

GOVERNMENT RESPONSE

to

THE REPORT OF THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON LAW AND JUSTICE

on

2022 REVIEW OF THE LIFETIME CARE AND SUPPORT SCHEME

Recommendation	NSW Government Response
<p><u>Recommendation 1</u></p> <p>That the <i>Personal Injury Commission Act 2020</i> be amended to clarify the legislative power of the Independent Review Office to deal with disputes related to the Lifetime Care and Support Authority.</p>	<p>Noted.</p> <p>The Independent Review Office (IRO) currently does not have a role in dealing with disputes in the CTP Scheme under the <i>Personal Injury Commission Act 2020</i> (PIC Act). Rather, the IROs functions include dealing with complaints about any act or omission of an insurer that affects their entitlements under the enabling legislation. This function does not extend to the Lifetime Care and Support Authority (LCSA) as the LCSA is not an insurer for the purposes of the <i>Motor Accident Injuries Act 2017</i> (2017 Act), rather they are the ‘relevant insurer’ as provided for under sections 3.2 and 3.45 of the 2017 Act.</p> <p>The IRO’s submission to the Review indicated a need to clarify the role of the IRO with regards to complaints handling for both CTP Care and the Lifetime Care and Support Scheme.</p> <p>With respect to CTP Care, the State Insurance Regulatory Authority (SIRA) published new Motor Accident Guidelines: CTP Care (version 1.0) in October 2022 which clarify an injured person may complain to the IRO about any act or omission of an insurer that affects their entitlements, rights or obligations under the 2017 Act. Any complaints about the LCSA in respect of its functions related to the payment of treatment and care expenses under the 2017 Act may also be directed to the IRO. This is because SIRA delegated its function under section 10.1(1)(d) of the 2017 Act to investigate and respond to complaints about the LCSA when exercising its functions as the ‘relevant insurer’ for the purposes of Part 3 of the 2017 Act.</p>

Further consideration may be given to the terms of the PIC Act related to the IRO following the outcome of the Statutory Review of the PIC Act in August 2023, which is currently considering whether the terms of the Act remain appropriate for securing the policy objectives of the Act.

Complaints under the Lifetime Care and Support Scheme (LTCS Scheme) are currently managed by the LCSA or the Ombudsman. The NSW Ombudsman is the most appropriate external agency to investigate complaints about the LTCS Scheme due to their long-standing social services focus, which aligns with the needs of participants. In addition, the Ombudsman's expansive remit to review complaints about other community services, run or funded by the Government, provides them with a unique insight into the broader supports and regulatory frameworks in place for individuals with a disability. Navigating a complaint process can be challenging for Lifetime Care participants, and the Ombudsman is experienced in managing complaints involving numerous government agencies and complainants with complex physical, cognitive and communication difficulties.

The complaints the LTCS Scheme receives are often complex; however, icare reports that the model of complaint handling ensures that most are resolved within two business days by the participant's LTCS contact. Escalated complaints that were unable to be resolved at the frontline require complaint handlers to have a sound knowledge of the issues impacting people with severe injuries, the complexities of injury management, and the service providers supporting participants.

Any proposed changes to either the complaints handling process or broader dispute resolution model for the LTCS Scheme would require broader legislative amendments and consultation.

The LCSA regularly reviews its claims handling procedures relating to the LTCS Scheme to better understand the claimant experience and whether any improvements can be made. SIRA will also continue to monitor the CTP Care program and whether any further changes to the CTP Guidelines are required.