



**Michael Daley MP**  
Minister for Police  
Minister for Finance

Our Ref: 10/324

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

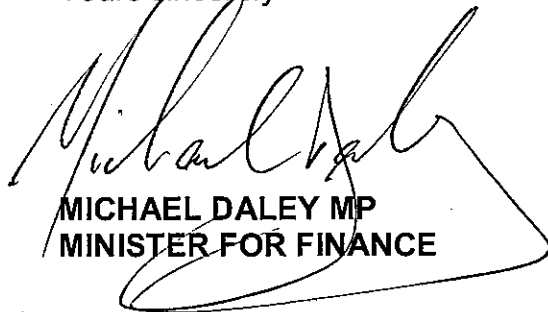
Dear Ms Robertson

I refer to your correspondence regarding the Third Review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council by the Standing Committee on Law and Justice, and attaching the Standing Committee's Questions on Notice.

I am pleased to enclose the responses to the Committee's questions prepared by the Lifetime Care and Support Authority (LTCSA).

Any enquiries about this matter may be directed to Mr Christian Fanker, Acting Manager, Ministerial and Community Assistance, MAA on 8267 1990 or by e-mail: cfanker@maa.nsw.gov.au.

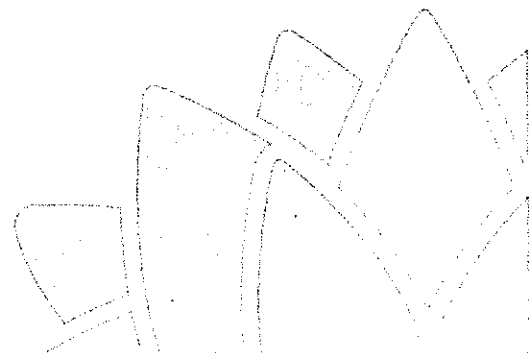
Yours sincerely



**MICHAEL DALEY MP**  
**MINISTER FOR FINANCE**

Governor Macquarie Tower  
1 Farrer Place  
Sydney NSW 2000

Phone: 02 9228 5665  
Fax: 02 9228 5699  
E-mail: office@daley.minister.nsw.gov.au



**STANDING COMMITTEE ON LAW AND JUSTICE**

**THIRD REVIEW OF THE EXERCISE OF THE FUNCTIONS OF  
THE LTCSA AND LTCSAC**

**PRE-HEARING QUESTIONS ON NOTICE**

**Federal Productivity Commission's inquiry**

- 1. Can you outline the scope of the Productivity Commission's inquiry into a long-term disability care and support scheme, the involvement, if any, of the LTCSA with the inquiry, the timeframe for the inquiry, and the possible ramifications for the LTCSA arising from the inquiry?**

**Response:**

On 23 November 2009 the Prime Minister announced the Productivity Commission would inquire into the feasibility of establishing a national disability long term care and support scheme.

The Productivity Commission began this reference from 1 April 2010 and has a reporting deadline of 30 June 2011.

It is noted that there is a specific requirement for the Productivity Commission to consult with the States about options for disability funding and also to consider State/Territory arrangements for the provision of compensation or services for injury which causes a disability requiring long term care and support.

The LTCS Scheme is of interest to the Commission as a functioning model for provision of lifetime services. The Authority hosted a visit from the Commissioners and senior staff and has provided considerable information to the Commission to assist with its inquiry.

In addition, Mr David Bowen, Executive Director of the Authority has been appointed as a member of the independent panel established by the Federal Minister for Health and Parliamentary Secretary for Disability Services to provide assistance to the Commission in its deliberations.

**Life costing model**

- 2. Can you update the Committee on progress on the Life Costing Model?  
a) What is its function within the LTCS Scheme?**

**Response:**

The Lifetime Costing Model (LCM) calculates the Net Present Value of Future Cash Flows for each participant in the Scheme. When individual results are consolidated, the LCM is an essential budgetary tool that supports the formal actuarial estimates of future liabilities for the Scheme.

**b) What results has it produced so far and to what effect have these results been put?**

**Response:**

In day to day use, the LCM serves well for budget provisioning purposes.

The LCM has been remodelled throughout 2009-10 to ensure it links to the Financial Management systems. In doing so, actual costs are overlaid on estimates (provisions) so that estimates become increasingly accurate over time. The Scheme's consulting actuaries are involved in the development of the final model (currently in testing and expected to go into final production release in June 2010).

**c) What further developments are required to improve the utility of the model?**

**Response:**

See response above.

**Eligibility for the Scheme**

**3. Can you update the Committee on any developments relating to eligibility for the LTCS Scheme for cyclists, pedestrians struck by cyclists, and people struck by a projectile while driving a motor vehicle?**

**Response:**

The definition of motor accident used in the Scheme is defined in the *Motor Accidents Compensation Act 1999* and there has been no change to this definition.

**4. During the second review of the LTCSA, DADHAC advised the Committee that the National Traumatic Injury Insurance Scheme working group was developing a proposal to extend service provision to people with catastrophic injuries who do not receive adequate compensation through insurance and who are not injured in a motor vehicle accident.**

**a) Can you update the Committee on the development of this proposal?**

**Response:**

The Authority believes that this is a reference to the work being undertaken by the Disability Insurance Group (DIG) commissioned by the Commonwealth Parliamentary Secretary for Disability Services. The DIG Report was delivered to the Commonwealth Government in October and is available on the FACHSIA web-site. The main recommendation from the report was for the Commonwealth to

establish a feasibility study into establishing a national disability insurance scheme, which has subsequently been announced.

- b) Does it address concerns among some inquiry participants that the LTCS Scheme was potentially producing a tiered system in which people with similar injuries did not have access to the same level of equipment or care?**

Please refer to the DIG Report available on the FACHSIA web-site.

- 5. Can you update the Committee on the use of the Functional Index Measure (FIM) to assess eligibility for the LTCS Scheme, the two-year interim assessment of participants assessed with this tool, and the testing of alternative assessment tools for children?**

**Response:**

The FIM continues to be used for assessment of eligibility to the Scheme.

The Authority is not testing for an alternative assessment tool for children. The FIM has been used to adequately assess for the lifetime participation of the small number of children who have ongoing needs. The minimum age at which children are assessed for lifetime participation is five years.

### **Buy-in to the Scheme**

- 6. In the second review of the LTCSA it was noted that the LTCSA had commissioned a review of court cases to inform guidelines for people to buy-in to the Scheme.**
- What has been the outcome of that review?**

**Response:**

The Authority commissioned an experienced solicitor accredited in personal injury law to review court decisions in which the verdict specified an amount for future care. There were only a limited number of cases available, however, it was clear that the lump sum amounts awarded for future care vary significantly, and not always in any correlation with injury severity or care need. In two of the four cases reviewed, the injured person was awarded damages for future care that were in excess of the amount that would be required to buy into the Lifetime Care and Support Scheme. In one other case, damages for future care were sufficiently close to be affordable to the injured person, when taking into account the benefit of assurance that future care needs will be met for life.

The Authority has a draft Guidelines for buy-in to the Scheme which has been circulated to stakeholders for comment.

## **Lump sum payment to exit the Scheme**

- 7. Some inquiry participants have proposed that participants in the LTCS Scheme who are able to manage their own affairs have the option of receiving a lump sum representing the Scheme's future financial obligation to them. A proposed condition was that such participants be required to place 1/3 of their lump sum payment into a bank account for at least 20 years.**
  - Can you comment on this proposal?**

### **Response:**

While the Authority does not make lump sum payments, the Authority is permitted to enter into arrangements to allow scheme participants to manage their own care.

The Authority is settling a Guideline to allow participants to receive a periodic payment to cover their care costs. The Authority has obtained advice from the Crown Solicitor's Office and Counsel on the treatment of such payments and has been advised to seek a class ruling from the Australian Taxation Office to ensure that any payments made to a participant to manage their own care are not regarded as income for taxation purposes. The Authority will also need to obtain an exemption under the relevant legislation to ensure that such payments are not subject to the social security income test, to ensure that participants' entitlements to pensions (such as the Disability Support Pension) are not affected. These processes are underway.

## **Participant satisfaction survey**

- 8. The LTCSA's 2008/2009 Annual Report reported that work had commenced on a satisfaction survey of Scheme participants.**
  - Can you update the Committee on the development of this survey and any results so far?**

### **Response:**

The Lifetime Care and Support Authority conducted its first participant survey in 2009. The purpose of the survey was to measure participant satisfaction with the Scheme and service providers, to gather information regarding the Authority's performance for quality improvement purposes, and also to establish a benchmark for future surveys of this kind.

In June 2009 the Authority conducted a tender to engage a suitable organisation to develop and conduct the survey. The evaluation criteria for the tender included experience in surveying people with a disability, experience in survey design and analysis and cost effectiveness. The tender was awarded to Dr Sandra Rickards, whose research team developed and conducted the survey from August to December 2009.

### Survey design and participation

The participant survey was qualitative and quantitative, and was carefully designed by the research team considering the needs of participants with traumatic brain injury. The qualitative surveys were conducted in person, with the interviewer visiting the participant in their home. The quantitative surveys were conducted by telephone given that participants are based across a wide geographical area.

A total of 112 participants took part in the survey. Participants in the survey were individuals who had been in the Scheme for at least six months, had left hospital and had not participated in any other survey for the Authority. There was a high response rate of 78% for the main telephone survey. Seventy per cent of involvement was from participants and 30% from their nominated contact person. Participants were also given the option of "opting-out" of the survey prior to the data collection phase.

### Overall satisfaction with the Scheme

Survey results showed that participant satisfaction with the Scheme is very high with 84% of participants surveyed satisfied, very satisfied or extremely satisfied with how the Scheme meets their needs. This exceeds the benchmark of 75% for satisfaction in social research surveys.

Twelve per cent of participants were dissatisfied, very dissatisfied or extremely dissatisfied with how the Scheme meets their needs. The issues identified (in decreasing order of significance) from those dissatisfied related to delays or difficulties with approval processes, inadequate service providers, relationships with their LTCS coordinator, and a lack of consideration given to family situations.

### Overall satisfaction with funded services is high

Participants were asked about their satisfaction with specific services they had received in the last 3 months. At least 75% of participants were satisfied, very satisfied or extremely satisfied with every service nominated. For example, attendant care services had an 88% rate of satisfaction, case management services 89% rate of satisfaction, and occupational therapy services a 95% rate of satisfaction. These findings build on the qualitative research and identify a strong feeling of gratitude and good will among participants and their families towards the Authority, even in cases where there are issues still to be resolved, for example, with service providers.

This goodwill is also reflected in the strong survey response rate (78%) and the very low overall refusal rate (3%).

Twenty seven per cent reported problems with services in the last 3 months, with the top 2 problems being delays with approval for or access to services (23%) or problems with attendant care/domestic assistance (23%). From those 27% who reported problems with services in the last 3 months, participants were more likely to be outside Sydney (32%), in the under-16 year age group (70%) and/or the spinal cord injury group (59%).

## Suggested improvements

When asked about improvements that could be made to the Authority, around one-third of participants (34%) felt that no improvements were necessary. Suggested improvements fell into two main groups: decreasing delays with approvals and access to services, and improving communication.

### 1) Decreasing delays with approvals and access to services

In the questionnaire respondents were given a specific question on the issue of access to services and 37% agreed to some extent that *'there are now long delays waiting for services to be approved by Lifetime Care and Support'*. While it was not measured, there was anecdotal evidence that the equipment and service delays were in the order of months rather than weeks. Given the requirement for LTCS to respond to requests within 10 days of receiving them, the delays reported in the survey may be from service providers and misattributed to the Authority.

### 2) Increasing or improving communication or contact

Approximately a quarter of respondents (24%) suggest improving or increasing communication or contact. The qualitative research found a phone call every 2 to 3 months for the coordinator to 'check-in' would be sufficient and may help to clarify the Authority's role and processes.

Dr Rickards has developed a longitudinal survey design for the Authority to implement. The participant survey will form an integral part of the Authority's ongoing quality improvement program.

## **Approval processes**

### **9. Spinal Cord Injuries Australia (SCIA) has raised a number of issues in relation to the LTCSA assessing applications for funds for home modification.**

#### **a) What is the process through which such applications are assessed?**

If a participant's home requires minor modifications, the assessing occupational therapist (OT) sends the Authority an assessment report on the required modification and an authority from the home owner to install the modification. The OT is also required to provide two quotes for the work required. The home modification request then progresses through the standard LTCSA approval process for any treatment, rehabilitation and care request.

If a participant appears likely to require a major home modification (i.e. involving structural changes to the home and entrances, likely to require more than one tradesperson, local council approval and cost more than \$10,000) the Authority appoints a specialised occupational therapist (OT) and building project manager.

The OT meets with the participant and/or family and liaises with the treating team to obtain a clear understanding of the participant's functional status and needs. A joint home visit is then completed by the OT and project manager and a report and scope of works agreed to by the participant and their family is submitted to the Authority for consideration.

The recommendations and scope of works are assessed by the Authority against the reasonable and necessary criteria. If the scope of works is approved partially or in full the project manager then develops the project plan. If a scope of works is not approved the coordinator meets with the participant and or family to discuss reasons for non approval and to facilitate consideration of alternatives.

Once the home modification is completed the approved assessor and project manager complete a joint visit to ensure the work has been completed according to the OT's recommendations and Australian Building Standards. A final evaluation and acquittal summary is submitted to the Authority by the project manager advising of their approval for LTCSA to provide final payment to the builder.

**b) Is there a threshold value above which applications are automatically rejected?**

**Response:**

There is no threshold value above which applications are automatically rejected.

All requests for home modifications are reviewed against the Authority's reasonable and necessary criteria regardless of the requested dollar value of the modifications – as with any other treatment or service that is requested. Cost effectiveness is one of five factors considered by the Authority in all decision making about what is "reasonable and necessary".

The Authority has declined to pay for home modifications on the basis of cost effectiveness when the cost of the modifications has been estimated to be higher than the value of the home and when alternative, more suitable and cost effective options could be identified.

**c) Are there avenues of appeal for applicants whose application is rejected?**

**Response:**

Yes. A participant may dispute the Authority's decision about their treatment and care needs if the Authority has partially approved or not approved a request for home modifications.

The Committee should note that it is not always possible for the Authority to approve a home modification that is requested for a participant. This can be due to factors that are outside of the Authority's control, such as:

- the participant is a tenant and the owner of the home does not give permission;
- or



- the existing home does not comply with required building or construction codes or council regulations and thus would result in an illegal structure. There have been some cases where the Authority has not been able to fund modifications to homes because they were built on a flood plain or were not compliant with relevant council guidelines or building and construction codes for a residential structure.

**d) Do participants in the LTCS Scheme have any options in terms of obtaining funds for home modifications other than applying to the LTCSA?**

**Response:**

The Authority is not aware of other options for a participant to obtain funds for home modifications if they are a LTCS participant.

**e) Can you comment on SCIA's proposal that a panel review the highest 5% of applications in terms of the cost of proposed modifications?**

**Response:**

The Authority does not consider this is necessary. The cost of the modification is only one of the considerations the Authority takes account of when deciding whether a modification is reasonable and necessary. Other factors may be more important, such as how long the participant intends to live in that dwelling, the age of the participant (e.g. whether the participant is likely to move out of home in the next 12 months), who owns the home, whether it is a legal structure or whether the cost of the modification exceeds the value of the property.

**10. The Westmead Brain Injury Rehabilitation Service (WBIRS) raises a number of issues relating to LTCS Scheme approval processes. Can you comment on their recommendations that:**

- **The LTCSA establish a priority approval system to enable urgent requests to be processed in less than 10 days.**

**Response:**

To ensure fairness and timeliness for all participants, the Authority has committed to provide a response to participants regarding requests within 10 working days. In order to prioritise urgent requests, the LTCS Coordinators have sufficient financial delegation to approve any reasonable and necessary services where the participant may be at risk of imminent harm or adverse outcome, outside of the usual 10-day process. The Authority continues to work with the discharging units to reinforce the need for early planning for participants so that requests for services or equipment do not become urgent.

In October 2009 the Authority implemented LTCS Coordinator delegation to review requests for "standard" treatment, rehabilitation and care costs. These standard services include medical procedures, rehabilitation assessments, low-risk equipment

and short hospital stays, among others. The intention of expanding LTCS Coordinator delegation is so that these types of requests can be reviewed by the Authority within a shorter timeframe.

To expedite the delivery of services for participants when they leave hospital, the Authority convened a working party to review the discharge procedure for adult participants in the Lifetime Care and Support Scheme. This was in response to feedback received from the main discharging units and the Brain Injury Rehabilitation Directorate. The working party had representatives from:

- Royal North Shore Spinal Unit
- Moorong Spinal Unit
- Prince of Wales Spinal Unit
- Liverpool Brain Injury Unit
- Ryde Brain Injury Service
- Westmead Brain Injury Service
- Hunter Brain Injury Service
- Spinal Outreach Service
- The Lifetime Care and Support Authority

The working party developed a new procedure with the aim of streamlining the processes for discharge and to minimise paperwork completed by service providers during this phase. The Authority has preapproved a number of services for a participant to access on discharge. This allows service providers to start delivering preapproved services immediately, without needing to wait for the Authority's approval.

The new procedure replaced the Community Discharge Plan for adult participants from 1 March 2010 and will be formally reviewed in September 2010. The Authority provided training at the metropolitan units so that all rehabilitation staff members were aware of the changes. Information about the new procedure has also been shared with other service providers through information on the website and a special edition of the e-news.

The Authority has recently convened a similar working party to review the discharge procedure for paediatric participants. This working participant has representatives from:

- Sydney Children's Hospital
  - The Children's Hospital at Westmead
  - Northcott Disability Services (Paediatric Spinal Outreach Service)
  - Hunter Paediatric Brain Injury Rehabilitation Team
  - Lifetime Care and Support Authority
- **The LTCSA provide formal notification of approval to service providers, such as equipment suppliers, private therapists and relative accommodation providers, who have indicated they require formal notification before they can provide their services.**

**Response:**

As per Part 4 of the *Motor Accident (Lifetime Care and Support) Act 2006*, the Authority certifies in writing as to its assessment of the treatment and care needs of the participant. This document is called a “certificate” and is sent to the participant to outline which services have been approved by the Authority and which services have not been approved. The reasons why the services are, or are not, approved are included on the certificate.

A copy of the certificate is also sent to the participant’s case manager or the person who submitted the request to notify them of the approved or non-approved services. To avoid confusion of roles the case manager will notify all parties of the Authority’s decision. Where it has been requested that another party receives written confirmation of the approved services, the Authority will forward either a copy of the certificate or a purchase order to the provider.

- **The LTCSA provide administrative support to service providers, such as a hotline, to ensure information is readily available.**

**Response:**

The Authority currently provides support to service providers through the following avenues:

- Each participant has an assigned LTCS Coordinator who is the point of contact at the Authority for all information relating to that participant.
  - The Authority has a duty coordinator system so that enquiries can be answered when a participant’s coordinator is on leave or unavailable.
  - The Authority has a 1300 phone number so that providers across the state can readily contact the Authority.
  - The Authority’s accounts payable department has a 1300 number for suppliers with billing enquiries.
  - Coordinators are equipped with laptop computers and mobile phones so that they are contactable and have access to e-mail when out of the office visiting participants or providers.
  - A copy of the certificate documenting the services that are approved for a participant is sent to the provider (also see above) to ensure smooth communication.
  - The Authority runs workshops for providers to disseminate changes to procedure or policy at the Authority.
  - The e-news is published regularly to keep providers up-to-date with changes at the Authority and to provide information about relevant issues.
  - The website contains resources and the latest version of forms for providers to access. The website was recently redesigned to improve accessibility and usability.
- **There is a contact person at the Authority for service providers to contact regarding clarification of procedures and to provide feedback**

**Response:**

Given the support that is currently offered, the Authority does not agree that a separate hotline is justified.

## Appeal and review processes

**11. The Australian Lawyers Alliance (ALA) notes that the Scheme notes that disputes about eligibility for the Scheme, whether an injury is a 'motor accident injury' and treatment and care are all referred to an internal panel.**

**a) Do claimants have the option of appealing the decisions of the internal bodies in relation to the above disputes?**

### Response:

Yes. Disputes are managed in accordance with the *Motor Accidents (Lifetime Care and Support) Act 2006* and referred to the Authority's external independent dispute assessors, not an "internal panel".

The Authority refers disputes to an external body of assessors, within which there are rights of appeal or review of a decision made by the Authority. The Authority's dispute assessors are medical and allied health professionals, who are not employees of the Authority, rather individually appointed to this role under the Act. The Authority's dispute assessors are employed in a wide range of medical, health and rehabilitation settings in public and private organisations and their current clinical expertise is vital for the Scheme's population group.

Disputes about eligibility to the Scheme (whether the injury criteria are met) are referred to a panel of three independent dispute assessors who form an Assessment Panel. There are review mechanisms in the Act in relation to the decision of an Assessment Panel, and if grounds for review within the Act are met, the dispute is referred to a Review Panel of another three independent dispute assessors.

Disputes about 'motor accident injury' (whether the motor accident or motor vehicle is covered by the Scheme) are referred to the Principal Claims Assessor, Claims Assessment and Resolution Service, Motor Accidents Authority, who will convene a panel of three claims assessors who are appointed by the Motor Accidents Authority.

Disputes about a participant's treatment and care needs are referred to an external dispute assessor with relevant health or medical expertise. For example, a dispute about a participant's physiotherapy treatment would be referred to a physiotherapist. The Authority considers that it is vital that disputes about treatment and care needs are resolved by experienced professionals, independent of the Authority, with the relevant health or medical background.

**b) What is your response to the ALA's statement that the Scheme 'does not provide for a right of appeal on the merits of a decision to any body external to the Authority' and that 'this is a major weakness of the scheme and inherently unjust'?**

### Response:

See above,

### **Supported accommodation**

**12. In the Government response to the second review of the LTCSA it is noted that the LTCSA would consider how the supported accommodation expert advisory group could play a more effective role in advising on issues related to supported accommodation.**

- a) Can you update the Committee on the Authority's considerations in relation to this issue and the activity of the expert advisory group?**

#### **Response:**

The supported accommodation advisory group met a few times approximately 2 years ago and provided advice to the Authority on the range of accommodation required by participants. It has not met since.

- b) What are the major issues at present with the provision of supported accommodation?**

#### **Response:**

There is a shortage of supported accommodation in NSW, particularly for people with brain injury. This shortage will delay discharge from hospital for all patients with serious injuries.

Although the Lifetime Care and Support Scheme does not pay accommodation costs it will pay for short term transitional accommodation while a participant is waiting for their home modification. The Scheme pays for the treatment, rehabilitation and care services required by its participants, but not for costs such as rent.

In 2009, the Board of the Lifetime Care and Support Authority approved funds for the purchase of accommodation for its participants. The Authority has so far purchased two houses and modified them for four participants. The justification for this expenditure is that there is approximately \$1,500 to \$2,000 saving per week on care when participants share their care. These four participants are tenants in the house, pay rent and contribute to the running costs of the house. The Authority pays for all care and therapy services required. This is a model the Authority is exploring for other participants and has purchased land in Coffs Harbour and is currently looking for sites in the Liverpool and Parramatta areas.

Participants will have the option of moving in and out of the houses as their needs change. The funds approved by the Board mean that the Authority can respond to need as required. However, it takes approximately 6 to 12 months to find, modify and build suitable accommodation. The Authority is therefore looking for sites in Liverpool and Parramatta as it anticipates a future need in these areas.

**c) What is the impact of the availability of supported accommodation on length of stay in treatment units?**

**Response:**

There is a shortage of supported accommodation in NSW, particularly for people with brain injury. This shortage will delay discharge from hospital for all patients with serious injuries.

**Attendant care services**

**13. Can you update the Committee on the issue of attendant care services, in particular**

**a) The length of time taken to organise this care**

**Response:**

Setting up a quality attendant care program requires a minimum of 4 to 6 weeks. This is so that attendant care workers can be recruited and trained to meet the specific needs of the participant. This time is used to advertise in local news papers, interview, conduct criminal record checks, train the attendant care workers to be competent to deliver the care plan, and involve the participant and/or their family in attendant care worker recruitment.

The Authority has worked with the Attendant Care Industry Association to run workshops and to inform the discharging units on what is required to establish a program so that the referring team can allow an appropriate amount of time setting up the attendant care program. The Authority regularly communicates with the brain and spinal cord injury units to promote the necessity to plan for discharge as early as possible when attendant care is involved. This allows the attendant care provider an appropriate amount of time to establish a quality program that can be tailored for the individual needs of the participant.

**b) The quality of the care**

**Response:**

The participant satisfaction survey (2009) reported 88% of participants who had received attendant care in the 3 months prior to the survey were satisfied with the attendant care service.

Bruce Alcorn and Associates conducted audits of the panel of attendant care providers against the performance measures for quality in July to August 2009. The performance measures are a set of 60 policy and practice criteria based on the Disability Services Standards and adapted from the monitoring framework of Ageing Disability and Home Care. The overall recommendation was that the providers who participated in the Audit process satisfactorily met the requirements of the Authority's Performance Measures.

The Authority provided \$181,600 to the Attendant Care Industry Association (ACiA) to develop standards specific to the attendant care industry and an auditing program. This has now been developed and is known as the Attendant Care Industry Quality System Standard. It is a requirement of the current contract that attendant care providers are actively working towards achieving this certification. The Authority has also offered a one off grant of \$7500 to each of the panel of providers once they have achieved certification.

**c) Carer recruitment and training of attendant carers**

**Response:**

The attendant care industry continues to report difficulties recruiting attendant care workers in remote areas of NSW and the northern beaches area of Sydney.

The Authority is keen to ensure that attendant care workers have the skills to provide services to Scheme participants. The Authority works closely with the Attendant Care Industry Association to monitor the new national award and any competencies for attendant care workers that arise from this award.

It is a requirement of the Authority's contract with its attendant care providers that the workers have core skills relevant to the injury related needs of the participants they are servicing, for example specific skills required to care for people with spinal cord injury or brain injury. In addition to this the Authority funds training specific to the participant's needs during the establishment of the program. These are those skills that are specific to the individual participant, for example how to implement a behavioural support program or stretching program. An additional allocation of participant focused training can also be approved on a case-by-case basis when there is a significant change in participant need that warrants an additional funding allocation.

**d) Any steps taken since the last review to improve service delivery?**

**Response:**

The Authority launched the attendant care provider extranet for its panel of providers. This functions as a tool to facilitate communication and as a hub for resources, such as training information for spinal cord injury and brain injury. This was launched in March 2010 and was well received by the panel of providers.

It is a mandatory requirement that the panel of providers obtain certification to the Attendant Care Industry Association's quality system (Attendant Care Industry Management System Standard). In the half yearly report each provider was required to report on their progress to towards achieving this certification.

**14. Can you comment on the State Spinal Cord Injury Service's (SSCIS) proposal that attendant care teams not be disbanded when the patient enters hospital, a practice that SSCIS notes requires the recruitment and training of a new care team, increases the patient's length of stay in hospital, reduces hospital bed availability and places stress on the patient and their families?**

**Response:**

While a participant is in the hospital the Authority pays a bed day rate which is inclusive of all services required for their stay. Despite this, on occasion the Authority has paid for attendant care teams to provide services while a participant is in hospital. Decisions to fund this care are made on a case by case basis, and consider the length of time the participant is in hospital, the clinical needs of the participant, the training needs of the attendant care team, the service provider's capacity to deploy workers to another service, or where a service provider expresses a concern over staff retention.

Examples of when this has been funded is for a participant with a very severe brain injury (requiring 24-hour attendant care) who was staying in hospital for a short period; and for a participant who was ventilated prior to discharge home to facilitate training the new care team.

**15. Can you comment on the proposal from Royal Rehabilitation Centre Sydney that higher attendant care rates be paid to carers when client needs are complex and staff with higher skills are required?**

**Response:**

The Lifetime Care and Support Scheme is for people who are severely injured in motor vehicle accidents and therefore the majority of Scheme participants' care needs are complex. The Attendant Care rates were set considering the job descriptions and award classification levels in each of the relevant State awards (Miscellaneous Workers Home Care Industry State Award, Nurses Other Than in Hospital and Social and Community Service). The new national award has now been introduced and the Authority is closely watching the current wage claim and will take advice from the Attendant Care Industry Association as to which level of worker is most appropriate to meet the needs of the Scheme's participants.

In October 2009 the Authority introduced a "Care Coordinator Fee" for the attendant care provider. This provides funding for programs that require a higher administrative component and longer term services from a Care Coordinator. This has been very well received by the panel of providers.

**Access to advocacy services**



**16. Can you update the Committee on the issue of brain injured people's ability to exercise their right to an independent review of decisions made about their care and to initiate contact with advocacy services?**

**Response:**

The LTCSA is an administrative body that makes decisions in accordance with the legislation. It is subject to the standard laws and rules governing the making of administrative decisions. The Authority provides both internal review of decisions and access to independent specialist assessors when there is disagreement about a decision.

When a dispute or complaint arises, the Authority encourages participants to access an independent advocate or other forms of support, and makes contact with their service providers so that service providers are also aware and may encourage the participant to access advocacy service.

Since the Second Review, the Authority has developed a fact sheet about advocacy which is available on the Authority's website. The Authority has spoken to a number of advocacy groups to explain the Scheme including the NSW Disability Advocacy Network and to inform them that information about their services have been disseminated to the Scheme's participants.

**17. What is your response to the Australian Lawyers Alliance (ALA) view that sections 18 and 29 of the *Motor Accidents (Lifetime Care and Support) Act 2006* 'effectively restricts access to legal services'? What is the rationale for the restrictions contained in sections 18 and 29?**

**Response:**

Sections 18 and 29 address decisions about medical or clinical issues, not legal issues, for example the level of function of the injured person, whether the injured person has a permanent neurological deficit or whether a participant requires speech therapy. Whether the accident was a "motor accident" is a legal question and legal costs are recoverable for disputes about these questions.

The Authority has assisted with access to legal advice by developing the Accident Advice Support Grant. The Grant provides one-off funding of \$5000 to facilitate access to legal and accident investigation advice when an injured person needs assistance to obtain information about their motor accident or motor vehicle at the time of their application to the Scheme. The Committee should note that this information is usually obtained by the Authority and shared with the injured person. The Grant may also be used after an injured person receives the Authority's decision that an application is unsuccessful on the basis that the motor accident or motor vehicle is not covered by the Scheme.

**Impact on health service resources**

**18. Are you aware of whether or not NSW Health has completed its review of the impact of the LTCS Scheme on health service resources?**

- a) **If so, what were the findings and recommendations arising from the review?**

**Response:**

The Authority is not aware of the results of NSW Health's review.

- b) **What is the impact of the review on how revenue is directed back to the public health units that provide treatment?**

**Response:**

The Authority pays the Area Health Services a bed rate of \$960 per day for services provided in the brain and spinal cord injury rehabilitation units. The Authority has no control over whether these funds are directed to the services provided by the units.

- 19. What have been the outcomes from the Brain Injury Rehabilitation Directorate and LTCS Liaison meetings aimed at resolving issues arising from the interface between the LTCS Scheme and public health services?**

**Response:**

The Authority has worked with representatives of both the brain injury and spinal cord rehabilitation units to develop new processes for discharging participants from these units. The Authority is now working with the paediatric units to agree on a discharge procedure that will meet everyone's needs.

- 20. The Westmead Brain Injury Rehabilitation Service (WBIRS) report that the amount of time its staff currently spend on LTCS forms and processes and accessing LTCS co-ordinators has compromised clinical time and intensity of therapy for patients. Similarly, the Kids Rehab at the Children's Hospital at Westmead state that the administrative requirements of the Scheme result in a disproportionate amount of staff time being spent on participants in the Scheme and that they cannot meet the invoicing and billing requirements of the Scheme in the absence of any additional financial management support.**

- **Is there scope to further streamline these processes to ensure service to patients is not compromised?**

**Response:**

The Authority processes for requesting services continues to be reviewed. A simpler process for arranging approval for services required on discharge from adult rehabilitation services has been established. This was developed in consultation with representatives from the brain and spinal injury units. A similar process is now being undertaken with the paediatric units. The Authority is committed to continue to work with the units of the State-wide Spinal Injury Service and the NSW Brain Injury Rehabilitation Program to optimise the provision of services to Scheme participants.

- **Is there scope to improve the availability of co-ordinators and the speed with which they can respond to telephone and email queries?**

**Response:**

Following recruitment in April 2010 there are now 23 coordinator positions.

To assist coordinators undertake their duties all coordinators have been equipped to operate while out of the office at meetings in hospitals and in participant's homes. They have remote network access and mobile phones.

The Authority has now established regular meetings with most discharging units so there should be less need for "urgent" requests and a more planned approach to discharge.

- **What arrangements are put in place when a co-ordinator is on leave or absent from work?**

**Response:**

The Authority office is staffed during office hours and coordinators are rostered to provide leave cover. The LTCS case management system is accessed and used by all staff to store and provide up to date information on requests for services. The Authority operates a "requests" email mailbox for all requests and a general enquiries mailbox for other matters. These email-boxes are cleared regularly during the working day with messages redirected to appropriate staff.

- **Can you comment on WBIRS' report that due to limited staffing its Community Rehabilitation Team has had to refer a significant number of patients to private service providers on discharge?**

**Response:**

The Authority cannot comment on why a service has limited staffing. LTCS funding is for individual participants and the Authority will purchase services from both the public, not for profit and private sector services that best meet the needs of the participants. Many participants are receiving services from a combination of public and private providers.

**LTCS Scheme Co-ordinators and Case Managers**

**21. The State Spinal Cord Injury Service (SSCIS) has raised concerns, as in the previous review, with the role of the LTCS Co-ordinators and Case Managers.**

- **Can you clarify the role of Co-ordinators as administrators of the scheme as opposed to role of clinicians as managers of patient care?**

**Response:**

The Authority considers the role of the coordinator has three main areas of service which are to: understand the individual participant's needs, administer the case file and ensure participants are receiving quality services.

In 2010 the Authority will provide approximately \$35 million of services for participants. Coordinators monitor this service provision, commissioning, and where necessary dismissing unsatisfactory service providers. The role of the LTCS coordinator may vary across participants depending on the model of case management being delivered, the needs/preferences of the participant and the experience and expertise of the particular case manager involved.

While there is some inherent overlap between the role of the coordinator and the role of the case manager, it is expected that, in practice, the roles will be determined by what best meets the participant's needs, and what constitutes efficient, cost-effective management of their program. Some flexibility between the two roles is therefore desirable, and enhances the Authority's ability to provide services to participants according to individual circumstances and needs.

Lifetime participants of the Scheme will have a life-long relationship with the Authority through a LTCS coordinator, regardless of the model of case management being utilised at any time on the participant's continuum of rehabilitation. The coordinator will recognise when a case manager needs to be engaged to assist a participant address an identified goal. The coordinator may also assist the participant in their selection of a case manager.

- **Is there scope to reduce the potential for Co-ordinators and clinicians to come into conflict over patient management and treatment delivery?**

**Response:**

There is an ongoing commitment of the Authority to meet with clinicians to discuss individual participants and consider state-wide issues for participants. The Authority seeks to support participant choice and involvement in implementing clinical recommendations.

For the Authority to pay for a recommendation it must be a treatment, rehabilitation or care service and therefore the Authority is sometimes unable to pay for a clinician's recommendation because it is not one of these services. This will cause a degree of conflict which the Authority can only partially manage – clinicians also need to accept responsibility for understanding which funding sources are responsible for what services.

- **Can you clarify who is responsible for recruiting Case Managers?**

**Response:**

The Authority funds case management services where a need is demonstrated. The practices around selection and appointment of case managers vary. Referral

networks exist within the NSW Brain Injury programs and case managers are generally appointed through this system.

The position of the Authority is that participants are able to select their own case management service provider. The reality is that in the early years post-injury, participants generally require some guidance in this selection process. Guidance is currently provided by their treating team, their coordinator, or other parties involved in their program.

The expectation is that inpatient rehabilitation teams provide case management for inpatients. In the community, the Authority will source and appoint case managers to assist participants. Where clinicians and care providers are involved they are consulted. When problems arise the Authority will replace case managers.

- **What training is provided to or experience required of Co-ordinators and Case Managers in relation to provision of treatment to patients with spinal cord injuries?**

**Response:**

The experience and background of coordinators with respect to spinal cord injury is varied. There is no specific clinical experience requirement for recruitment.

Case managers also vary in their experience with spinal cord injury.

It is important that coordinators and case managers have the skill to understand the concerns, motivations and broad needs of the participant and their clinicians and service providers to implement recommendations successfully. Case managers and coordinators rely on specialist therapist and medical practitioners to provide advice about specific spinal cord needs.

- **Can you comment on SSCIS' offer to provide education and training for Co-ordinators and Case Managers on the complexity of managing patients with spinal cord injuries?**

**Response:**

LTCS is willing to discuss the provision of education and training by SSCIS for coordinators and case managers.

- **Can you comment on SSCIS' recommendation that the LTCSA considers providing funding for a Health Education Officer who would provide spinal cord injury specific training to Co-ordinators, Case Managers and private therapists of LTCSS patients?**

**Response:**

The Authority considers a range of options for improving skills of staff and services providers for all its participants, not just those with a spinal cord injury. However, the

ultimate aim is to have participants and families who are informed and skilled enough to manage their own health status and to know when to seek professional help.

- **Can you comment on SSCIS' view that the draft guidelines for Case Managers do not provide for the integration of care and services to achieve health outcomes?**

**Response:**

The Case Management Guidelines are in draft form and comments have been sought broadly from the sector. The draft guidelines have been amended following feedback, and there is now increased reference to the specific health management needs of people with SCI. In the document, the Authority acknowledges people with SCI have specific medical and health issues and also acknowledges the principles of empowerment and self-determination for participants.

The Authority believes the role of the case manager and the service providers is to educate the participant and their family on how to manage their own health and achieve good health outcomes. Participants, in particular those with a spinal cord injury, will not have a case manager permanently.

**22. What is your response to the Kids Rehab at the Children's Hospital at Westmead proposal that Co-ordinators be empowered to facilitate the processing of a request for funding to the LTCSA by providing historical information relevant to the request and thereby making the process more efficient?**

**Response:**

The Authority continues to monitor the procedures for requesting treatment, rehabilitation and care services, as well as the forms which are used by providers when submitting such requests. The Authority has endeavoured to minimise the amount information it requires from providers, however sufficient information is required so that the Authority can determine if the request is reasonable and necessary and consistent with the Lifetime Care and Support Guidelines. The Authority must ensure that the Scheme is affordable. Therefore written documentation from service providers is required to ensure that the Authority's funding is being spent in an appropriate way to best meet participant's needs. The Authority asks that providers ensure that sufficient information is included in each request so that decisions can be made without unnecessary delay. This is particularly so with children whose needs change more quickly than adults.

Where there is insufficient information to make a decision regarding a participant's treatment, rehabilitation and care needs, or clarification is needed, the Authority will endeavour to locate the required information from its records and/or from the LTCS Coordinator's knowledge of the participant. When this is not sufficient, the Authority will seek additional information from the provider.

**Educational support**

**23. The Kids Rehab at the Children's Hospital at Westmead has expressed frustration that submissions for 'teacher aide services' must be 'so heavily justified on such a regular basis.'**

- **What is your response to these comments and the proposal that approval for teacher's aide funding be granted on a yearly basis?**

**Response:**

The Authority funds educational support that is additional to those services the participant is entitled to under applicable state or federal legislation. The Authority should not be seen as the main funder of educational support services, rather our funding "tops up" the services the participant receives through the various educational support services. Since October 2008, the Authority has funded education support services for 35 participants, at a total cost of \$401,215.

It should be noted that requests for education support services are completed by the school, rather than a clinician. This ensures that the most up to date information and progress is reported to the Authority and assists in clarifying the school's role as a provider of services. This also allows the Authority to ensure that all other sources of funding have been excluded prior to the Authority funding education support services. The level of funding a participant may be eligible for under other funding schemes can change over time and there are variations between rural and metropolitan schools.

LTCS participants needing educational support services should have their support requirements reviewed in line with their rehabilitation goals and individual educational plan (IEP). Due to age, development and changing expectations in the school setting, this review should occur regularly, particularly during the early years following injury and at key transitions. Typically educational support services are approved for a period of 1-2 school terms. In cases where a participant's educational needs have stabilised the Authority is willing to consider approving services for longer period.

**Recreation and leisure activities and physical exercise programs**

**24. In the Government's response to the second review of the LTCSA it noted that the LTCSA was developing a recreation and leisure guideline.**

- a) Can you update the Committee on the development of this guideline?**

**Response:**

The feedback received on the draft Guideline was varied, with many and differing views proffered. Preliminary advice from the actuaries indicated there were significant cost implications in including recreation and leisure activities in the list of services paid by the Scheme.

The Authority has withdrawn the draft Guideline as it is currently working on a alternative approach which considers an assessment of the person in relation to all their activities, the capacity of the participant and local community resources. In the

interim the Authority continues to pay for recreation and leisure when it is part of a rehabilitation program.

- b) Can you comment on the proposal that funding for recreation and leisure activities cover the cost of taxi transportation, removing the need to use attendant care support for transportation?**

**Response:**

The Authority will consider this in its approach to leisure and recreation, however, it should be noted that covering the cost of taxi transportation may not remove a need for attendant care support.

**25. Spinal Cord Injuries Australia state that the LTCSA has not supported the cost of participation in physical exercise programs as a part of rehabilitation from spinal cord injury despite evidence of the benefits of such programs.**

- **Can you comment on this statement?**

**Response:**

The Authority is strongly committed to exercise programs for its participants. The Authority pays the cost of exercise programs, gym memberships, exercise equipment, fitness instructors, physiotherapy input, the time of attendant care workers to assist the participant in their exercises and the travel costs to attend exercise.

The Authority established an Exercise and Fitness Equipment working party with representatives from all the brain injury and spinal cord injury units. This working party met several times throughout 2009 to discuss issues around exercise programs and equipment. Outcomes from this working party included the addition of exercise and rehabilitation equipment to the Equipment Online system, and the acceptance of a guiding document for when gym programs, hydrotherapy programs and personal trainers are indicated in the rehabilitation programs for a person with a brain or spinal cord injury.

**Registry of wheelchair accessible properties**

**26. Spinal Cord Injuries Australia have proposed that the LTCSA develop a registry of wheelchair accessible public and private properties to expedite a person with spinal cord injury's transition from hospital to an appropriate home.**

- **Can you comment on the feasibility and utility of developing such a database?**

**Response:**

The Authority does not consider that its role is to maintain a registry of wheelchair accessible housing.



## **Wheelchair accessible public housing**

- 27. Spinal Cord Injuries Australia have proposed that the LTCSA lobby the NSW Government to ensure that 100% of new public housing funded under the government's public housing initiative include universal design elements and 10% be wheelchair accessible.**
- **Can you comment on this proposal?**

### **Response:**

The Authority broadly supports any proposal to increase the amount of accessible public housing stock.

## **Services for vision impaired people**

- 28. What is your response to Vision Australia's suggestion that the LTCSA adopt the World Health Organisation's International Statistical Classification of Disease and Related Health Problems – 10<sup>th</sup> Revision to classify people with vision loss, thereby ensuring that a person who is not legally blind but has nevertheless suffered significant loss of vision is eligible for the Scheme?**

### **Response:**

The Authority encourages Vision Australia to discuss with it any changes to the eligibility criteria for vision impairment. At the present time the Authority is unaware of any issues with the current definition.

- 29. What is your response to Vision Australia's proposal that expenses associated with the support and care of a person who has suffered sudden blindness, such as ongoing medical costs, mobility and equipment training and counselling for the person and their family, be included in a definition of what is 'reasonable and necessary medical treatment, care and support' under the Scheme?**

### **Response:**

All of the services and items mentioned by Vision Australia are included in the definition of treatment and care services and are currently funded by the Scheme.

## **Participant representation on the LTCSAC**

- 30. The Government's response to the second review of the LTCSA noted that the Minister for Finance had requested the LTCSA to develop a proposal to include two participant representatives on the LTCSAC.**
- **Can you update the Committee on this proposal and on participant representation on the LTCSAC?**

### **Response:**

The Authority has recommended that this proposal be accepted. This requires change to the legislation which will be included when changes are next made to the Act. In the meantime the Authority will continue to arrange and seek feedback from participants on the Scheme.

### **LTCSA Guidelines being ultra vires the Act**

**31. In the second review of the LTCSA the LTSCA indicated it would seek advice on the issue of its guidelines being ultra vires to the *Motor Accidents (Lifetime Care and Support) Act 2006*.**

- **What advice did the Authority receive on this issue?**

#### **Response:**

Rather than seek further legal advice the Authority has amended all of the Guidelines to ensure that they are indicative but do not override the provisions of the Act that services must be reasonable and necessary.

### **Awarded damages being used in divorce settlements**

**32. The Government's response to the second review of the LTCSA indicated that the Attorney General was considering the issue of awarded damages for the future care of injured people being used as part of divorce settlements and other legal settlements.**

- **Are you aware of the outcome of the outcome of the Attorney General's considerations?**

#### **Response:**

At this stage the Authority is unaware of the outcome of the Attorney General's considerations.

### **Claims on insurers outside the LTCS Scheme**

**33. The Insurance Council of Australia (ICA) has raised concerns in relation to some of its members being served with pleadings 'claiming damages in respect of treatment and care needs in addition to those provided under the LTCS Scheme' contrary to the initial intention of the Scheme. The ICA has submitted that part of the problem is the wording of section 130A of the *Motor Accidents Compensation Act 1999* which states what a participant cannot claim but does not specify what they can claim.**

- a) **What is your response to these concerns?**

#### **Response:**

The Authority is aware that there is a view that if a participant is provided with care by a family member that this may be outside of the Scheme and be a ground to seek lump sum damages. As the CTP insurer has not collected premium for this, it is of concern to the Authority that a participant may refuse care so as to provide evidence

for a CTP claim. In addition if such damages were awarded the person could then seek full care under the scheme thereby double dipping.

The Authority asserts that the intention behind section 130A is that a person cannot claim for damages for services provided under the Scheme. If the Authority determines that a set amount of care is to be provided each week and the participant elects not to take this up, but to have it instead provided gratuitously by a family member, the Authority does not believe that this should be a ground on which to seek lump sum damages.

**b) Would the initial intention of the Scheme be served by rewording section 130A to clarify that additional damages cannot be claimed for treatment and care not available under the LTCS Scheme?**

**Response:**

It may be necessary to clarify the original intent of section 130A and this is under consideration.

**34. The Kids Rehab at the Children's Hospital at Westmead has noted that there are instances of 'recommendations from LTCSA for service providers to try and access CTP funds that fall outside their legislative guidelines, but there is resistance from the respective insurers under the CTP systems to cover these costs.'**

- **Are there specific guidelines in place for the management of claimants who need to make claims to both Schemes?**

**Response:**

The LTCSA covers the treatment, rehabilitation and care costs for participants. Where there are other injury related expenses these may be covered by the CTP insurer as part of the claim for economic or non-economic loss. The Authority has met with Kids Rehab to provide information on this issue.

**Involvement of insurers**

**35. What is your response to the Insurance Council of Australia's view that insurers should be involved in determining what sort of care is provided under the LTCS Scheme since this 'has a flow-on effect to the CTP scheme in which our insurers operate'?**

**Response:**

The Authority does not support this proposal. The Authority determines what is 'reasonable and necessary' care for its participants through assessment of each participant's care needs. Any participant who is receiving care for their brain injury or spinal cord injury will probably become a lifetime participant of the Scheme. Therefore, the insurer will not be paying for the care of these participants.

**Medical Care and Injury Service Levy (MCIS)**

**36. The LTCSA's 2008/2009 Annual Report reported that the Authority had reduced the levy on motorists by 2.5% in February 2009 and approved a further 3.5% reduction from August 2009.**

**a) Does this mean that the total Medical Care and Injury Service levies amount was reduced by the above percentages?**

**Response:**

Yes. The levy was reduced by the above percentages.

**b) Can you outline the factors that have allowed this reduction in levies?**

**Response:**

The factors taken into account include: changes in actuarial estimates for future liabilities based on current and predicted experience and the rate of collection of levies from motorists, calculated percentage of insurer premiums. If estimates indicate an over-collection of levies, the Board of Directors can determine to reduce the Levy.

**37. Is the proportion of the MCIS allocated to fund the LTCS Scheme a fixed dollar amount or a percentage? What is this dollar amount or percentage?**

**Response:**

The proportion of the MCIS levy contributing to the LTCS fund is a percentage of the insurer premium [excl GST] for each vehicle class and region rating. It is not a fixed percentage of the total MCIS levy.

**38. In relation to the Motorcycle riders:**

**a) What is your response to the Motorcycle Council of NSW argument that many motorcyclists bear a unfair proportion of the LTCS levy due to accidents involving off-road motorcycling and unregistered/uninsured motorcycles?**

**Response:**

The contribution to the LTCS Scheme is based on the vehicles CTP premium. The effect of accidents on premiums involving off road motorcycling is a question for the MAA.

**b) Do registered motorcycle riders not involved in off-road motorcycling contribute more to the LTCS Scheme than other road users?**

**Response:**

No, the contribution to the Scheme is based on the vehicles' CTP premium.