

**Government response to the Eighth Report of the Legislative Council
Standing Committee on Law and Justice on the Review of the exercise
of the functions of the Motor Accidents Authority and the Motor
Accidents Council**

Recommendation 1:

That the Chair of the Motor Accidents Council provide a response to the comments of the New South Wales Bar Association's representative on the Council set out in this report regarding its effectiveness and, in particular, in relation to its role to provide advice to the Minister.

Response:

The response by the Chair of the Motor Accidents Council is attached (Attachment 1).

Recommendation 2:

That the Motor Accidents Authority undertake a review of Whole Person Impairment assessments to establish the extent of inconsistencies and to identify, if necessary, additional quality control mechanisms to improve consistency.

Response:

The Medical Assessment Service has implemented a medical assessment quality assurance program and assessor training and development program which address the issues raised in the recommendation. The Medical Assessment Service will report on current program activities in the Motor Accidents Authority's 2007-08 Annual Report.

Recommendation 3:

That the Motor Accidents Authority review its procedures and rules in relation to Medical Assessors and conflicts of interest to ensure that the most appropriate monitoring systems and rules to prevent conflicts of interest are in place.

Response:

This recommendation is supported. The Motor Accidents Assessment Service has undertaken consultation on this issue with Service stakeholders and is reviewing procedures and rules in the light of feedback received. The Motor Accidents Authority expects to finalise this review by December 2008 and will report back to the Committee on actions arising from the review.

Recommendation 4:

That the Motor Accidents Authority conduct a study of Medical Assessment Service assessments and matters that have taken ten months or more to finalise and report back to the Committee about the status of delays within the Medical Assessments Service and any current or future planned initiatives aimed at reducing delays.

Response:

This recommendation is supported. The Motor Accidents Assessment Service is examining these matters and will report back to the Committee by the end of 2008.

Recommendation 5:

That the Motor Accidents Authority approach the Motorcycle Council of NSW with a view to arranging a meeting to discuss issues of interest and concern relating to motorcycle premiums and report back to the Committee on the outcomes of this meeting.

Response:

This recommendation is supported. The Motor Accidents Authority has established a joint working party with the Motorcycle Council of New South Wales. The following terms of reference have been agreed as the focus of the working party over the next twelve months:

- commissioning and analysing research (with the assistance of experts as required) to identify risk and safety issues for motorcyclists and appropriate interventions;
- reviewing data analysis and undertaking consultation to identify any opportunities for improvements in the affordability, fairness, efficiency and sustainability of the Compulsory Third Party and Lifetime Care schemes from the perspective of motorcyclists;
- sponsoring high priority education or injury risk reduction campaigns.

The Motor Accidents Authority has committed funding of \$250,000 for research and education campaigns identified as priorities by this joint Motor Accidents Authority/Motorcycle Council of New South Wales partnership.

Recommendation 6:

That the Minister Assisting the Minister for Finance seek an amendment to the *Motor Accidents Compensation Act 1999* (NSW) to include a penalty for insurers who require a medical assessment of an injured person where the person is clearly, based on the nature of their injuries, over the 10% Whole Person Impairment threshold for non-economic loss compensation.

Response:

The Motor Accidents Authority is giving consideration to the feasibility of a legislative response to the issue raised by the Committee. It is noted that

issues of causation of injury and apportionment between new and pre-existing injury are often factors in dispute in those cases where assessment outcomes clearly exceed the threshold. The Medical Assessment Service is reviewing 2006-07 assessment outcomes to establish the extent of this issue.

Recommendation 7:

That the Minister Assisting the Minister for Finance and the Minister for Police request the Motor Accidents Authority and the New South Wales Police Force to examine and report on the feasibility of implementing a system whereby accredited insurers are allowed electronic access to police reports on traffic incidents for the purposes of a Compulsory Third Party claim while protecting the privacy of individuals.

Response:

The New South Wales Police Service has concluded that the Standing Committee's suggestion of a system of electronic access to police traffic incident reports for accredited insurers is not operationally feasible. The Motor Accidents Authority will continue to work with the New South Wales Police Force to investigate whether there may be other opportunities to streamline processes for New South Wales licensed Compulsory Third Party insurers to access police motor accidents reports.

Recommendation 8:

That the Motor Accidents Authority make the Study of the Impact of the Costs Regulation, conducted with the assistance of the Law Society of New South Wales, a project priority and allocate resources accordingly.

Response:

This recommendation is supported. A consultant has been engaged to undertake the study and it is anticipated the study will be completed during the second half of 2008. The Motor Accidents Authority will report back to the Committee on the outcomes of the study.

Recommendation 9:

That the Minister Assisting the Minister for Finance support the expansion of the Accident Notification Form scheme as proposed by the Motor Accidents Authority and that the Authority take the necessary steps to implement the expanded scheme as soon as possible.

Response:

This recommendation is supported. The legislative framework to support the expansion of the Accident Notification Form process was enacted by the *Motor Accidents Compensation Amendment (Claims and Dispute Resolution)*

Act 2007 (NSW). The expanded Accident Notification Form process will commence in the second half of 2008.

Recommendation 10:

That the Motor Accidents Authority liaise with the Compulsory Third Party insurers and the Insurance Council of Australia to investigate the feasibility of insurers providing the Motor Accidents Authority with information on the number of Claims Assessment and Resolution Service certificates of assessments of the amount of damages for liability under a claim, where liability is not in issue, that are accepted and not accepted within 21 days after the certificate is issued.

Response:

This recommendation is supported. The Motor Accidents Authority is giving consideration to the feasibility of changes to the Motor Accidents Assessment Service case management system to give effect to the recommendation.

Amendments have also been proposed to the Claims Assessment Guidelines to require insurers to advise the Motor Accidents Authority of the acceptance or rejection of Claims Assessment and Resolution Service certificates of assessment. Consultation with Compulsory Third Party insurers and the Insurance Council of Australia on the proposed amendments to the Guidelines will be undertaken by the end of June 2008.

Subject to the outcomes of the consultation and feasibility investigation, it is anticipated that implementation could commence by December 2008.



Motor Accidents Authority of NSW

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ATTACHMENT 1

The Hon Christine Robertson MLC
Committee Chair
Legislative Council
Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Robertson

Eighth Review of the Motor Accidents Authority and the Motor Accidents Council

I write in response to recommendation 1 of the above review on the functions of the Motor Accidents Authority and the Motor Accidents Council.

As the Committee has noted in its Report (at paragraph 2.32) the diverse composition of the Motor Accidents Council provides an interesting dynamic which creates a robust environment for discussion of matters. I also note the Committee's comment in its 7th report (at paragraph 7.87) that, as Chairman, I do not expect the Council *"to develop a consensus view on all issues, and that it is to be expected that there will be tensions between members in respect of certain issues"*.

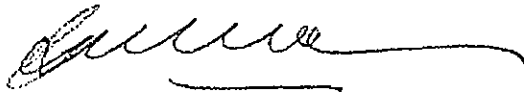
Notwithstanding the very natural tensions referred to above, it is important to acknowledge that the Council performs a very valuable and worthwhile function. Indeed, it was actively involved in the development of policy proposals that resulted in significant and indeed historic expansion of the assistance provided by the motor accidents scheme to road crash victims. The expansion of the scheme to provide medical treatment, rehabilitation and care benefits on a no-fault basis to children and to everyone suffering catastrophic injuries by setting up the Lifetime Care and Support scheme, were developed in close consultation with, and the support of, the Council.

Most recently changes have been enacted to further streamline the claims process and to implement strategies to promote the earlier resolution of personal injury claims and minimise disputation. In developing the proposals there was an extensive consultation process with scheme stakeholders, in particular, those groups utilising the Motor Accident Assessment Service. The Council was involved at all stages of this process and importantly, in considering the reform options developed through that consultation. This informed the recommended package of changes advanced to the Minister.

There are occasions where a member of the Council raises an issue or proposal for the Council to consider. Whether a particular issue or perceived problem merits a recommendation to the Minister on behalf of the Council is ultimately in the hands of the Council. Given however the Council's diverse composition, achieving a consensus view on some matters may be problematic.

In my view, the Council functions effectively and works collaboratively with the Board of Directors and the Authority in advancing scheme reforms which I note have been endorsed by Government and the Parliament.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Grellman', with a long horizontal flourish extending to the right.

Richard Grellman