

11 March 2016

The Research Director  
Education, Tourism, Innovation and Small Business Committee  
Parliament House  
George Street, Brisbane QLD 4000

Email: [etisbc@parliament.qld.gov.au](mailto:etisbc@parliament.qld.gov.au)

Dear Sir/Madam

### **Inquiry into a suitable model for the implementation of the National Injury Insurance Scheme**

The Insurance Council of Australia appreciated the opportunity to participate in the additional public hearing on the National Injury Insurance Scheme (NIIS) on Monday 7<sup>th</sup> March.

Following the hearing, we thought it would be beneficial to provide further information on two key points that were raised. The first relates to the common law entitlements that are still available to the not at-fault catastrophically injured people who participate in a lifetime care and support scheme. The second relates to the availability of choice and flexibility under a lifetime care and support scheme.

#### **Lump sum compensation available to a participant of a lifetime care and support scheme**

As we noted at the hearing, participation in a no-fault lifetime care scheme modelled on Option A would not nullify the right to pursue common law compensation for other heads of damages. Whilst care and support would be provided by a statutory authority, an individual who is catastrophically injured and not at-fault, could still make a CTP claim for economic loss and general damages against the insurer of the at-fault party. The compensation for these heads of damages can sometimes be in the hundreds of thousands of dollars.

Attachment A provides figures for future economic loss, general damages and past economic loss that have been paid to not at-fault catastrophically injured claimants in the Queensland CTP scheme. These amounts would still be payable if a lifetime care scheme was implemented in Queensland. For privacy reasons the claimants have been de-identified.

The Committee also asked whether future superannuation contributions would form part of a claim. We can confirm that this would usually be the case and these sums are included in the economic loss heads of damage. We can also confirm that amounts for superannuation contributions are not quarantined but can be utilised, as with the entire lump sum, as and when the claimant chooses, subject to the previously discussed matters of a claimant's legal capacity to manager their own affairs.

### **Availability of choice within a lifetime care and support scheme**

We would like to bring to the Committee's attention the hearing of 5 February 2016 during which the Lifetime Support Authority of SA and the Lifetime Care and Support Authority of NSW appeared before the Communities, Disability Services and Domestic and Family Violence Prevention Committee.

During these sessions, some pertinent comments were made with regards to choice and flexibility for scheme participants. Below are some of these key points.

Representatives from the Lifetime Support Authority (LSA), SA noted the following:

- Their clients are not in the doctor push-pull that is involved in civil liability law. Their service providers are all allied health professions and their job is to get therapeutic services in as quickly as possible. The aim is on independence and rehabilitation from day one.
- They have had very strong support from people who had been injured before the LSA was established. This includes those who received lump sums when they were younger and whose lump sums have now been depleted.
- A scheme participant noted the pressure on her family to arrange all appointments for health care and rehabilitation services prior to her joining the LSA.

Representatives from the Lifetime Care and Support Authority (LTCS) NSW noted the following:

- The LTCS has a strong focus on personalising services and supporting participants to have choice and control over their services and in decision making.
- The LTCS has recently introduced a new planning process that entirely focuses on supporting participants to take on an active role in goal setting and rehabilitation planning.
- The LTCS has an online attendant care and case management provider list so that participants can elect their own provider based on geography and personal needs.
- A participant of the LTCS advised the Committee that he has found the scheme quite flexible with his needs. He is self-managing directly with the coordinator at the LTCS.

We hope the above provides greater clarification on some of the points raised at the 7 March hearing.

To summarise, we seek to reiterate that common law compensation for certain heads of damages is still available if a lifetime care and support scheme is implemented. We also ask the Committee to give careful consideration to the unique care needs of those who are catastrophically injured. A scheme similar to the LTCS in NSW can assist with improving the availability and quality of services to the catastrophically injured. Services are verified to ensure minimum standards of quality are met, relieving the onus from the catastrophically injured (and his or her family or representative) to negotiate the vast number of service providers available.

An agency with specific expertise in catastrophic injury management is well placed to provide lifetime care and support whilst taking into consideration the participant's need for choice and flexibility.

If you would like to discuss any of these matter further, please do not hesitate to contact Vicki Mullen, General Manager, Consumer Relations & Market Development Directorate, on (02) 9253 5120 or [vmullen@insurancecouncil.com.au](mailto:vmullen@insurancecouncil.com.au).

Yours sincerely



Robert Whelan  
Executive Director and CEO

## Attachment A

Figures for future economic loss, general damages and past economic loss that have been paid to catastrophically injured claimants in the Queensland CTP scheme.

<b>Claimant A</b>	<b>Paid amount (\$)</b>
Future Economic Loss	900,000
General Damages	210,382
Past Economic Loss	14,545
<b>Claimant B</b>	<b>Paid amount (\$)</b>
Future Economic Loss	431,600
General Damages	197,431
Past Economic Loss	77,040
<b>Claimant C</b>	<b>Paid amount (\$)</b>
Future Economic Loss	625,000
General Damages	250,000
Past Economic Loss	534,000