

Supplementary questions

Physical Disability Council of NSW (PDCN)

12:15 to 12:45 pm

Submission 12 (MAA), Submission 11 and 11a (LTCSA)

1. Do you feel that participants of Lifetime Care and Support Authority (LTCSA) are well represented?

PDCN regularly conducts community consultations in a variety of rural and urban locations with people with physical disability to determine stakeholder needs. Additionally feedback is sought from phone or internet queries, and via the Forum of Organisations conducted twice per annum where organisational members provide comment on issues and concerns.

The Physical Disability Council of NSW (PDCN) has received queries about the following concerns:

- The length of time spent on wait- lists and awaiting approval before initiating new actions has been highlighted as an issue of concern particularly for participants with a recent catastrophic injury. This feedback remains a concern for PDCN.
- The second concern relates to difficulties associated with the resolution of disputes through the provision of information. Though PDCN is aware of improvements in the availability of independent information and advocacy.

2. In your submission to the twelfth review of the Motor Accident Authority (MAA), you stated that inefficiencies have caused frequent delays of three to five years for receiving compensation. What do you see as the main inefficiencies that have caused this and what needs to be done to fix these issues?

The issues paper accompanying this review identifies the following aims to reforms of the NSW compulsory third party insurance scheme;

- Health outcomes are optimised when injured people are assisted as soon as possible.
- A simpler and less adversarial claiming process that encourages early resolution and reduces Scheme costs particularly the need for legal expenses.
- Faster resolution of claims leads to reduced risk for insurers, enabling lower prices, lower and more certain profit margins with fewer opportunities for super-profit.
- Consistency of administration, benefits and dispute resolution with the National Disability Insurance Scheme is desirable.

PDCN is aware of costly lawsuits that may constitute up to approximately 12% of total costs. It is reported that a greater amount is spent on legal expenses than costs associated with health care.¹ The adversarial legal process encourages a drawn out process of litigation, and without this PDCN believes that there would be a greater focus on the health and rehabilitation of participants. The need to prove contributory negligence may delay in the legal process even further, making the need to prove fault even more complex.

PDCN believes that taking an approach that focuses on need, rather than how and where the injury was acquired will reduce frequent delays for participants awaiting benefits, and will enhance psycho- social

¹ Actuarial Institute of Australia- Injury Schemes Seminar (November 2013) Don Ferguson- Lifetime Care and Support. Andrew Nicholls-NSW Motor Accident Authority

adjustments to catastrophic injury. This delay in gaining physical recovery impacts on the successful acquisition of community integration, participation and employment.

3. In your submission you express support for a universal cover, no fault Motor Accidents Compensation scheme. Can you please elaborate on this point?

PDCN supports for universal cover and a no-fault motor accidents compensation scheme. As identified, the principles of such a scheme would include the principles of: community responsibility; complete rehabilitation; real compensation; and administrative efficiency. A no fault Motor Accidents Compensation scheme would focus on need whilst providing the following advantages:

- Universal cover regardless of the cause or type of injury
- A focus on planning for life long needs,
- Minimising the potential of lump- sum payments being inadequate and/or invested poorly to cover all life long expenses
- Cover regardless of access to legal representation
- Greater focus on rehabilitation and adaptive mechanisms to facilitate community integration, participation and employment.

PDCN does not support a policy direction where benefits are reduced or withdrawn. The Productivity Commission report on the National Disability Insurance Scheme recommended that *State and territory governments should create insurance schemes that would provide fully-funded care and support for all catastrophic injuries on a no-fault basis, and that would collectively constitute a National Injury Insurance Scheme (NIIS)*. Recommendation 18.2 of the Disability, Care and Support recommends that *State and territory governments should fund catastrophic injury schemes from a variety of sources including:*

- *compulsory third party premiums for motor vehicle accidents*
- *a small surcharge on passenger tickets of all rail transport regulated under the new rail safety national laws*
- *a modest levy on domestically registered passenger carrying vessels regulated under the Australian Maritime Safety Authority (as the proposed new safety regulator for all commercial shipping in Australian waters by 2013). A small levy on existing state-based registration for privately owned 'pleasure' vessels*
- *a small increase in municipal rates for catastrophic injuries arising for victims of crime and from other general accidents (excluding catastrophic medical accidents)*²

4. Can you please expand on the point in your submission (on page 5) where you say you would like the 'MAA to consider a broad mix of different performance outcomes to be selected according to the particular type of injury and individual need' as opposed to one performance outcome to meet the need of all claimants?

In previous reviews of the MAA, the Law and Justice Committee has identified the need to establish health outcome measures as an indicator of performance. To determine the sustainability of the scheme as a whole, PDCN considers that the immediate and long- term needs of people with life- long injuries need to be considered as part of other key performance indicators already considered by the MAA as important. Hence these key performance indicators include:

- Affordability

² Australian Government Productivity Commission – Disability, Care and Support (2011)

- Effectiveness
- Fairness
- Efficiency

PDCN considers that by only examining health issues in isolation, such as pain and anxiety that these measures do not give a true indicator of an individuals' potential. Due to different injuries and individual circumstances, different people cope in different ways. Hence outcomes need to be determined that gauge individual function and how individual function may impact on different activities of daily living.

PDCN would recommend that the MAA be guided by the Victorian Transport Accident Commission which addresses individual need by using an array of different tools to determine individual function. The Commission identifies a number of clinical assessment tools for each of the following:

- Risk Identification Tools
- Pain
- Upper Limb
- Lower Limb
- Neck and Back
- Mental Health Screening
- Prosthetic/ Orthotic³

Thank you for the opportunity to appear before the Committee, and thank for the opportunity to take questions on notice.

Ruth Robinson
Executive Officer
25 March 2014

³ Victorian Transport Accident Commission- Standard Outcome Measures <https://www.tac.vic.gov.au/providers/clinical-resources/outcome-measures>