

STANDING COMMITTEE ON LAW AND JUSTICE

FIRST REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE LIFETIME CARE AND SUPPORT AUTHORITY AND LIFETIME CARE AND SUPPORT ADVISORY COUNCIL

PRE-HEARING QUESTIONS ON NOTICE

1. (a) Please provide data on the operation of the LTCS scheme to date including:
 - Number of participants (children and adults)
 - Participant disabilities and needs
 - The circumstances in which they were injured
 - Geographical distribution of participants
 - Breakdown of expenditure on care and support services etc.

Response:

At the end of May 2008 there were 76 interim participants in the Lifetime Care and Support Scheme. This includes 14 children (10 from the first year of scheme) and 62 adults. The overall group includes 55 people with traumatic brain injury, 20 with spinal cord injury and one with bilateral amputations.

Many of the participants with very severe injuries are still undergoing in-patient hospital treatment and their specific needs are being assessed. As an indication of need there are five people with tetraplegia resulting in complete loss of function of upper and lower limbs. This includes one participant who requires a ventilator to fully provide respiratory function. At this stage it is estimated that 16 of the adults with traumatic brain injury will require at least 15 hours of care each day.

The participants' role in the motor accidents were: 21 drivers, 20 passengers, 17 motor cycle riders, 14 pedestrians, three cyclists and one motor bike pillion passenger.

The New South Wales statistical regions are as follows:

- 51 per cent reside in Sydney and Sydney Surrounds,
- 16 per cent in the Hunter,
- 7 per cent in the Illawarra,
- 10 per cent in Murray/Murrumbidgee/South Eastern,
- 13 per cent in Mid-North Coast/Northern/Richmond Tweed, and
- 3 per cent in the North Western.

There are also two participants who reside interstate and one overseas.

The list of expenditure which reflects the initial medical treatment costs between 1 July 2007 and 30 April 2008 is as follows:

- **Attendant care \$49,800**
- **Hospital expenses \$1,432,100**
- **Medical expenses \$478,600**
- **Equipment \$19,400 and**
- **Home modifications \$43,700.**

(b) How does this compare with projected utilisation and expenditure for the initial period of the scheme's operation?

Response:

The actual participant numbers in the Lifetime Care and Support Scheme are very close to the projected annual incidence of 125. The difference apparent at this early stage are the lower than expected applications for children. The predicted annual incidence for ages 0-14 years was 25. Since 1 October 2007, four participants in this age group have been accepted as interim participants. This lower incidence is consistent with recent data from the New South Wales Institute of Trauma and Injury Management.

The current expenditure data represents only seven months of operation. Therefore, it is too early to comment on whether the actual expenditure meets projected expenditure. The payments made to date have a high proportion of hospital treatment. It is expected that attendant care will be the major component of expenditure in the future.

2. How was scheme utilisation estimated and planned for?

Response:

The estimated Lifetime Care and Support Scheme utilisation has been based on several sources of information. Prior to the commencement of this Scheme there has not been a single source of information on the needs of people who are catastrophically injured from motor vehicle accidents.

The Lifetime Care and Support Authority has therefore had to develop Guidelines to estimate the care needs of people with a spinal cord injury, brain injury and other severe injuries. These Guidelines were developed in consultation with expert state-wide services including the New South Wales Brain Injury Rehabilitation

Directorate, New South Wales State Spinal Cord Injury Service and the New South Wales Severe Burns Service. These services treat the majority of people who will require life-time care following a motor vehicle accident.

Consultation with various stakeholder groups prior to the Scheme commencement also highlighted potential service needs. For example, the Motor Accidents Authority grants program provided assistance to the Attendant Care Industry Association to develop standards for attendant care services. These standards will assist in providing high quality attendant care to Scheme participants.

3. (a) How does a person come to participate in the scheme?

Response:

The Lifetime Care and Support Authority has an initial notification process where hospital staff, trauma coordinators, brain injury teams, spinal units, social workers, and community teams assist the injured person or their family to notify the Authority when they believe the injuries and motor accident may be eligible for the Lifetime Care and Support Scheme.

Notification is by a phone call or by sending a completed Severe Injury Advice Form. The Form includes a signed consent to obtain information for the application process such as injury details, police and ambulance reports.

On receipt of a Severe Injury Advice Form, a Coordinator meets with the injured person and their family to explain the Scheme and the application process. The Application Form requests information about the motor accident and a medical certificate which is completed by a treating specialist.

The application is assessed and the injured person and the treating team informed of the commencement date for interim participation.

(b) What is the Authority doing to ensure that all eligible persons do/will participate, and will training to hospital and rehabilitation staff be provided on an ongoing basis?

Response:

The Lifetime Care and Support Authority has streamlined the process of notification of a potential participant since the commencement of the Lifetime Care and Support Scheme. In order

to ensure that the Authority is informed about potential participants, the notification process has been simplified so that hospital staff, the injured person or their family can telephone the Authority on 1300 738 586 to provide information. This telephone notification supplements the Severe Injury Advice Form.

The Authority has conducted training sessions in brain injury and spinal cord injury rehabilitation units, and major trauma hospitals in New South Wales and interstate. This is to ensure that clinical staff involved in the early treatment of severe injuries are aware of how to notify the Authority of a potential participant.

The Brain Injury Rehabilitation Directorate's Lifetime Care and Support Scheme Implementation Committee has been established to ensure ongoing communication between the Authority and the New South Wales Brain Injury Program services.

Training for hospital staff about the Scheme and its procedures will occur on an ongoing basis and on request. The Authority will continue to distribute information through relevant newsletters, such as the New South Wales Brain Injury Rehabilitation Directorate newsletter.

The Authority also publishes the Lifetime Care and Support E-News which is distributed to approximately 700 subscribers.

Information sessions have also been provided for the Guardianship Tribunal members and the New South Wales Law Society.

4. Are there any emerging gaps in respect of eligibility, for example, as suggested through people referred to but not accepted into the scheme? Is there now anyone potentially injured in motor vehicle accidents not covered by the CTP and/or LTCS schemes?

Response:

To be eligible to participate in the Lifetime Care and Support Scheme the relevant injuries must result from an accident involving a motor vehicle that is part of the Compulsory Third Party Scheme as prescribed by the *Motor Accidents Compensation Act 1999*.

This covers:

1. a person injured in or by a registered (and therefore insured) motor vehicle anywhere in New South Wales.

- 2. a person injured in or by an uninsured vehicle on a road or road related area where the vehicle is capable of registration. This is analogous to the Nominal Defendant provision for a Compulsory Third Party claim.**

Neither the Compulsory Third Party scheme nor the Lifetime Care and Support Scheme cover injuries arising from use or operation of a motor vehicle which is not capable of registration or use or operation of an unregistered and uninsured vehicle on private property. In addition the injury must arise from the use or operation of a motor vehicle. Thus a person in a motor vehicle who is hit by a projectile (such as a rock) is not eligible to be in either scheme. At the request of the Minister Assisting the Minister for Finance the Motor Accidents Authority and Lifetime Care and Support Authority are examining this gap in coverage.

The Scheme is broader than the Compulsory Third Party scheme because it does not require that the injured person has been injured by the fault of another person, although it is notable that the Compulsory Third Party scheme now also includes no-fault benefits for injured children and provides for deemed fault for persons injured in a blameless accident.

For the Lifetime Care and Support Scheme to date, one application has been rejected as the Functional Independence Measure score did not meet the criteria (the person was not sufficiently injured to meet the eligibility criteria) and two applications were rejected as the vehicle involved did not meet the definition of a “motor vehicle”.

- 5. The Greater Metropolitan Clinical Taskforce (GMCT) Brain Injury Directorate (Submission 3 to the LTCSA) has suggested that the eligibility criteria for the scheme be evaluated to determine whether they appropriately identify the target group and appropriately exclude others. Does the LTCSA plan to undertake such an evaluation?**

Response:

The eligibility criteria are a fundamental aspect of the Lifetime Care and Support Scheme and must be objective and fair. As the Scheme included adults injured after 1 October 2007 and has been operational for seven months, it is anticipated that any such review can only occur after the total number of participants in the Scheme has grown and there is information on the assessment of interim participants for lifetime participation. Any review will occur in consultation with key stakeholders.

6. Please explain how the Motor Accidents and LTCSA schemes interact, for example, how a person might participate in the LTCSA and also make a claim against CTP insurance.

Response:

A person suffering catastrophic injuries from a motor vehicle accident as outlined at question 4 above is eligible to be a participant in the Lifetime Care and Support Scheme. If the person was injured through the fault of another driver or vehicle owner then they may also bring a Compulsory Third Party claim. In these circumstances the Scheme will meet the lifelong treatment, care and support needs. The Compulsory Third Party claim will provide lump sum compensation for any other economic losses, such as lost income and loss of future earning capacity, and for non-economic loss (that is, pain and suffering).

7. Please provide a selection of de-identified case studies of scheme participants and their treatment and care under the LTCS scheme to date.

Response:

Case Study: 1: Participant A is a 15-year-old who was a passenger in a motor vehicle accident. Participant A sustained a severe brain injury, orthopaedic injuries and spent six weeks in a paediatric hospital. Participant A has recurrent headaches, experiences fatigue, and has cognitive and behavioural disabilities as a result of the injury, and has returned home to live with family.

The Lifetime Care and Support Authority is funding a case manager to coordinate ongoing rehabilitation, 10 hours of attendant care assistance per day, ongoing medical management of the right upper limb and migraines, multidisciplinary therapy, a teacher's aide at school, transport assistance and counselling.

A Compulsory Third Party claim has also been lodged.

Case Study 2: Participant B was the rider in a motorbike accident and sustained severe brain injury. Participant B has been receiving specialist brain injury rehabilitation services for the past seven months, and is currently in a Community Living Unit. Participant B has impaired cognition including memory impairment, reduced mobility and has difficulty with regulating behaviour.

The Lifetime Care and Support Authority is funding brain injury rehabilitation services, and an additional 12 hours per day of

attendant care worker support due to the need for one to one support in most activities. Participant B is receiving physiotherapy, occupational therapy, speech therapy, sexuality counselling, social work and psychology intervention. The Authority is also funding support for Participant B's family to learn how to effectively manage challenging behaviours.

There is no Compulsory Third Party claim.

Case Study 3: Participant C is a 50-year-old who was involved in a single vehicle motorbike accident. Participant C sustained paraplegia (complete T10) as a result of the motor vehicle accident. Participant C underwent intensive spinal cord injury rehabilitation for approximately four months. Participant C is now independent in a Community Living Unit using a wheelchair and other specialised equipment. Unable to return to a two-storey flat Participant C is currently living in a rented wheelchair-accessible apartment.

The Lifetime Care and Support Authority purchased specialised equipment enabling Participant C to be discharged from hospital. This includes a wheelchair and seating system, a wheeled shower and toileting chair, and other small items to facilitate independence. The Authority is also funding accommodation at the wheelchair-accessible apartment, a house-hunting service and occupational therapy to assess suitable long term accommodation, assistance with transport, driving lessons and attendant care services.

There is no Compulsory Third Party claim.

Case Study 4: Participant D is a 17-year-old who was a rear seat passenger in motor vehicle accident with a truck. Participant D sustained severe brain injury and was treated in a brain injury unit for approximately four months. Participant D is now eight months post-injury and has been discharged home to live with their mother, in a rural area of New South Wales.

Participant D continues to have reduced memory, organisation, planning, and problem solving skills. Participant D is independently mobile and requires supervision in self care. Participant D has significant speech problems, and difficulty reading due to their brain injury.

The Lifetime Care and Support Authority is providing 67 hours per week of attendant care to provide assistance in managing the day

including self care activities, attending appointments and school. The Authority is also funding case management to coordinate ongoing rehabilitation, speech therapy, occupational therapy, physiotherapy and clinical psychology. The participant was a highly accomplished musician, but due to the brain injury they are no longer able to read music. The Authority is paying for music lessons and has also funded a laptop computer and special software as an adjunct to the speech therapy.

Participant D also has a Compulsory Third Party claim.

8. The Committee has noted the detailed projections of liability for future participants' care and support prepared by PriceWaterhouseCoopers (LTCSA Annual Report 2006-2007, Note 7, pp 30-31), and the inherent uncertainty of these estimations. What assumptions were built into the estimations, and on what basis?

Response:

The assumptions used in the PriceWaterhouseCoopers projections are:

- **the expected claim incidence – type of injury, age at onset and the severity of disability,**
- **estimated average claim size – attendant care service support, equipment needed, home and vehicle modification costs, hospital and medical costs,**
- **mortality rates,**
- **economic assumptions –inflation rate indicators and outlook on future investment returns, and**
- **Lifetime Care and Support Authority claims management expenses, including case management, service coordination and service provision.**

These assumptions were based on a number of factors, including:

- **reference to the catastrophic injury claims experience of the Victorian Transport Accident Commission,**
- **comparison with data from a variety of external sources including the Australian Spinal Cord Injury Register, the New South Wales Trauma Registry, New South Wales Department of Health, the Brain Injury Outcome Study and New South Wales Spinal Units,**
- **literature review of spinal cord injury and brain injury mortality, and**
- **Lifetime Care and Support Scheme operating experience to 30 June 2007.**

These assumptions are reviewed annually and amended in the light of experience of the scheme. For example, in the latest valuation report the expected number of children participants in the scheme has been reduced by one third.

9. How does the Board propose to monitor liability as it unfolds and to adjust estimations over time?

Response:

The Board of Directors of the Lifetime Care and Support Authority engages an external actuarial expert to estimate, on an annual basis, scheme liability as at the end of the financial year and for the year ahead. The Board will regularly monitor the movement of the estimated liability between actuarial estimations and make adjustments as necessary. As noted in reply to question 8 the assumptions are changed based on actual experience.

10. The LTCSA Annual Report (p 23) identifies a substantial surplus for 2006/07, and those anticipated for some years to come. What has been and will be done with surplus funds, and what is the Board's investment strategy for the Scheme?

Response:

On 27 May 2008, the Board of Directors of the Lifetime Care and Support Authority entered into a Memorandum of Understanding with and engaged New South Wales Treasury Corporation to manage the Lifetime Care and Support Fund cash balances. The adopted investment strategy utilises the Hour-Glass investment facilities and nominated cash and bond portfolios. The Authority's investment powers are subject to the provisions of the *Public Authorities (Financial Arrangements) Act 1987* and the *Public Authorities (Financial Arrangements) Regulation 2005*.

The Board has noted that the current surplus is primarily a product of the lower than expected number of children as participants in the scheme. The assumption for future years has therefore been reduced. In addition any surplus will be taken into account in setting future year levies.

It is noted that at this stage the Fund does not retain any prudential margin. The Board is satisfied that the scheme is fully funded but has reserved its position in relation to introducing a prudential margin in the future.

11. (a) The Committee notes recent concerns published in the media about premium price rises, which were initially anticipated to be \$20, had in some cases risen by substantially more than that. What is the rationale for these premium rises, particularly given the substantial surpluses anticipated in the early years of the scheme?

Response:

In introducing the *Motor Accidents (Lifetime Care and Support) Bill 2006* and accompanying legislation the Deputy Premier indicated that the increase in assistance for people injured in motor vehicle accidents to be provided by the new Lifetime Care and Support Scheme, the children's special benefit and the blameless accident initiative were estimated to have "*an average \$20 a Green Slip policy net cost impact for motorists*" (Legislative Assembly Hansard 9 March 2006).

Since the introduction of the Medical Care and Injury Services levy from 1 October 2006, the average Green Slip total price across all vehicle classes has increased from \$312 as at 30 September 2006 to \$321 (inclusive of the levy) as at 31 March 2008 – a net increase of \$9.

The Medical Care and Injury Services levy which is explicitly listed in the Green Slip includes items such as bulk billing for ambulance and hospital payments, Motor Accidents Authority and Roads and Traffic Authority administrative costs, and a significant part of the cost of the Lifetime Care and Support Scheme which were all previously part of the Compulsory Third Party premium. It appears that some motorists incorrectly understand that the levy represents the increase in premium.

Individual policy holders for sedans will have generally experienced changes in premiums over this period ranging from a reduction of up to \$10 to an increase of up to \$20. The lower than expected increase in premium is a product of a high level of competition in the Compulsory Third Party scheme.

Some motorists will have experienced increases above this range but this is a result of changes to premium pricing by insurers and not the result of scheme changes.

(b) What are your expectations with regard to premiums in the next, say, 5 and 10 years?

Response:

Premium issues are a matter for the Motor Accidents Authority. Compulsory Third Party premiums are set by the licensed insurers in accordance with Premium Determination Guidelines and risk relativities issued by the Motor Accidents Authority. The Lifetime Care and Support Authority has no role in the setting of insurer premiums but does set the levy on Compulsory Third Party premiums to fund the Scheme. The levy is set, having regard to Compulsory Third Party claims experience and additional information relating to at fault drivers. Over time the Scheme will collect its own data which will become the primary basis for setting the levy relativities as between different classes of vehicles and different zones.

12. In its submission (Submission 5 to the LTCSA), the NSW Motorcycle Council suggests that the 'rating' of individual vehicles in the determination of LTCSA levies is inequitable and goes against the 'blameless' and 'no-fault' principles of the scheme. Please explain the rationale for such ratings within the LTCS scheme.

Response:

Green Slip premiums meet the cost of providing motor accident scheme benefits to injured people. The insurer premium paid by a motorist is risk rated. The Lifetime Care and Support Scheme was established on the basis that premiums are determined by claim cost having regard to the type of vehicle and zone, from which relativity tables are created which set the broad pricing parameters. Individual rating factors are then used by Compulsory Third Party insurers to set the actual price. There is a cap on premiums to ensure that they remain affordable.

The Lifetime Care and Support levy is set using the same principle with a different levy rate for different classes of vehicles and zones, having regard to the vehicle which caused the accident giving rise to the catastrophic injury. The effect of this is to minimise subsidies between different classes of motorists.

A flat fee or levy would be of benefit to those motorists in high risk groups such as the owners of large motorcycles but would require much higher payment from motorists in low risk groups who would, in effect, be providing a significant subsidy. The Lifetime

Care and Support Authority believes that the risk rating approach is the most equitable basis to fund the scheme.

13. In addition, the Motorcycle Council proposes that the need to fully fund the scheme may lead to price fixing of base CTP premiums by insurers, or alternatively, may encourage the MAA to approve higher CTP premium prices lodged by insurers, and that either way, CTP insurers stand to gain 'unearned windfall profits'. What is your response to these suggestions, and what safeguards are in place to prevent any undue subsidy of CTP insurers?

Response:

While the levy is collected by the Compulsory Third Party licensed insurers, they do not retain the funds which, as prescribed by the Motor Accidents (Lifetime Care and Support) Act 2006, *must* be paid to the Authority. Levy collections are paid to the Lifetime Care and Support Authority on a monthly basis. In July each year, Compulsory Third Party licensed insurers are required to provide the Authority with an independent audit report certifying that levy amounts collected in the immediate past financial year have been correctly remitted to the Authority.

The Motor Accidents Authority does not set Compulsory Third Party premiums but may disallow a filed premium if it either will not fully fund Compulsory Third Party liabilities, or if it is excessive. The Motor Accidents Authority does not have regard to the funding of the Lifetime Care and Support Scheme as this is a matter for the Lifetime Care and Support Authority.

14. The Motorcycle Council has also called for greater transparency to greenslips, whereby they set out each of the charges comprising the premium, including the LTCS levy. What are your views on this proposal?

Response:

The Green Slip currently itemises the amount of the insurer premium, the amount of Goods and Services Tax payable on the insurer premium and the amount of the Medical Care and Injury Services levy.

15. In its submission (Submission 6 to the LTCSA) the Disability Council of NSW emphasises the importance of service flexibility and ensuring that participants' views are taken into account in any decision making about services. How are these principles built into LTCS coordination?

Response:

Service flexibility is a fundamental aspect of service coordination. Part 5 of the Lifetime Care and Support Guidelines (Treatment, rehabilitation and care needs assessment) include participant planning principles that outline the approach to decision-making. These principles state, the participant is central to all planning and decision-making about treatment, rehabilitation and care. These principles are also applied in the Reasonable and Necessary criteria (Part 6 of the Guidelines), which provides the basis for individual decision-making for the approval of proposed services.

The participant's agreement with the request for services is also a part of the Lifetime Care and Support Authority's reasonable and necessary decision-making criteria.

The Lifetime Care and Support Authority's Coordinator Competencies (2008) also describes the Coordinator's role in supporting choice and decision-making by participants.

16. In its submission (Submission 6 to the LTCSA), the Disability Council of NSW makes a number of suggestions for changes related to the LTCS. Can you explain the role of the LTCS Advisory Council and how suggestions such as these are addressed by the LTCS Authority? Is the consultation and advice process adequately addressing the needs of key stakeholders?

Response:

The Lifetime Care and Support Advisory Council has the primary role of monitoring the operation of the services provided by the Lifetime Care and Support Authority. This includes; to advise and make recommendations to the Authority on, and to keep under review, the Lifetime Care and Support Guidelines. In addition the Council can provide advice to the Authority or the Minister on any matter relating to the Scheme which it considers appropriate. The Authority has actively sought feedback from stakeholders in the development and review of the Guidelines that articulate the overall operation and major areas of service provided by this Scheme and provided this together with draft guidelines for consideration by the Council.

Stakeholders are frequently sought for working groups, advisory committees, and development activities such as the Supported Accommodation Forum on May 7 2008.. Representatives from the Spinal Cord Injury Directorate; Brain Injury Directorate; Department of Ageing Disability and Home Care, New South Wales Health, New South Wales Department of Housing, the Disability Council of New

South Wales, and WorkCover New South Wales who attended the Forum.

The Authority is mindful of the ongoing need to be open to broad consultation particularly the disability sector as the scheme matures.

17. Have there been any emerging issues in relation to decision-making on the basis of what is 'reasonable and necessary' within the scheme?

Response:

The Authority has developed a procedure for the evaluation of requests with respect to the *Motor Accidents (Lifetime Care and Support) Act 2006 Act* and the Lifetime Care and Support Guidelines that include the reasonable and necessary criteria. Having the necessary information to make a decision is crucial and this is largely based on the information being presented to the Authority on its forms such as the Care Needs Assessment and Community Living Plan. The Authority has committed to commence a review of these forms in the next 12 months to ensure providers are assisted in adequately provide information to the Authority.

The boundary issues for participants with a Compulsory Third Party claim where benefits can be accessed from the Lifetime Care and Support Authority and potentially their third party insurers are currently being discussed with the Motor Accidents Authority and New South Wales Compulsory Third Party claims managers.

18. Do you anticipate that it will become more difficult over time to satisfy participants' entitlements as the available pool of funds is necessarily shared by more people?

Response:

No, The *Motor Accidents (Lifetime Care and Support) Act 2006* provides that the Lifetime Care and Support Scheme is to be funded by a levy on Green Slips that fully funds the present and likely future liabilities of the participants in the Scheme determined (at least annually) by the Board of Directors in accordance with independent actuarial advice.

The available funds are those, which together with investment income, will meet the lifetime needs of scheme participants. Each year the Lifetime Care and Support Authority collects the additional

amount required to meet the additional lifetime costs of people catastrophically injured that year.

19. The Committee understands that participants' entry into the scheme, and their individual treatment and care needs, are based on an assessment by treating specialists and approved assessors. Has access to such professionals been an issue to date (for example, in non-metropolitan areas), and if so, how is it being dealt with?

Response:

The Lifetime Care and Support Authority is monitoring the service needs of participants residing in regional and remote areas to ensure that appropriate service providers are engaged to meet participants' needs. A small number of participants reside in remote areas, and in cases to date, experienced service providers from metropolitan areas have been engaged to travel to the participant's home to supplement local services.

Where the participant's treating health team have not been able to complete assessments, the Authority has utilised Lifetime Care and Support approved assessors and home modifications assessors. They provide the Authority with high quality advice and state-wide coverage. The Authority will continue to consider participant geographical area and service needs when recruiting assessors.

20. The GMCT Brain Injury Directorate (Submission 3 to the LTCSA) has suggested that there has been some confusion among applicants and carers about the roles of LTCS Coordinators and that there could be some improvement in the timing and nature of LTCS staff involvement. Do you have any comments on this suggestion?

Response:

The role of the Lifetime Care and Support Coordinator is fundamental to the Lifetime Care and Support Scheme operation. The early involvement of Coordinators is necessary to facilitate access to the Scheme, provide information and gather initial information about the participant. The Coordinator's role is new for health care providers and others who provide services for participants. The Coordinator provides a single point of contact for participants, their representatives and their service providers on any participant related matter. The Coordinators attend hospital case conferences, school meetings and home visits to meet participants and plan or review services. They provide an important

and necessary oversight of the services being provided to participants.

In 2008 a document defining the Lifetime Care and Support Coordinator Competencies was developed. It is being utilised in staff recruitment, orientation and ongoing training. Issues regarding Coordinators' communication and their role are addressed in regular meetings with the Paediatric Brain Injury Team Coordinators, the Lifetime Care and Support – Brain Injury Rehabilitation Directorate Implementation Committee and in meetings held with all the major brain and spinal injury services.

The timing and purpose of the Coordinators involvement is being refined through continued development of the processes where they are engaged with participants and service providers.

21. What mechanisms are built into the LTCS system to ensure transparency and accountability in decision-making about individual participants, as well as in payments to care/equipment providers?

Response:

The decision-making for reasonable and necessary treatment, rehabilitation and care requests is made by officers in the Lifetime Care and Support Authority who do not have direct contact with participants. Decisions are made based on the written request before the approval officer. In reviewing the request the approval officer documents how the request is reasonable and necessary, within the Lifetime Care and Support Guidelines and policies and where relevant industry guidelines.

In circumstances where the request is unclear, the Authority will hold a meeting of three persons (two assessments officers and the Lifetime Care and Support Coordinator), to discuss the merits of the request, and make a final determination. A certificate is issued to the participant stating the reasons why services are, or are not approved.

Financial delegations are in place for all officers of the Authority that are able to approve rehabilitation, treatment and care expenses. Transparency and accountability mechanisms are also in place for payments for services. Service providers invoice the Authority in arrears. The Lifetime Care and Support Coordinator reviews the invoice, and following satisfaction that services have been delivered and match the prior approval, recommends the

invoice be approved. This is then approved for payment by the approval officer, Manager Service Coordination or Director Service Delivery.

Systems are in place to assist the Coordinators to ensure services have been delivered. The Common Equipment Prescription Guidelines state who is suitable to prescribe equipment that is complex and specialised. After the equipment is provided to participants, it must then be acquitted by the prescriber prior to payment being authorised.

The Lifetime Care and Support panel of Attendant Care providers have been selected and contracted to deliver quality services to the Scheme participants for an agreed fees schedule. This allows participant choice in service providers and ensures the quality of service provision. Attendant Care providers also must submit an Attendant Care Activity Statement outlining the services delivered in the invoice period which is reviewed prior to payment.

The Authority monitors expenditure on a per client basis as well as by line items and service provider.

22. What steps is the LTCSA taking to ensure that information relating to the LTCS, including the annual report, is accessible to all interested parties, including those with disabilities?

Response:

The Lifetime Care and Support Authority has developed a set of brochures and fact sheets about the Lifetime Care and Support Scheme. These are translated into a several languages. The Authority has also established a website, www.lifetimecare.nsw.gov.au. The “Lifetime Care and Support E-News” electronic newsletter is sent regularly and has emerged as a primary method of communication with stakeholders about projects undertaken and opportunities for stakeholders to provide input. The newsletter receives positive feedback and has over 700 subscribers.

For individual participants or their family the Authority considers participants’ disabilities and their individual accessibility requirements when providing information. An example is enlarging all text for a participant with significant visual impairment from a brain injury or translating information brochures and correspondence for parents of a child participant. Other services

such as Telephone typewrite and the National Relay Service are available.

One area of communication that requires further development is the compatibility of some documents on the website for synthetic speech screen readers. The Authority, together with the Office of the Motor Accidents Authority who provides the Authority with its website technology, undertake to ensure that access to our websites is freely available to all individuals. Accordingly, the Office of the Motor Accidents Authority are reviewing current practices for publishing information on websites and will be adopting The Web Content Accessibility Guidelines 1.0 published by the Worldwide Web Consortium (W3C) and referenced by the Government Chief Information Officer.

23. The 2006-07 Annual Report (p 10) states that service gaps will be identified and addressed. What gaps have been identified to date and what action taken in relation to them?

Response:

The Lifetime Care and Support Authority has a Service Development and Policy team whose role at the Authority is to identify and address gaps in service provision.

Supported accommodation has been identified as a service gap for some participants. The Authority held a forum in May 2008, where supported accommodation providers presented key issues to relevant stakeholders. The forum identified the necessity of a range of accommodation services to meet the needs of Scheme participants. The Authority has established a working party, with representatives from key stakeholders to develop supported accommodation guidelines that incorporate the Disability Service Standards, quality frameworks, philosophies and building regulations.

The Authority and EnableNSW (New South Wales Health) have undertaken a project to improve clinical governance in equipment prescription to persons with a disability in this State. The Common Equipment Prescriber Guidelines Project is currently in stage one. This consists of trialling standardised procedures, including minimum requirements for prescribers, for requesting medical equipment to meet participant's needs. The second phase of the project will be to finalise the guidelines for prescribers to facilitate accurate equipment prescription.

24. Are there enough appropriate services, of sufficient quality, to cater to LTCS participants, for example in attendant care?

Response:

Currently participants' needs are met with existing services.

With regard to attendant care, in the attendant care expression of interest, certification to a recognised external quality system is a mandatory requirement for appointment to the Lifetime Care and Support panel. The Lifetime Care and Support Authority appointed 20 providers to the panel, ensuring coverage across New South Wales, through both large organisations that are able to deliver a state-wide service, as well as locally-based smaller providers. The list of providers includes both non-profit and for-profit organisations. Providers were assessed by the selection panel on their demonstrated experience or capacity to deliver services to all or specific client groups.

The Authority will monitor the quality of attendant care service provision to Scheme participants, through individual program reviews, half-yearly reporting by attendant care providers and auditing against key performance indicators twice during the three-year contract cycle.

To date, the Authority has been able to meet the needs of the Scheme participants through the panel of providers.

25. The GMCT Brain Injury Directorate (Submission 3 to the LTCSA) has also suggested that rates set for attendant care services may be insufficient to ensure appropriately qualified and experienced staff with adequate support and agency coordination are used, for example in respect of people with challenging behaviour. What is your view of this suggestion?

Response:

As outlined in response to question 24, a component of the selection process for attendant care providers was demonstrated experience or capacity to deliver attendant care services to the Lifetime Care and Support Scheme participants. They were explicitly asked about their capacity to deliver services for people with brain injury and spinal cord injury. The expression of interest also evaluated the organisations' training plan for staff, and risk management systems.

In addition to the hourly rate, the Lifetime Care and Support Authority funds participant-focused training for attendant care programs. This is training that is over and above the baseline competencies of an attendant care worker and specific to the participant. The amount of training hours allocated is based on a recommendation in the Care Needs Assessment, and is assessed on a case-by-case basis and as a participant's needs change. Training for attendant care workers in behavioural management strategies for participants with challenging behaviours is funded by the Authority through the participant-focused training. The Authority will also fund a member or members of the specialist treating team to provide this training.

The Authority also funds a service establishment fee, up to \$870, to pay for the non-direct attendant care services, such as service coordination, that is involved in setting up new or revised quality attendant care programs.

The Authority's Schedule of Fees for approved attendant care providers was set from the commencement of the Scheme for children on 1st of October 2006. Following the completion of the first 12 months and commencement of the adult scheme, the attendant care fee was revised. The fee was raised by 3.5 per cent, with the exception of the overnight sleepover rate which has been increased significantly (from \$85 per shift to \$135.78). This rate is a composite rate calculated on the sleepover allowance and associated on-costs, plus two hours work per shift.

The Miscellaneous Home Care Workers Award, which was used to calculate the attendant care fee, was increased in September 2007 by approximately 3.4 per cent. This was backdated to 1st August 2007.

The Schedule of Fees was increased effective 1st October 2007. The fees will be reviewed on the Scheme anniversary date (1st October) for the period of the next contract cycle (three years).

Service description	Fee payable				
	Mon-Fri 7am-8pm	Mon-Fri 8pm-7am	Sat	Sun	P/Hol
Personal care per hour	\$28.61	\$34.57	\$38.55	\$48.96	\$58.43
Community access per hour	\$28.61	\$34.57	\$38.55	\$48.96	\$58.43
Child care services per hour	\$28.61	\$34.57	\$38.55	\$48.96	\$58.43
Vocational support per hour	\$28.61	\$34.57	\$38.55	\$48.96	\$58.43
Educational support per hour	\$28.61	\$34.57	\$38.55	\$48.96	\$58.43
Participant specific carer training per hour	\$28.61				
Inactive sleepover	\$135.78				
Program establishment fee	Up to \$870				
Travel per km	0.69c km				

26. Have there been any examples to date of innovative service models emerging to meet participant needs?

Response:

The Lifetime Care and Support Authority has established a Discharge Equipment List which allows clinicians in the brain and spinal units to order from a specified supplier (currently OfficeMax) low cost commonly prescribed items necessary for hospital discharge without pre-approval from the Authority.

As referred in response to question 23, models of supported accommodation are being examined with the objective to identify, clearly articulate and have Lifetime Care and Support Scheme participant's requirements for services in this sector met.

The Authority is in discussion with the New South Wales Department of Housing and the New South Wales Federation of Housing Associations to identify the appropriate service model for Scheme participants who are also Housing New South Wales applicants or tenants.

The Authority has developed a process for improved delivery of educational support services for participants at school. This is to deliver services such as teacher's aids and includes the participant's teacher in goal setting.

The Authority has two major projects in the ethics approval phase. This first project is to examine the benefit of additional support for people with brain injury in their final year at school and in the transition to adult health, educational and vocational services. This is the Young Adults Transition Study. A second project will survey current school support practice with the view to develop a best practice model of intervention in the school setting. This is the School Support for Adolescents with Brain Injury Study.

As a final part of the Community Participation Project for people with spinal cord injury, a targeted vocational support intervention is being developed for people who have not returned to work following injury.

27. How do you plan to monitor:

- (a) quality and effectiveness
- (b) participant outcomes
- (c) equity of access and outcome

Response:

(a) Quality and Effectiveness

The Lifetime Care and Support Authority is establishing key performance indicators in policy development, contractual arrangements and exploring the possibility of different quality assurance systems. To date a decision has not been made as to which quality system will best meet the Authority's needs in terms of business systems and clinical outcomes.

The Authority has developed competencies for Lifetime Care and Support Coordinators as well as process pathways for Lifetime Care and Support Scheme processes. These systems will form part of the specific quality measures of any quality system.

In the interim, monitoring activities for internal processes include: review of decisions made by the approval officers on a weekly basis, time from receipt of application to eligibility decision. On an external basis the following services have agreed timeframes for service provision: Attendant care contract, discharge list provision, continence product provision, and timelines for providers to complete acquittal and evaluation forms for equipment.

Contracted providers such as attendant care providers have quality indicators as part of their Service Provider Agreement.

A complaints mechanism is in place, with a designated Complaints Officer, who investigates any complaints received by the Authority with view to implement systemic improvements.

The Authority is planning to undertake a participant satisfaction survey to monitor the Scheme's quality and effectiveness from a participant perspective.

(b) Participant Outcomes

The Authority is identifying tools that are being used in current clinical practice and have liaised with the Transport Accident Commission in Victoria and the Accident Compensation Corporation in New Zealand in an attempt to use common measures, where possible, to allow further comparisons between groups.

A number of standardised and non-standardised outcomes measures will be collected in order to evaluate the Lifetime Care and Support Scheme. The collection of this information will allow the Lifetime Care and Support Authority to compare groups of participants in the Scheme. as well as evaluate the impact of the Scheme on the World Health Organisation's International Classification of Functioning, Disability and Health domains of activities and participation.

Standardised outcome measures were selected with the input of the Lifetime Care and Support Advisory Council and include measures specific to spinal cord injury and brain injury. Specific measures address quality of life, participation in life roles and specific areas such as challenging behaviours.

c) Equity of Access and Outcome

As described above, the Lifetime Care and Support Authority's education program will continue to target clinicians involved in trauma management and the treatment of people who may be eligible for the Lifetime Care and Support Scheme. Assessing eligibility is based on the objective assessment of injury and impairment. In particular, the Functional Independence Measure, when used as an eligibility criterion for participation in the Scheme,

must be administered by clinicians trained in the tool and experienced in assessment.

The Authority has worked closely with the Australian Rehabilitation Outcomes Centre (University of Wollongong) who provide training nationally to ensure appropriate use of the tool and ensure the training has been accessible for clinicians.

Discussions on the use of Scheme outcome measures with similar jurisdictions in Australia and New Zealand are shaping the Authority's approach to outcomes in individual participant satisfaction and achievement and overall Scheme outcomes. Establishing these health outcome measures will also assist in establishing measures of cost effectiveness.

28. We note the intention to establish a quality assurance scheme, as documented in the Annual Report. How has this progressed to date?

Response:

The Lifetime Care and Support Authority is in the process of establishing key performance indicators in policy development, contractual arrangements as well as exploring the possibility of different quality assurance systems. To date, a decision has not been made as to which quality system will best meet the Authority's needs in terms of business systems and clinical outcomes. It is expected that a Quality Assurance system will be selected and an implementation plan be in place by the end of this year.

29. What is your data telling you about the scheme's performance to date, and how do you intend to use such data as the scheme unfolds?

Response:

As noted in response to question 1 participant numbers are generally as expected.

The Lifetime Care and Support Authority will have a unique data set that will provide important information on disabling injury, treatment, recovery and costs. The data about participants will be used to inform policy development, identify service gaps and target areas of service development. This will include areas of injury

prevention, regional service requirements and specialist service provision.

The data will also enable the Authority to provide feedback on service performance to providers.

Such data will also assist in shaping the Authority's operations for future planning of staffing including location of the Authority officers.

30. The Committee is aware of the dispute resolution mechanisms in relation to eligibility, injuries and participants treatment and care needs, as set out in the LTCS Guidelines. Have there been any disputes to date? If so, what were the outcomes?

Response:

To date, there have been no disputes relating to eligibility, motor accident injury or the treatment and care needs of participants in the Lifetime Care and Support Scheme.

Information brochures and fact sheets have been developed to provide information about the dispute process and are available on the Lifetime Care and Support Authority's website.

31. In its submission (Submission 4 to the LTCSA), the Law Society contends that the LTCSA's non-judicial review mechanisms detract from the procedural fairness and transparency of the scheme. It recommends that the legislation be amended to allow proper appeal processes. What are your views on this suggestion?

Response:

Legislative change is a policy issue for the New South Wales Government to consider.

It is noted, however, that a person's eligibility to participate in the Lifetime Care and Support Scheme is based on their injury and is dependent upon both the severity of the injury sustained and its impact on the person's functional capacity, that is, their need for assistance and supervision in day-to-day living. These assessments require clinical and medical decisions to be made by relevant experts in the areas of catastrophic injury management.

Similarly, the assessment or the review of an assessment of a participant's treatment and care needs involve consideration of

medical, rehabilitation, care and support issues, requiring the expertise of medical practitioners and other health professionals, attendant care and rehabilitation specialists. These assessments are undertaken regularly through the person's life as frequently as changing circumstances require. They are not a single, one-off assessment locking the injured person into a fixed entitlement.

32. What feedback are you getting from health professionals about their role in the scheme and your agency's requirements of them?

Response:

Positive feedback has been received from health service providers following the Lifetime Care and Support Authority's training sessions prior to the commencement of the Scheme for adults. Service providers recognised that the Lifetime Care and Support Scheme will increase the number of people with funding for treatment, rehabilitation and care services and that this will result in changed work practices.

This Scheme has led to increased opportunities for health professionals with skills and experience in working with the Scheme's client groups such as the Authority's assessment and dispute resolution panels.

Health professionals also report the decreased complexity of having one funding body for many of their patients, in comparison to dealing with a number of different insurers who may have had different requirements.

Health professionals from public health teams have commented on the time consuming and lengthy paperwork required of this Scheme. Some service providers have acknowledged that this is an issue at the early stages of working with the Scheme and improves with subsequent participants. Health professionals acknowledge that they are in the early stages of learning new processes.

Uncertainty regarding the role of the Lifetime Care and Support Coordinators and role of case management within this Scheme was an initial concern from health professionals. The Authority has attempted to address this issue in training, by developing 'frequently asked questions' on the role of the Coordinator and by developing the Coordinators' competencies. In the rehabilitation units meetings to discuss rehabilitation plans include the Coordinator and other meeting are held to discuss the overall

issues and implementation of Lifetime Care and Support-related processes.

The New South Wales Spinal Outreach Service has established a trial position for case management of Lifetime Care and Support participants. The Hunter-New England Health Service has also established a position to case manage Lifetime Care and Support participants from acute to community rehabilitation.

33. The GMCT Brain Injury Rehabilitation Directorate (Submission 3 to the LTCSA) has reported that the scheme has increased the accountability and paperwork of rehabilitation staff, leading to greater amounts of non-clinical activity. Its submission proposes that additional hospital and community based staff are required to manage the additional workload arising from the LTCS scheme, to assist with both service provision and rehabilitation staff support. In addition, it recommends that the scheme's extensive paperwork be reviewed in order to reduce duplication and address ambiguous terminology. Do you have any comments on these observations and proposals?

Response:

It is acknowledged that the paperwork has increased for Greater Metropolitan Clinical Taskforce Brain Injury Rehabilitation Directorate staff as the implementation of the Lifetime Care and Support Scheme enables early access to services for a much greater number of people. The Greater Metropolitan Clinical Taskforce Brain Injury Rehabilitation Directorate services are significant providers of essential services for participants and as such, the Lifetime Care and Support Authority has commenced payments for the brain injury services according to the existing New South Wales Health policy directive and associated fee schedule for Brain Injury Rehabilitation Services. An outcome of discussions between the Authority and New South Wales Health has been a draft specific policy directive and fee schedule for the designated brain and spinal cord injury units.

Part of the clinical activity of staff working in brain injury rehabilitation is to advise the Authority of the participant's needs in relation to treatment, rehabilitation and care. The staff members are expert in their field and the most appropriate clinicians to advise the Authority of individual participant's needs for hospital discharge and treatment in the community. The procedures for requesting services were revised several times prior to 1 October 2007. Training for the units commenced in May 2007 with a final version of most forms for use in the scheme published in August 2007. Forms with completed examples were used in the training for

service providers to assist in completing the necessary documentation. The Coordinators have also commenced and continue to provide support to the treating teams in the completion of documentation.

The Authority has also collaborated with EnableNSW (New South Wales Health) to establish a common process for equipment prescription. This involved many clinicians in the development of a clinically relevant process and guidelines. The process is currently being piloted for six months.

For attendant care and continence equipment the forms are part of the contract arrangement with service providers.

The Authority has also established a Discharge Equipment List which allows clinicians in the brain and spinal units to order from a specified supplier (currently OfficeMax) low cost commonly prescribed items necessary for hospital discharge without pre-approval from the Authority.

The Authority will work towards a system that meets participants' needs, is not arduous for clinicians and provides the Authority with the information needed to review requested services and ensure accountability and transparency of decisions. A review of the documentation and all procedures is planned. The review will occur within the next 12 months and feedback will be sought from all stakeholders prior to any amendments.

34. What other challenges are emerging within the operation of the scheme?

Response:

There are currently new therapies available but with little evidence of efficacy. The Authority has requested the Brain Injury Rehabilitation Directorate and New South Wales State Spinal Cord Injury Service to provide a position paper on new and emerging treatments based on recent scientific literature.

35. Have any potentially desirable legislative changes to the scheme been identified? If so, what are they?

Response:

A proposed legislative amendment for the eligibility process for children is being considered. The effect of the amendment is to

extend the interim participation period for children under the age of three years at the time of the motor accident.

Children injured when less than five years will not be assessed for lifetime participation until they are five or have been an interim participant for two years. This will allow the Lifetime Care and Support Authority to make its determination regarding lifetime participation at an age where a standardised assessment tool can be administered.

36. Both prior to and since the passage of the LTCS legislation, the Law Society has voiced its opposition to the inability of injured persons with requisite mental capacity to opt out of the scheme and manage their own financial affairs. During the Second Reading Debate on the Motor Accidents (Lifetime Care and Support) Bill the Minister indicated that clause 6(3) of the Act specifically provides for the LCSA to enter into an arrangement with a scheme participant to enable them to self-manage their care where they are competent and wish to do so. Could you please clarify whether individuals can receive compensation in lieu of LTCS and manage their own affairs, and if so, how this would work in practice?

Response:

The Lifetime Care and Support Authority is developing the processes to implement subsection 6(3) of the *Motor Accidents (Lifetime Care and Support) Act 2006* to enable participants to self-manage their care. With reference to question 38 it will be necessary to consider the implications for participants in receipt of Centrelink benefits. The process will require a careful assessment of the participant and their service needs. The funds will then be regularly transferred from the Authority to the participant for the express purpose of purchasing the services as required. This will enable the participant to manage their own affairs with the protection that if their circumstances change they can have their needs reviewed or cease self-management.

37. In its submission, Carers NSW (Submission 1 to the LTCSA) recommends a number of strategies to ensure appropriate support for family carers of LTCSA participants including that:

- the LTCSA and MAA websites use the term 'carer' or 'family carer' appropriately, to assist family members to identify their caring role
- the websites provide information on the availability of support services for carers
- the 'Carers Linked in Caring' pilot support program for carers of people with traumatic brain injury or spinal cord injury, run in partnership with Carers NSW and the MAA, receive continuous funding
- LTCSA coordinators, health professionals and service providers receive education about carers' needs and the importance of working collaboratively with them

- training be made available to carers to support them in their caring role, particularly during the consumers' transition from health care setting to home. What is the LTCSA's view of these proposals?

Response:

The Lifetime Care and Support Authority recognises the important role of carers in the recovery and ongoing care and support following injury. The Authority agrees that training carers to assist in the transition from hospital to home is important and integral for satisfactory outcomes. The Authority strives to actively encourage participant and family involvement in order to best assist participants in their roles at home and in the community.

The “Resources and Research” section of the Authority’s web site includes information for family carers and health professionals about brain and spinal cord injuries. The inclusion of additional resources for family carers (such as a link to the Carers New South Wales web site) will be considered in the next website content review. The Lifetime Care and Support Authority did not receive an application for funding from Carers New South Wales in the current grant round. Previous funding was from the Motor Accidents Authority.

The Authority will review the use of the term carer or family carer in its documentation and publications for clarity and to appropriately acknowledge the importance of carers.

The Authority will be pleased to discuss any of the above issues with Carers New South Wales.

38. The Disability Council (Submission 6 to LTCSA) has raised concerns that LTCSA arrangements could affect participants' eligibility for Centrelink payments and/or concession cards. Has the LTCSA looked into this issue? If so, what has it found and what action does it propose to take to avoid this scenario?

Response:

Participation in the Scheme does not affect a participant’s eligibility for Centrelink payments or concession cards. At present, participants who are unable to work because of their injury are in receipt of Centrelink Benefits.

The Lifetime Care and Support Authority is developing the process for funds transfer to participants for self-purchasing. The Authority has preliminary information regarding the exemption that can be

sought from the Commonwealth where funds are for purchasing treatment and care. This will be included in the implementation of any self-purchasing arrangements.

39. Some review participants have pointed to the potential value of
- (a) a national lifetime care and support scheme to ensure appropriate lifetime care and support to people in all states and territories and/or
 - (b) extending the NSW scheme beyond motor accidents to include all who acquire a catastrophic injury.
- Do you have any comments on these proposals?

Response:

These are policy issues for New South Wales Government to consider.