare's culture will enable their achievement. In our experience, culture is as critical as the broader strategy and operating model, and achievement of objectives requires all three elements to work congruently.

To really understand and help icare's people in achieving their strategic priorities, we recommend that icare start by identifying a set of cultural aspirations - that is, define what icare's culture needs to evolve toward. For example, if icare is to truly deliver value and affordability to its customers, it will need its people to drive benefits-oriented change and to take ownership of outcomes. Without such expectations and associated behaviours in place, attempts to manage the organisation towards the creation of value and affordable services will be met with inertia.

In defining these aspirations, icare must also consider two things. First, how do icare's cultural traits help or hinder achieving each aspiration, and to this extent, are there any sub-cultural traits that stand out? That is, are there any strengths in icare's culture that will be advantageous to harness, or particularly challenging to mitigate, when considering the feasibility of each aspiration? Second, what governance and accountability practices most need cultural help, and how do each of these cultural aspirations also enable effective governance and risk practices? For example, balancing innovation appetite with risk will be critical to ensuring that icare does not put excessive focus on innovation in pursuit of driving toward an objective. To this end, icare should be vigilant and deliberate in how aspirations are defined so that it balances the achievement of strategic priorities with its compliance and regulatory obligations.



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icare should translate its strategic priorities into cultural aspirations and make them tangible for individuals across the organisation.

### **Mobilising the formal and informal levers for change**

As previously discussed, icare has invested considerable effort into communicating and engaging staff on the concept of culture in recent months. Although actions like the listening sessions and diversity and inclusion initiatives are positive steps forward, we also note that, for example, driving behavioural change through only communication will be ineffective in isolation of broader systemic changes that do not consider how behaviours are reinforced. It was our observation that there are still major gaps in how icare currently addresses many of the underlying cultural challenges previously mentioned within this chapter.

In order to mitigate the challenges of its cultural predispositions, icare must take action on a number of areas.

First, it must create a greater understanding of the expectations of individuals across the organisation with respect to governance and accountability - that is, it must clearly articulate the expectations of all individuals concerning incident management, issue management and risk management, so these are clearly embedded within the accountabilities of all individuals. Such expectations must be in accordance with the corresponding risk frameworks, processes, policies and tools that are established to manage these practices. We would expect that successful action in this regard will help to clarify any areas of current uncertainty and ambiguity which may lead to failures in adopting standard practices today.



#### **Recommendation 71**

Create a greater understanding of the expectations for all icare employees with respect to governance and accountability, and align these to processes, policies and tools set around incident management, issue management and risk management. This supplements recommendations made in Chapter 5. Risk management & compliance, Chapter 6. Issues identification, escalation & resolution, and Chapter 9. Accountability.

Second, icare must focus on building the organisational capabilities to support previously made recommendations for improving governance and accountability. Where we have suggested there are gaps in root cause diagnosis and post-implementation reviews for example, icare needs to build the organisational muscle to not only prioritise this work effort but to ensure quality output. icare should build an organisation whereby learning and feedback mechanisms are actively sought after and change is encouraged and delivered from the executive and throughout.



#### **Recommendation 72**

Build and promote further learning and feedback mechanisms and both project and team levels both formally and informally. This supplements recommendations made in Chapter 6. Issues identification, escalation & resolution.

Third, the role of icare's leadership will be critical in setting the tone for incident, risk and issues management, but also in developing their own leadership habits as a collective group. Soft skills such as constructive challenge, creating psychological safety and balancing communications will be required in all leaders, including the GET and SLT. Without first building the capability and know-how of leaders to action these types of behaviours in their roles, icare will face difficulty in setting the standard for those below the executive.



### **Recommendation 73**

Build leadership (GET, Chiefs and SLT) capability around effective risk, governance and accountability practices, but also in how they role model and communicate change to their teams as a collective. This supplements recommendations made in Chapter 4. Senior leadership oversight, and Chapter 5. Risk management & compliance.

Throughout our review, we observed significant opportunities to codify performance expectations, translated from the organisation's objectives, accountabilities, and behavioural expectations into performance standards. In a number of focus groups and interviews, people commented on the lack of clarity around individual KPIs, and attributed failures in holding others to account as a direct repercussion of this.

Although the GET has identified this as a gap and begun work to establish enterprise-level performance objectives, an end-to-end performance management system should also be reviewed and gaps closed. In our view, icare must focus on translating enterprise-level performance objectives down to functions and teams, so that people are clear on the expectations of them in their role, and more broadly, to have a clear line of sight on accountabilities. This will help icare in managing and holding people to account, particularly in an operating model where their responsibilities are diffused across the schemes.



### **Recommendation 74**

Enhance its performance management system, with particular focus on clarifying individual expectations so as they can overcome the diffusion of responsibility and hold people to account. In doing so, icare should confirm the KPIs, scorecards, charters, accountability frameworks and cascade that exist to support this. This supplements recommendations made in Chapter 9. Accountability.

And fourth, underpinning all of this, icare should focus on identifying and defining those few critical behavioural changes which are required to enable effective risk, issue and governance practices across the organisation. To define these behaviours icare should consider the key shifts needed to achieve its cultural aspirations, including lifting the bar on governance and accountability, but also those that address some of the challenging behaviours we have observed in moments of strain, for example combativeness and blame. Given some of the challenges we heard, examples of such behavioural shifts may include aspects of active listening, due consideration of alternative perspectives and expertise, inviting feedback, constructive challenge, and partnering collaboratively with external agencies. Behaviours to embed might also include those that reinforce and spread current cultural strengths. Particularly as they relate to different levels, functions and teams, icare must set clear expectations for what 'good' behaviour looks like, so there is no room for interpretation about what this means for different people within icare.

Planning for behavioural change must be calculated and sequenced. Adopting a 'big-bang' approach to change often creates additional complexity and fatigue across the organisation, especially in environments where frequent and ongoing change is a norm. While multiple behaviours will be important, focusing on a critical few in the first instance will have the impact of bringing other positive behaviours along. Once those behaviours are embedded, the organisation can focus on adopting the next tranche of critical behaviours.

To ensure behavioural change is rapidly embedded to form new norms, sustainable and reinforced, icare must also balance speed and effectiveness with regard to future initiatives. This will involve considering the change readiness, willingness and ability of different pockets within the organisation, as well as the business imperative to change and other constraints which may create natural inertia to receive and enact change (for example, any organisational restructuring activities which are occurring in parallel). We suggest leveraging informal levers such as peer norming, symbolic actions and role modelling to ensure these critical behaviours are adopted in an accelerated and viral fashion.



### **Recommendation 75**

Identify and embed the critical few behaviours it needs to drive effective governance and accountability practices. These may include behaviours associated with constructive challenge, speaking up and safety in doing so, listening to other areas of expertise, learning and responding, but also to further embed collaborative partnering.

## Developing and embedding a measurement framework

Aside from having a plan to enable behavioural change, icare also needs to introduce a measurement framework and approach to track the effectiveness and impact of this work on business, governance and accountability. The onus to demonstrate and prove that changes in behaviour are improving governance and accountability falls with icare, and therefore icare itself will need to demonstrate where change is occurring and what impact this is having.

Throughout our review, we observed that the measurement of behavioural change and how this helps or hinders business performance is a gap in icare's practices. Rather than having a clear line of sight between staff behaviour and business performance, there was a tendency to rely on lag metrics, such as eNPS data and employee sentiment, as a means to flag cultural challenges.

The development and ongoing measurement of both interventions and staff behaviour will be critical for icare as it moves forward. Without such mechanisms in place, icare is left with very little insight into what is driving performance, and perhaps more importantly, how to course-correct when future issues arise.

In our experience, the development and embedding of behavioural measurement frameworks is effective for three reasons:

- They provide the ability to measure and monitor issues as they arise - that is, to understand potential causes of failure in a timely fashion.
- They provide the ability to take corrective action with specificity - that is, to isolate pockets within the business where an issue is amplified and determining where to focus effort.
- They provide the ability to gauge whether the right levers or initiatives are in place - for example, whether more work is required on enabling processes and structures, or whether further work is needed in building staff capability and reinforcing behaviours.



### Recommendation 76

Implement a robust behavioural measurement framework that enables monitoring of behavioural change to drive governance, accountability and performance outcomes. This supplements recommendations made in Chapter 9. Accountability.

Ultimately, evolving icare's culture will be a multi-year journey. Our seven recommendations are necessary next steps in that journey. The role of icare's leaders will be to continually develop and improve, and demonstrate their willingness to accept personal responsibility for driving acceptable practices throughout the organisation. With sustained effort and monitoring, icare will rebuild the trust of its broader ecosystem partners and regulators, demonstrating meaningful change and progress along the way.



# Appendices

# Appendix A: Stakeholders Interviewed

## **Interviews:**

Conducted 27 interviews with key management and and board members of icare:

- board members
- Group Executives
- Chiefs
- Internal Audit
- Selected other subject matter experts as required.

Conducted 20 external interviews with key stakeholders:

- SIRA Board, CEO, Senior Executive
- NSW Treasury
- EY
- Customer Advocate
- PwC internal stakeholders
- ICAC
- EML - multiple stakeholders
- CFMEU
- Business NSW
- Ombudsman - NSW Workers Compensation Independent Review Office (WIRO).

Conducted three anonymous icare interviews.

## **Case studies:**

Conducted three case studies

## **Focus groups:**

Conducted 13 focus groups in total:

- eight icare focus groups
  - SLT
  - Care
  - Personal Injury 1
  - Personal Injury 2
  - Prevention & Underwriting
  - Organisational Performance
  - People & Workplace/Customer & Community
  - Digital & Technology/Strategy & Governance
- five service provider/scheme agent focus groups
  - EML RTWSS
  - EML WI



- GIO
- Allianz
- QBE

# Appendix B: Glossary

<b>3LoD</b>	Three Lines of Defence
<b>A&amp;Q</b>	Assurance and Quality
<b>APRA</b>	Australian Prudential Regulation Authority
<b>ARC</b>	Audit and Risk Committee
<b>ASIC</b>	Australian Securities and Investments Commission
<b>CAT</b>	Customer Advocacy Team
<b>CEO</b>	Chief Executive Officer
<b>CFMEU</b>	Construction, Forestry, Maritime, Mining and Energy Union (Construction & General NSW)
<b>CITC</b>	Customer Innovation and Technology Committee
<b>COVID-19</b>	Novel coronavirus SARS-CoV2
<b>CRM</b>	Customer Relationship Management
<b>CRO</b>	Chief Risk Officer
<b>DDC</b>	Dust Disease Care
<b>DOA</b>	Delegation of Authority
<b>Dore Report</b>	'Independent reviewer report on the Nominal Insurer of the NSW workers compensation scheme' for the State Insurance Regulatory
<b>EML</b>	Employers Mutual Limited
<b>eNPS</b>	Employee Net Promoter Score
<b>FC</b>	Foundation Committee
<b>FSC</b>	Financial Sustainability Committee
<b>GET</b>	General Executive Team
<b>HUGO</b>	icare's Intranet
<b>IAC</b>	Investment and Asset Committee
<b>ICAC</b>	Independent Commission Against Corruption
<b>KPI</b>	Key Performance Indicator
<b>MAPS</b>	Ministerial & Parliamentary Services
<b>NI</b>	Nominal Insurer
<b>NPS</b>	Net Promoter Score
<b>PaL</b>	icare's Performance and Learning Portal
<b>PI</b>	Personal Injury
<b>PIAWE</b>	Pre-injury Average Weekly Earnings

<b>PRC</b>	People and Remuneration Committee
<b>QA</b>	Quality Assurance
<b>RAP</b>	Regulatory & Affinity Partners
<b>RAS</b>	Risk Appetite Statement
<b>RMF</b>	Risk Management Framework
<b>RTW</b>	Return to Work
<b>SICG Act</b>	State Insurance and Care Governance Act 2015
<b>SIRA</b>	State Insurance Regulatory Authority
<b>TMF</b>	Treasury Managed Fund
<b>WCC</b>	Workers Compensation Commission
<b>WH&amp;S</b>	Work Health & Safety
<b>WIRO</b>	Workers Compensation Independent Review Office