



## Issues of Current Interest

ISSUE DATE: DECEMBER 2022

This list of 'Issues of Current Interest' is not exhaustive and should be read in conjunction with the Safety, Rehabilitation and Compensation Commission's 'Significant Matter Reporting Policy' when assessing whether a matter should be flagged as potentially scheme significant.

1. Claims for psychological conditions as injuries (other than a disease), rather than ailments.
2. Claims related to COVID-19 and associated flexible working arrangements, including:
  - a. working from home
  - b. travel between home and the office during work hours
  - c. claims for reactions to the COVID-19 vaccine
  - d. claims relating to COVID-19 vaccine mandates
  - e. return to office-based work.
3. Boundary and place of work issues, including:
  - a. what constitutes a 'place of work' while working from home
  - b. an employee entering or exiting a place of work
  - c. the boundaries of a place of work.
4. Disease (or aggravation of disease) claims where an issue in dispute is whether:
  - a. there is an identifiable or diagnosable physiological change
  - b. a causative factor should be considered 'employment' (for example, rehabilitation processes, claims management processes and litigation)
  - c. Or otherwise raises issues in dispute in the matter *Wuth v Comcare* [2022] FCAFC 42.
5. Claims for an injury where an issue in dispute is whether:
  - a. the injury arose in the course of employment where the employee was:
    - i. on a long-term posting where the employee relocated their place of residence
    - ii. between discrete periods of work (i.e., while on leave or after work hours)
  - b. the injury was referable to an activity or a place
  - c. the injury 'arose out of employment'.
6. Claims for an injury (other than a disease) where an issue in dispute is whether the 'arising out of employment test' is
  - a. equivalent to the 'material contribution test'; or
  - b. is met by an injury (other than a disease) where the condition also satisfies the definition of an 'ailment' but does not meet the 'significant contribution' test.
7. Calculation of Normal Weekly Earnings where the application of subsection 8(10) is in dispute.
8. Interpretation or validity of any edition of the Permanent Impairment Guide, including matters involving:
  - a. interaction with the SRC Act
  - b. whether reference to clinical judgment is permitted.
9. Prescribed or deemed disease claims involving sections 7(1), 7(2), 7(3) or 7(8) of the SRC Act.
10. Claims for novel or emerging medical treatment where there is little or no research evidence to

support its efficacy.

11. Questions regarding the AAT's jurisdiction in relation to any condition that has not been the subject of a s53 notice, a s54 claim, a s60 determination and s62 reviewable decision.

### Contact

If you have any queries about this guide or about potentially scheme significant matters, please contact Comcare's Legal Group: [LitMonitoring@comcare.gov.au](mailto:LitMonitoring@comcare.gov.au)