DISPUTES ABOUT "MOTOR ACCIDENT INJURY"

To be eligible for the Lifetime Care and Support Scheme (the Scheme):

- you must have had a brain injury, spinal cord injury, burns, blindness or multiple amputations;
- your injury must meet the severe injury criteria;
- your motor accident must have happened in NSW on or after 1st of October 2006, for children or 1st of October 2007 for adults; and
- your motor accident must fall within the legislation that allows you to be eligible for participation in the Scheme.

In order to be covered by the Scheme, the circumstances of the motor accident and the type of motor vehicle must fall within the relevant legislation. This means that despite your injury, you may or may not be eligible for the Scheme depending on the circumstances of your accident, such as where the accident occurred, and the type of vehicle involved.

What happens if I don't agree with the Authority's decision?

There are two options, and you can do both. First, you can ask the Authority to review its decision, or you can lodge a dispute. In both cases, contact the Assessments Manager at the Authority on 1300 738 586.

What is a "motor accident injury" dispute?

This type of dispute is about whether an injury is a "motor accident injury". This may involve legal issues about whether the motor accident or motor vehicle meets the legal definition in order to be covered by the Lifetime Care and Support Scheme.

Such a dispute can only arise after the Authority has notified the injured person in writing as to the Authority's decision on eligibility to the Scheme, including its decision on whether the injury was a motor accident injury, and there is a disagreement about this part of the Authority's decision.

How is this different to a dispute about eligibility?

A 'dispute about eligibility' is whether the motor accident injury satisfies the criteria for eligibility to participate in the Scheme, i.e. whether the injury meets the severe injury criteria. A 'dispute about eligibility' to the Scheme is a medical dispute, so it is assessed by a panel of three assessors **with medical or health backgrounds.** See the Authority's brochure "Resolving disputes about eligibility" for more information.

'Motor accident injury' disputes are a type of dispute about eligibility to the Scheme, but are specifically about whether the injury is a "motor accident" injury. This means there is a question about whether the accident was a "motor accident" within the meaning of section 3B of the Motor Accidents Compensation Act 1999. This might be, for example, because the circumstances of the motor accident, or the motor vehicle involved, does not meet the legal definition in the legislation. A "motor accident injury" dispute is a legal dispute assessed by a panel of three claims assessors who are **legal professionals (solicitors or barristers).**

Who can lodge a 'motor accident injury' dispute?

According to the Motor Accidents (Lifetime Care and Support) Act 2006, this type of dispute can only be referred by an 'interested person' who is affected by the Authority's decision:

- the injured person;
- the insurer of a claim; or
- the Nominal Defendant.

This can only happen after the Authority's written decision about the injured person's eligibility to the Scheme on the basis that the motor accident or motor vehicle does not fall within the legislation.

What information do I need to include?

You will need to explain **in writing** why you disagree with the Authority's decision. You may wish to include copies of documents like your CTP claim form (if you have one) and other supporting material with your application. If the dispute has been referred by another interested person and not by you (the injured person), you will be given:

- a copy of the application for the dispute;
- copies of all documents which have been lodged with the application; and
- an opportunity to submit any other information, such as a written response to the information in the application.

All disputes are handled the same way, regardless of who has lodged the dispute. In every case, the Authority will make sure that everyone involved in the dispute has copies of all documents relevant to the dispute and will be given the opportunity to provide any other relevant information.

Who assesses the dispute?

The dispute will be referred to the Principal Claims Assessor at the Motor Accidents Authority under Part 4.4 of the Motor Accidents Compensation Act 1999. The Principal Claims Assessor then convenes a panel of three claims assessors to determine the dispute. The claims assessors are experienced legal professionals (solicitors or barristers) with expertise in assessing legal disputes.

How will the panel assess the dispute?

Some disputes can be assessed from the information provided, without need to talk to you (the injured person) or the person who requested the dispute to be referred to the panel.
In some cases, the panel may need more information about the accident in writing or by talking to people involved, which might include you, the insurer, the Nominal Defendant, or any witnesses to the accident. If this happens you will be told what information is needed.

People involved in the dispute may want to talk to the panel of assessors, or forward information to the panel to be considered when making their decision. If this occurs then the Authority will make any arrangements that need to be made to allow this to happen. It is very important that the panel of assessors has access to all information relevant to the accident in order to make the right decision.

The panel's decision

The panel of claims assessors will certify their decision in writing. The certificate will be in two parts, with one part the certificate of determination (the decision). The other part is the reasons for the panel's decision.

The panel's decision is legally binding, and the Authority is bound by this decision. This means that the panel's decision overrides the Authority's decision if there is a different outcome.

What will the panel of claims assessors decide?

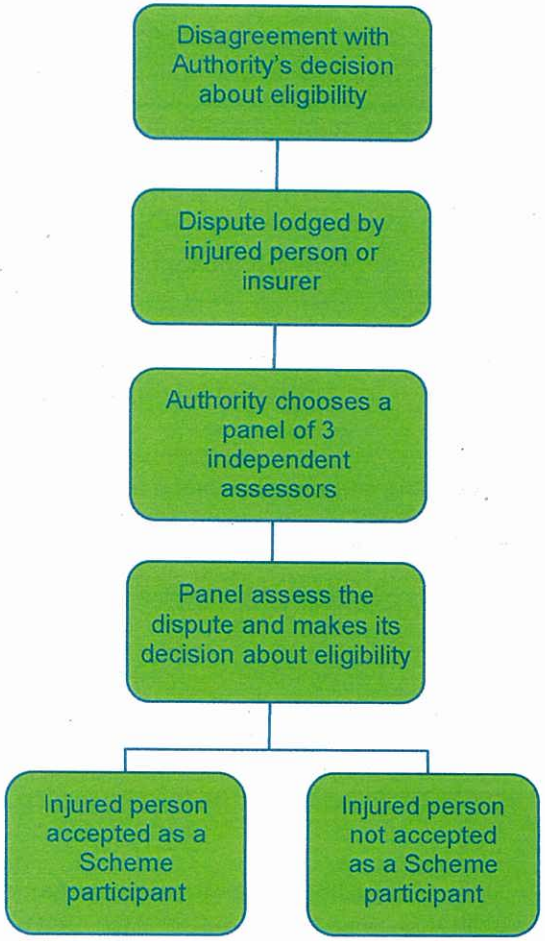
The panel of claims assessors will make a decision on whether the injury is a motor accident injury. Their decision is final and is legally binding. This will mean that the decision made by the panel will affect whether the injured person is eligible to participate in the Scheme on the basis of the 'motor accident'.

The panel will prepare a certificate that confirms their decision in writing. The panel's assessment will also include any reasonable legal costs payable by the Authority to the injured person. If the injured person paid for legal costs, the Authority has to pay the injured person's costs as assessed by the panel, for the legal services they received.

How long will it take?

The dispute may take several months to finalise, and may take longer if all relevant information is not provided with the application. It can also take time for the panel of claims assessors to look at the issues in dispute and make the correct decision. There is no provision in the legislation to appeal the panel's decision, which makes it very important that the correct decision is made.

Process for disputes about eligibility



For more information, contact the
Lifetime Care and Support Authority

Level 24, 580 George Street, Sydney 2000
Phone 1300 738 586 **Fax** 1300 738 583
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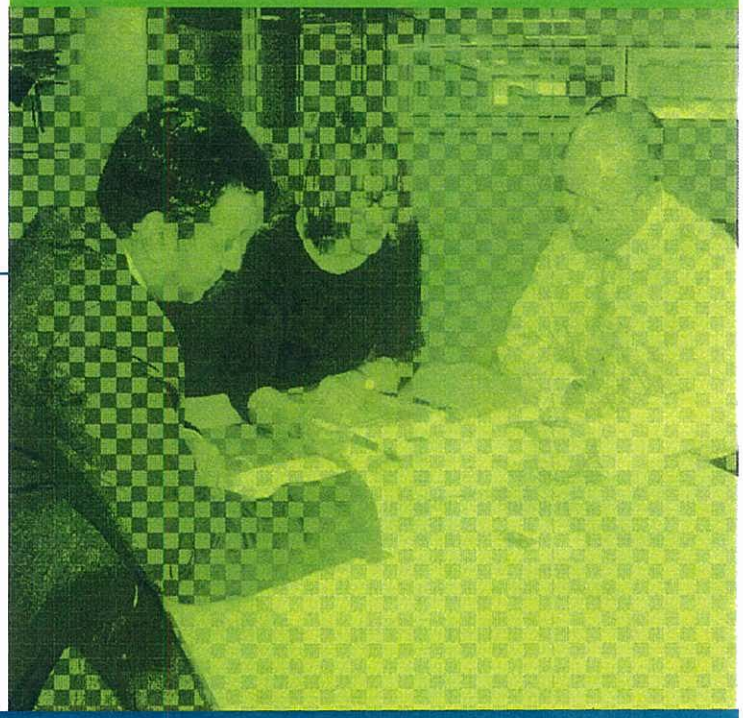
www.lifetimecare.nsw.gov.au

Doc No: DE09/07

Resolving disputes about eligibility

A guide for applicants to the Lifetime Care and Support Scheme



What is a dispute about eligibility?

A person may be eligible for the Lifetime Care and Support Scheme (the Scheme) if they have had a moderate to severe brain injury, a spinal cord injury, severe burns, blindness or multiple amputations from a motor vehicle accident in NSW.

The decision about eligibility for the Scheme is based on the information provided on the application form by the injured person's treating health team, including the medical certificate signed by the treating specialist.

In making its decision, the Authority reviews this information and assesses whether the injured person meets the eligibility criteria in the Lifetime Care and Support Guidelines. A dispute occurs when someone disagrees with the Authority's decision about eligibility.

Who can lodge a dispute?

You (the injured person) or an insurer can lodge a dispute. You can only lodge a dispute after you have received the letter from the Authority with the decision about your eligibility.

How do I lodge a dispute?

Write a letter to the Authority, explaining why you disagree with the decision. In the letter, you should explain why you think you meet (or do not meet) the eligibility criteria in the Lifetime Care and Support Guidelines.

To find out more about lodging a dispute, contact the Assessments Manager at the Authority on 1300 738 583.

Who will assess the dispute?

The Authority will choose three assessors who can best resolve the dispute who will form a panel. This panel of assessors will assess the dispute and make a decision. None of the assessors on the panel will have assessed or treated you before.

All dispute assessors are medical and health professionals, independent from the Authority. Assessors have extensive experience working with people with severe injuries.

The panel will jointly make a decision about the dispute. This decision is legally binding, which means that you and the Authority have to accept the panel's decision.

How will the panel make a decision?

Firstly, the panel reads the information provided about the dispute. The panel then decides how to assess the dispute. They may decide to examine you and talk to people involved in your care, such as family members and your treating health team..

Can I give information to the panel?

Yes. You, your insurer or solicitor can give information to the panel. This should be in writing and sent to the Assessments Manager at the Authority.

You should send any information to the Authority as soon as possible, so it can be sent on to the panel before it starts its assessment. This is important, because your information might affect how the panel decides to assess the dispute.

Who will see the information I provide?

The Authority will send your information to the panel. They will see all the information you provide.

If there is someone else involved in the dispute (another party) such as a Compulsory Third Party (CTP) insurer, they will be sent a copy of any information you provide. You will be sent a copy of any information they provide.

How long will it take?

This will depend on the information available and what information the panel needs in order to make its decision.

Disputes about eligibility may take months to resolve because of the time needed to gather information or to complete assessments to ensure the correct decision is made.

What happens next?

After the assessment, you will receive the panel's decision (called the "certificate") in writing, which will include reasons for the decision. The decision is legally binding and can only be reviewed on certain grounds. For more information about reviews, contact the Assessments Manager at the Authority.

How does the Authority decide what is "reasonable and necessary"?

When making a decision, the Authority thinks about:

- the benefit that you will gain
- the appropriateness of the treatment to your injury
- the appropriateness of the provider
- the relationship to the accident
- cost effectiveness.

Treatment or care, or any other service, may be requested to:

- increase your independence or mobility (e.g. equipment)
- help you communicate
- relieve your pain or discomfort (e.g. surgery)
- allow you to return to school or work safely
- provide more information about your health (e.g. an assessment or x-ray).

The Authority looks at each request on a case by case basis, because what is "reasonable and necessary" differs between people. This means what is reasonable and necessary for one person - even with the same type of injury that you have - may not be reasonable and necessary for you.

For more information, contact the Lifetime Care and Support Authority

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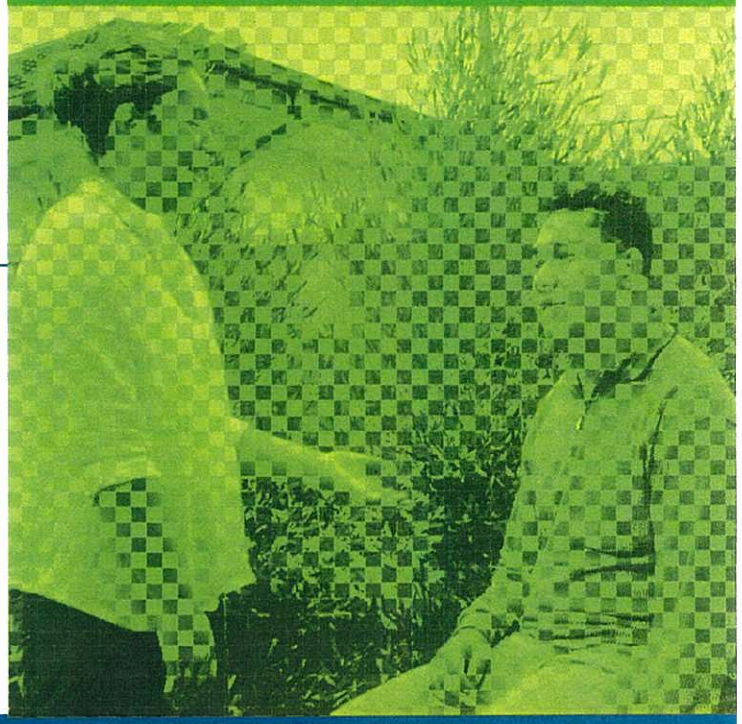
Doc No: DT09/07

Resolving disputes about treatment and care needs

A guide for participants of the Lifetime Care and Support Scheme



The Lifetime Care and Support Authority (the Authority) will pay for treatment, rehabilitation and care services to meet your needs. These services must be "reasonable and necessary". Services must be related to your injury and help you achieve your goals. For example, you may want services to help you:

- be more independent
- return to work or study
- participate more in the community
- participate in leisure activities.

Your LTCS coordinator will talk to you about the services you receive and how the Authority makes decisions about them.

How are services requested?

Services will usually be requested for you by your treating health team and may be part of a plan. After a service is requested for you, you will receive a letter from the Authority explaining what will be paid for and the reasons why. If you don't understand what is in the letter, or don't agree with what it says, talk to your LTCS coordinator.

What is a dispute?

A dispute is when you disagree with the Authority's decision about your treatment, rehabilitation or care.

Disputes are different to complaints. Refer to the "Complaints" brochure if you are not happy with a service the Authority pays for.

The Authority has not approved something that I think I need... What should I do?

Firstly, talk to your LTCS coordinator, or contact the Assessments Manager at the Authority on 1300 738 586. They might contact other people involved with you, such as your family or the service provider who requested your treatment. A meeting might be arranged to allow everyone to talk about the issues together and agree on solutions. If the issue is not resolved, you can lodge a formal dispute. This needs to be done within 28 days of receiving the Authority's letter.

Who can lodge a dispute?

You (the participant), or someone on your behalf, can lodge a dispute.

To lodge a dispute, write a letter to the Authority explaining why you disagree with the Authority's decision. Contact the Assessments Manager at the Authority if you need help with this. You should attach any information that is relevant to the dispute. The dispute will then be resolved by an independent assessor.

What is a dispute assessor?

A dispute assessor is a doctor or health professional, independent from the Authority. The dispute assessor will make a decision to resolve the dispute. The dispute assessor will be someone who you don't know, who has not assessed or treated you before.

The assessor is an expert in their field and is chosen depending on your injury and the issue in dispute.

How does the assessor decide?

Firstly, the assessor reads the information provided about the dispute. The assessor then decides how to assess the dispute. Sometimes they will need to examine you and talk to you or your family. They might need to ask you, your family or your treating health team some questions in order to get the information to make their decision.

If the assessor needs to examine you, the Authority will let you know what is involved and what will happen.

If you have information you think the assessor should consider before making their decision, put this in writing. Send it to the Authority as soon as possible, so it can be sent on to the assessor. This is because your information might affect how the assessor decides to assess the dispute.

What happens next?

You will receive the assessor's decision (called the "certificate") in writing, which will include reasons for the decision. The assessor's decision is legally binding, which means you and the Authority have to accept the assessor's decision. The Authority will pay for all the treatment or care the assessor decides is reasonable and necessary.

	Class	LTCSA levy rates - 1 July 2010				
		Metro	Outer Metro	Newcastle / Central Coast	Wollongong	Country
	1	23.0%	28.0%	30.5%	27.3%	31.5%
	3d	1.0%	3.0%	2.3%	2.3%	15.9%
	3e	2.4%	3.4%	2.8%	2.8%	5.9%
	5	37.9%	44.4%	42.9%	42.9%	40.1%
	6a	5.0%	6.8%	1.0%	5.4%	7.2%
	6b	6.2%	7.8%	7.5%	6.2%	7.7%
	6c	16.7%				
	6d	23.0%	25.0%	25.8%	23.4%	28.2%
	6e	23.0%	25.0%	25.8%	23.4%	28.2%
	7	8.3%	4.0%	8.3%	8.3%	4.0%
	8	23.0%	25.0%	25.8%	19.5%	28.2%
	9a	22.7%	22.7%	22.7%	22.7%	22.7%
	9d	24.1%	24.2%	23.3%	21.9%	25.8%
	9e	0.5%	2.2%	1.3%	1.3%	14.6%
	9f	2.0%	3.4%	2.5%	2.5%	5.9%
<=225cc or Electric motorcycles	10d	29.1%	31.3%	31.3%	32.4%	31.5%
226 - 725cc	10e	35.9%	39.5%	40.3%	40.5%	39.5%
726 - 1125cc	10f	37.4%	44.1%	42.4%	42.5%	44.2%
1126 - 1325cc	10g	27.2%	36.4%	34.3%	34.7%	33.7%
>1325cc	10h	31.5%	40.1%	37.9%	38.1%	38.2%
	11	24.5%				
	12a	20.8%	22.2%	23.0%	21.8%	23.0%
	12b	27.5%	27.5%	27.5%	27.5%	27.5%
	13	19.9%	23.2%	21.8%	20.8%	24.9%
	14	25.7%	27.5%	27.5%	27.5%	27.5%
	15a	27.5%	27.5%	27.5%	27.5%	27.5%
	15c	8.6%	12.1%	13.5%	13.5%	13.5%
	17	16.6%	16.9%	16.6%	16.6%	17.6%
	18a	13.5%	15.9%	14.8%	13.7%	19.5%
	18b	27.5%	27.5%	27.5%	27.5%	27.5%
	18c	27.5%	27.5%	27.5%	27.5%	27.5%
	19	27.5%	27.5%	27.5%	27.5%	27.5%
	20	27.5%	27.5%	27.5%	27.5%	27.5%
	21	12.9%				

Lifetime Care and Support Authority of NSW

Participant statistics:
20 May 2010

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Scheme participant numbers
as at 21 May 2010

- **379** participants in the Scheme
  - 50 lifetime participants
- 46 paediatric participants (under 16)
  - 30 male (3 not lifetime participant)
  - 16 female
- 333 adult participants (14 not lifetime participant)
  - 232 male (6 deceased)
  - 101 female (2 deceased)

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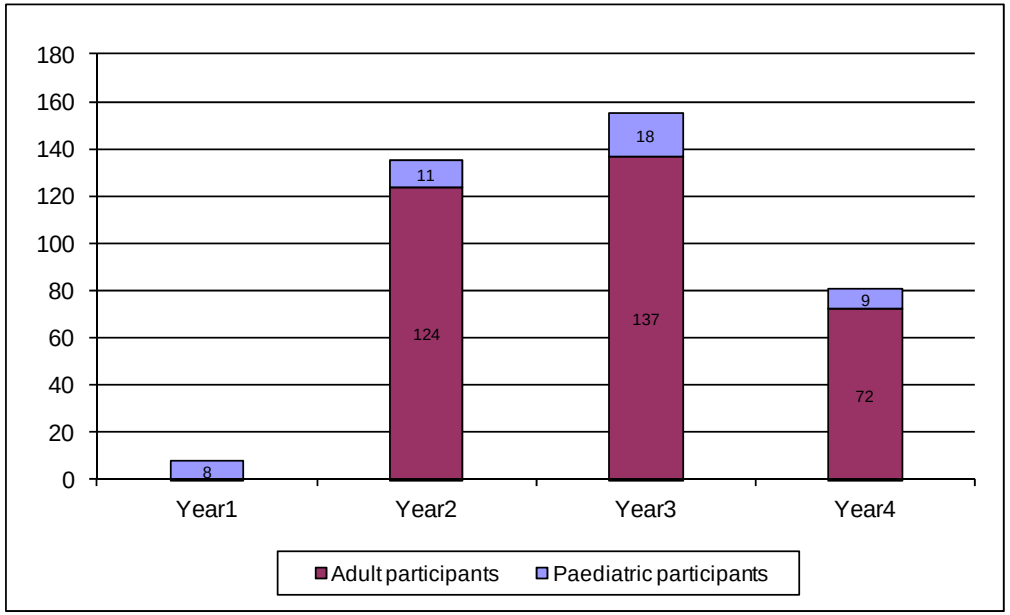
Scheme participant numbers

	Accident year				
	Year1	Year2	Year3	Year4	All
Paediatric participants	8	11	18	9	46
- Lifetime participants	*8*	*4*			*12*
- Not Lifetime participants	*1*	*2*			*3*
Adult participants		124	137	72	333
- Lifetime participants		*38*			*38*
- Not Lifetime participants		*14*			*14*
- Deceased participants		*4*	*1*	*3*	*8*
All participants	8	135	155	81	**379**

Accident years: 01 Oct - 30 Sep

Data as at 21 May 2010



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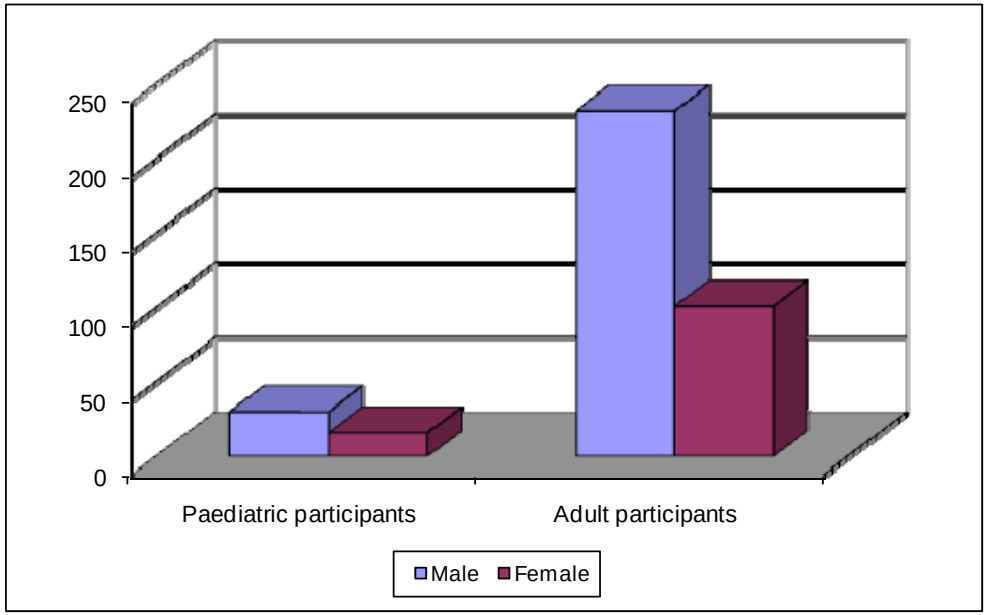
Scheme participant numbers

	Gender				
	Male		Female		All
Paediatric participants	30	65.2%	16	34.8%	46
Adult participants	232	69.7%	101	30.3%	333
All	262	69.1%	117	30.9%	**379**



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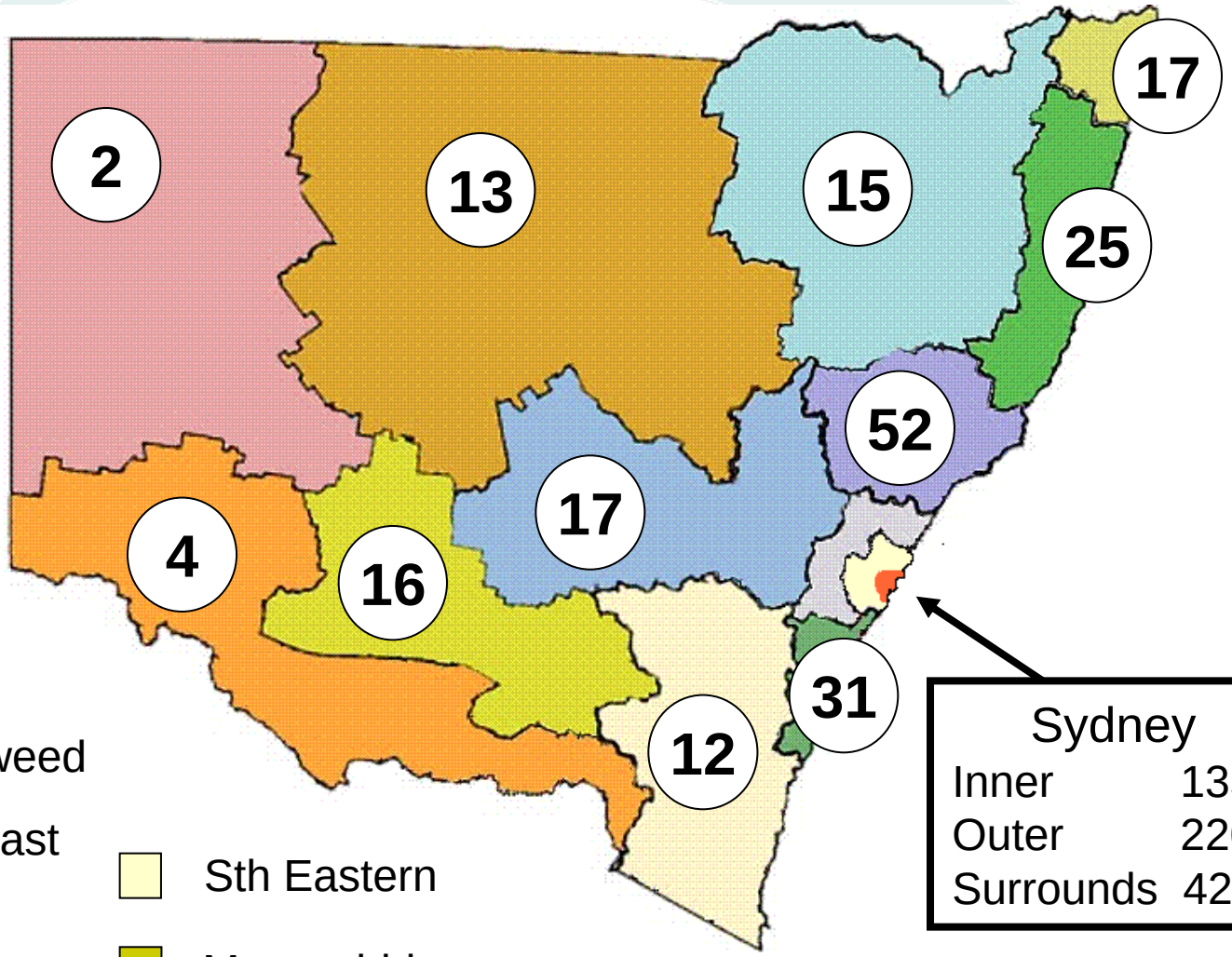

- Far West
- Nth Western
- Northern
- Richmond-Tweed
- Mid North Coast
- Hunter
- Central West
- Illawarra
- Sth Eastern
- Murrumbidgee
- Murray

Sydney	
Inner	135
Outer	220
Surrounds	42

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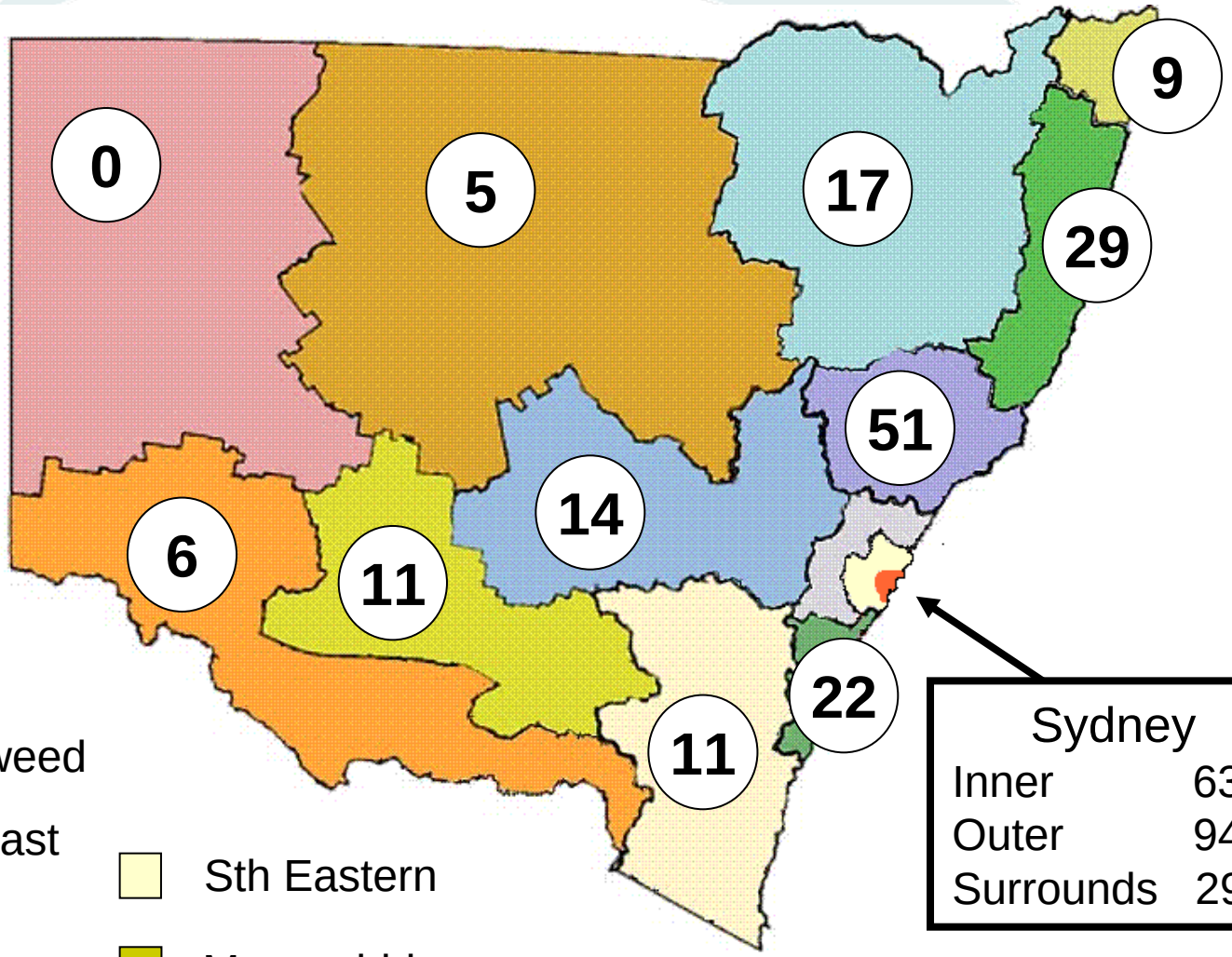
Expected first 600 participants (after 6 years)



- Far West
- Nth Western
- Northern
- Richmond-Tweed
- Mid North Coast
- Hunter
- Central West
- Illawarra
- Sth Eastern
- Murrumbidgee
- Murray

Sydney	
Inner	63
Outer	94
Surrounds	29

as at 21 May 2010

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Scheme participants: injury type

as at 21 May 2010

- Paediatric (46)
  - 40 traumatic brain injury
  - 6 spinal cord injury (incl. 1 brain injury)

- Adult (333)
  - 258 traumatic brain injury
  - 69 spinal cord injury
  - 1 traumatic brain & spinal cord injury
  - 3 amputations (2 bilateral LL amputee, 1 hindquarter amputation)
  - 2 severe burns (1 with spinal cord injury)

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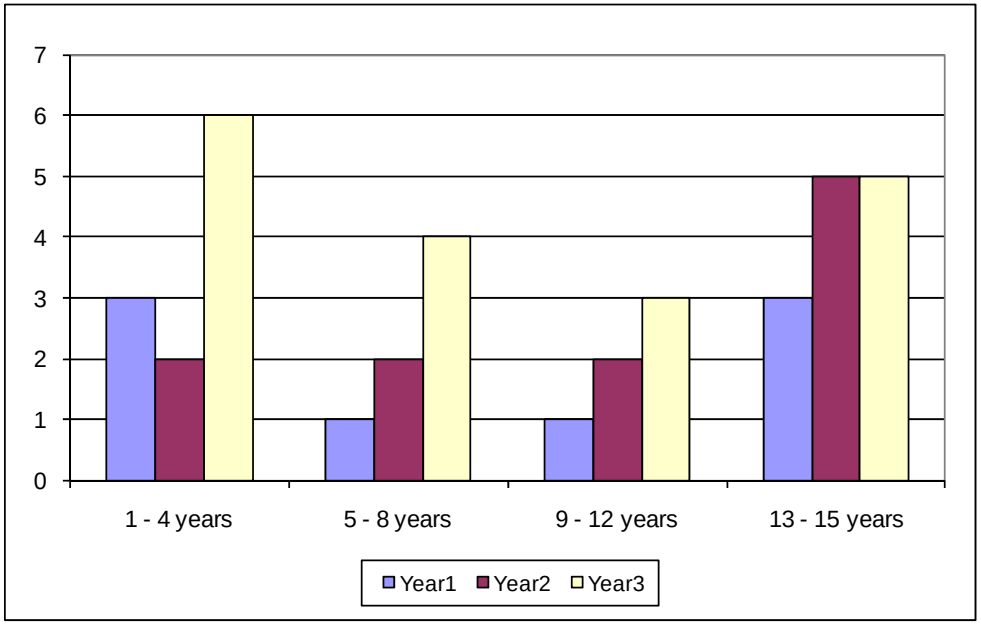
Age distribution: paediatric participants as at 21 May 2010

	Accident year				
Age at injury	Year1	Year2	Year3	Year4	All
1 - 4 years	3	2	6 .		11
5 - 8 years	1	2	4	1	8
9 - 12 years	1	2	3	4	10
13 - 15 years	3	5	5	4	17
All	8	11	18	9	46



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Participant role in accident

as at 21 May 2010

Paediatric

Role in Accident	Total	%
Passenger	24	52.2%
Pedestrian	13	28.3%
Cyclist	4	8.7%
Driver	2	4.3%
Other	2	4.3%
Motorcycle rider	1	2.2%
All	46	100.0%

Adults

Role in Accident	Total	%
Driver	114	34.2%
Motorcycle rider	78	23.4%
Passenger	64	19.2%
Pedestrian	62	18.6%
Cyclist	11	3.3%
Pillion passenger	3	0.9%
Other	1	0.3%
All	333	100.0%

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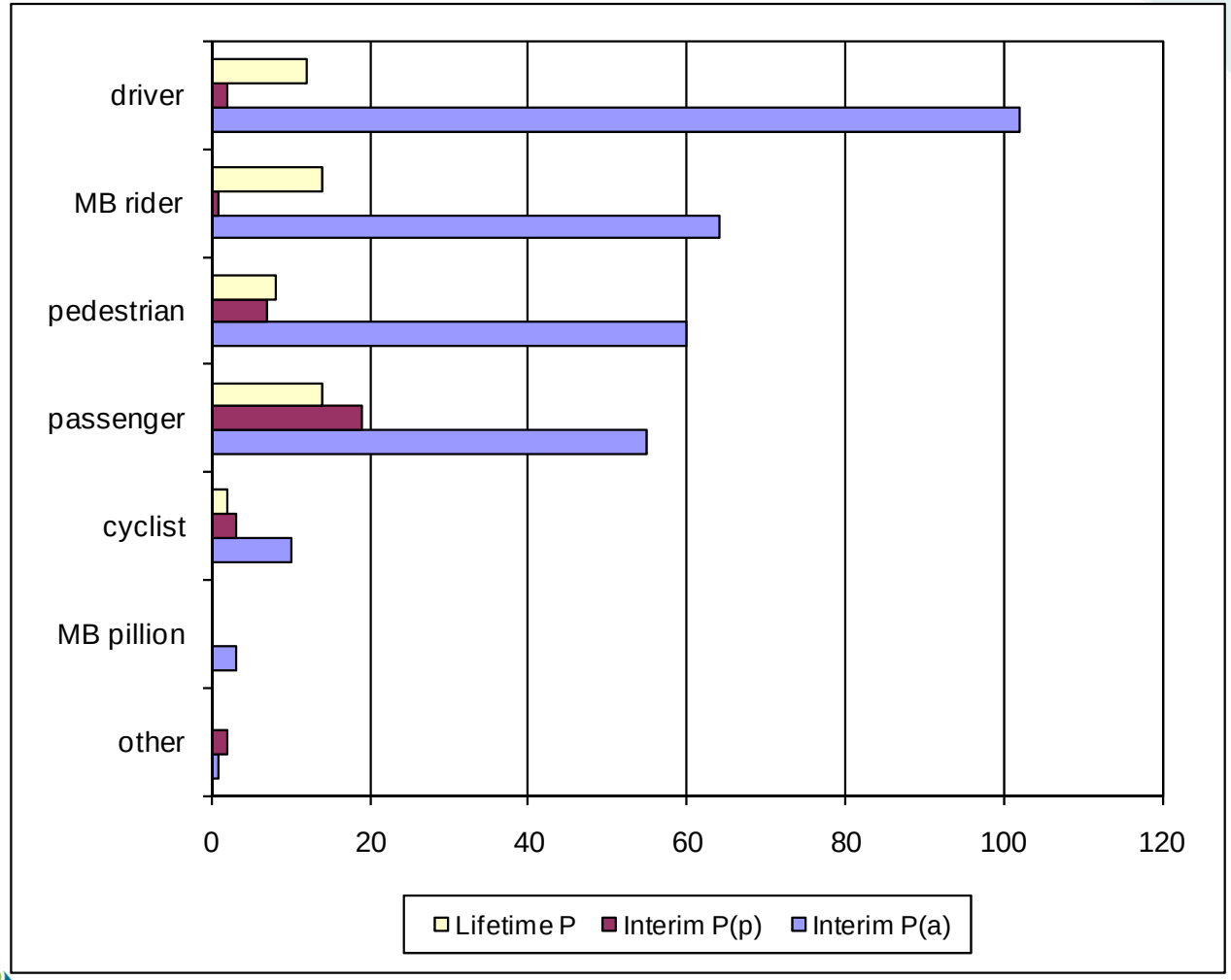
Participant role in accident

as at 21 May 2010



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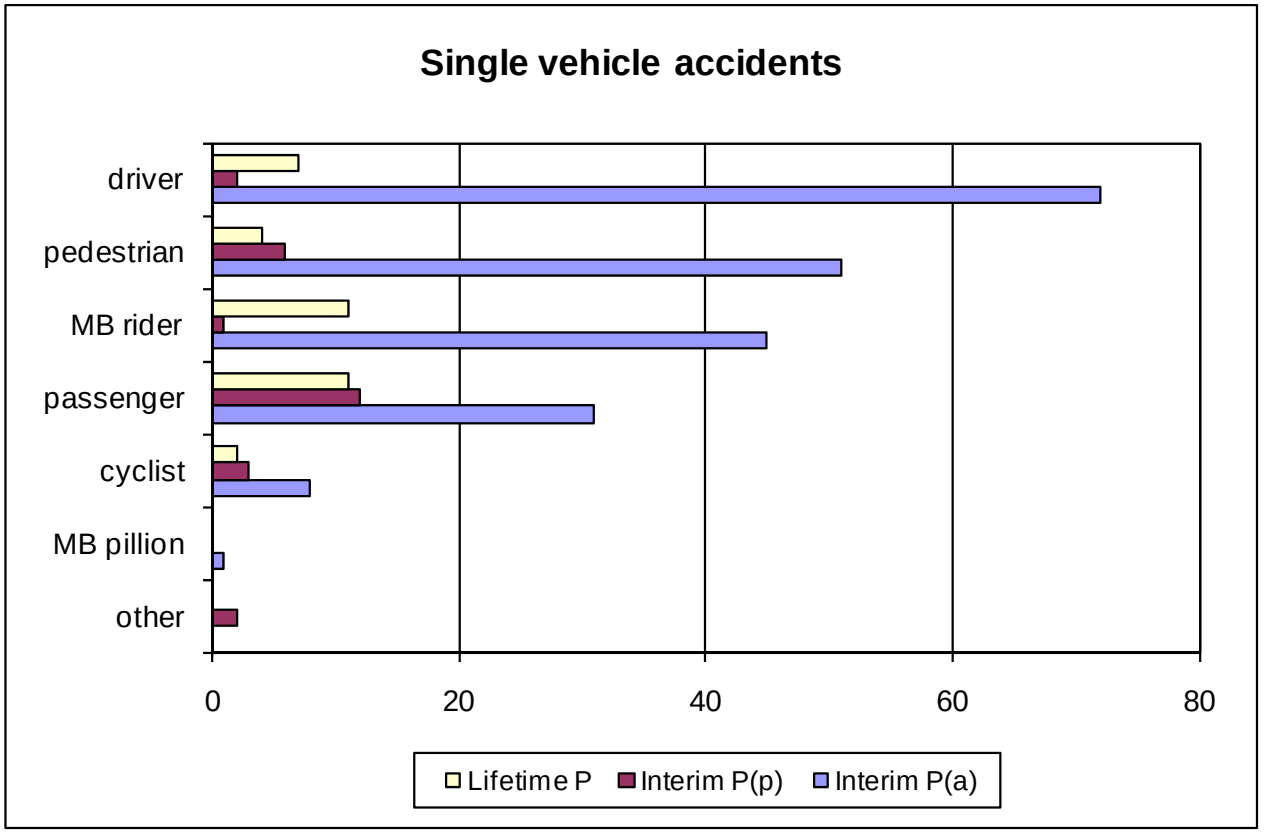
Participant role in single vehicle accidents as at 21 May 2010



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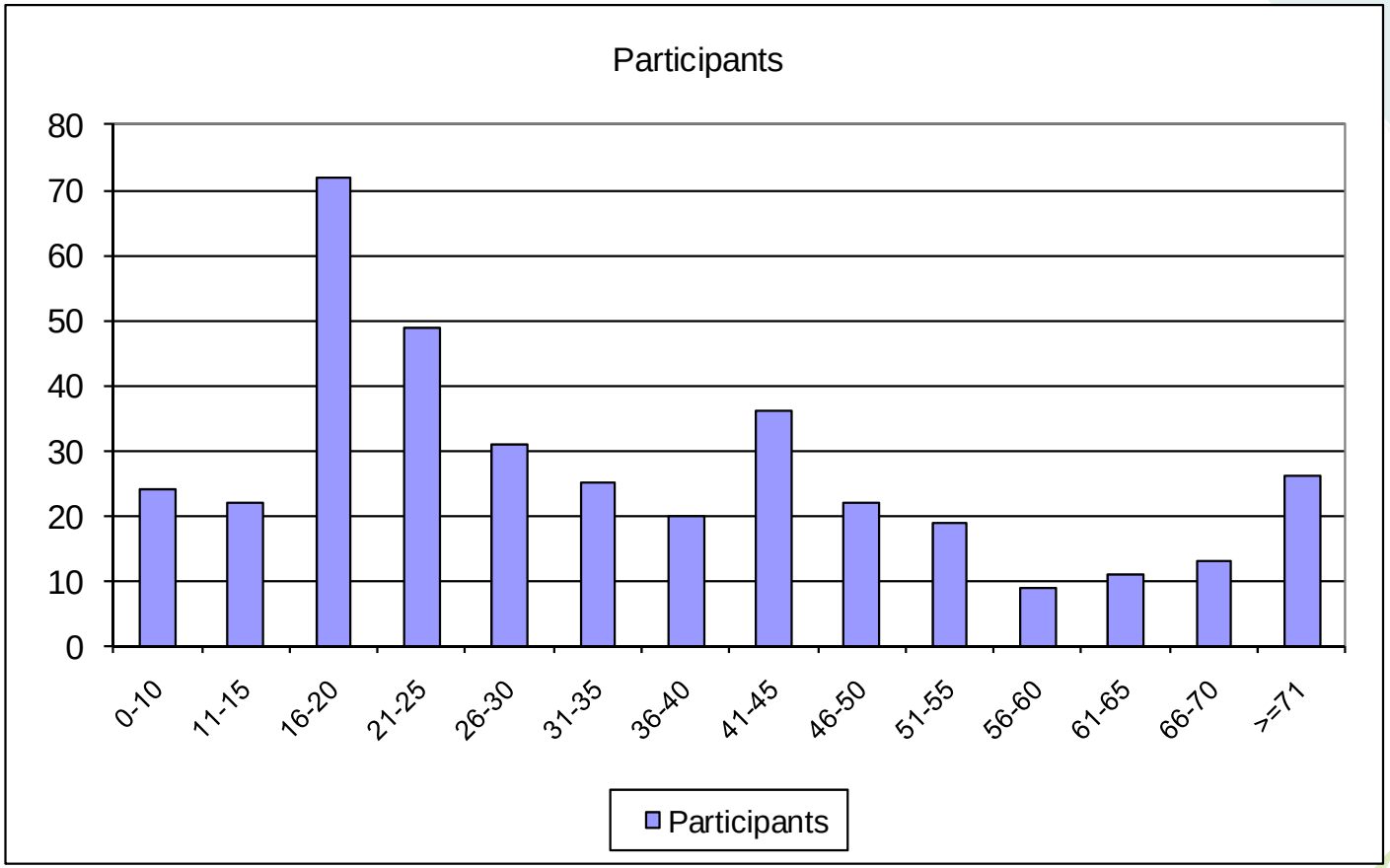
Scheme participants: Age

as at 21 May 2010



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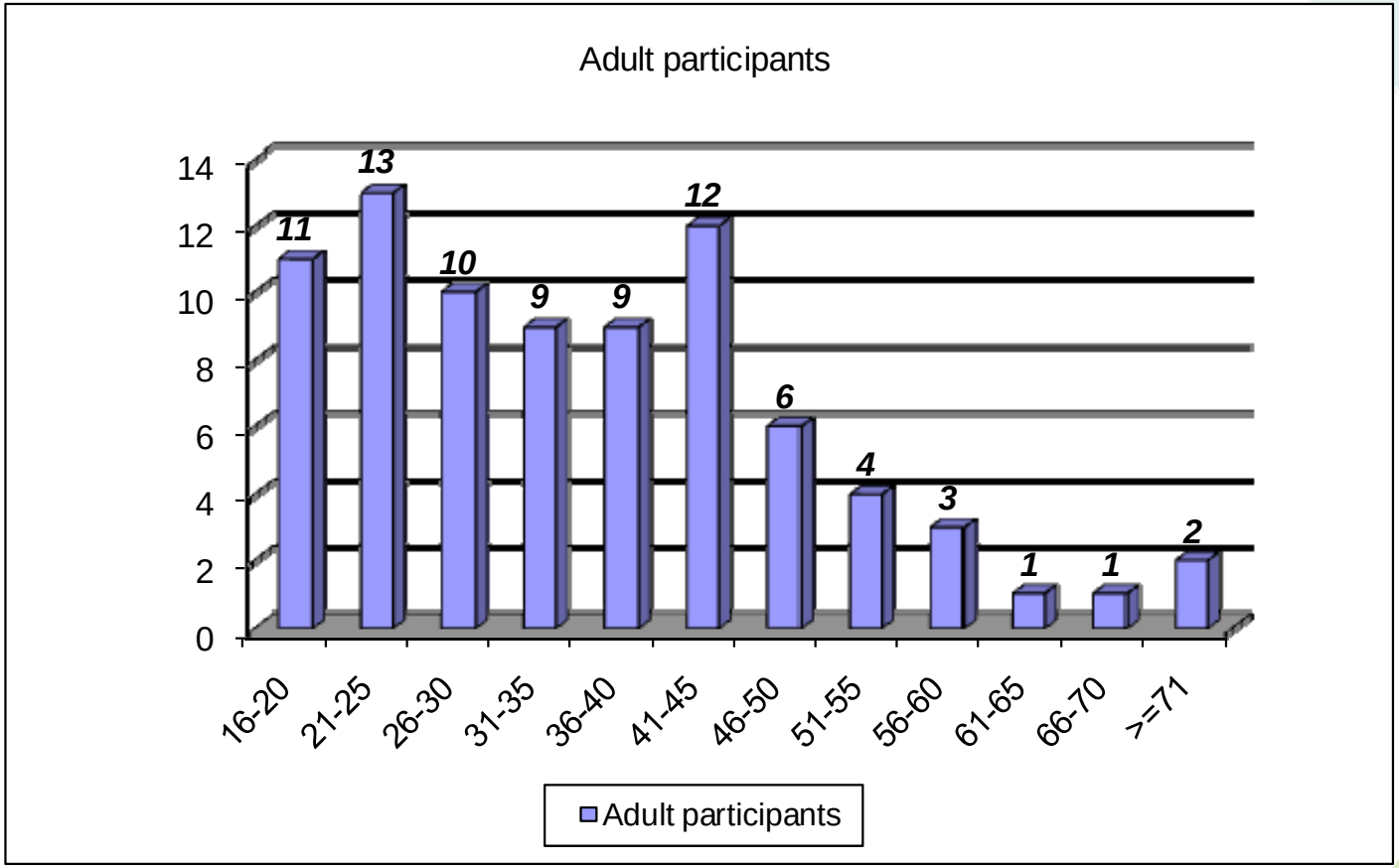
Motorcycle riders (incl. pillions)

as at 21 May 2010



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Participants with brain injury

as at 21 May 2010

It is expected that the CANS level for most participants with a brain injury will improve. Participants with an initial CANS level of 7 (24 hours of care a day) may improve to CANS level 4 (up to 11 hours of care a day). Those with CANS level 0 to 3 may no longer be eligible for the Scheme at 2 years.

CANS level (incidence)	Expected*	Actual	
		Yr2	Yr3
7 - 24 hour care / day	9	11	23
6 - 20 - 23 hour care / day	5	5	8
5 - 12 - 19 hour care / day	8	6	9
4 - 11 hour care / day	21	21	51
3 - Can be left alone for few days a week	23	17	27
2 - Can be left alone almost all week	7	23	7
1 - Can live alone	10	13	6
0 - Community living	28	1 .	
All	111	97	131

* Actuarial valuation of outstanding claims liability as at 30 June 2009 - PWC

Actual numbers for Year 2 (01/10/2007-30/09/2008)

Year 3 (01/10/2008-30/09/2009)

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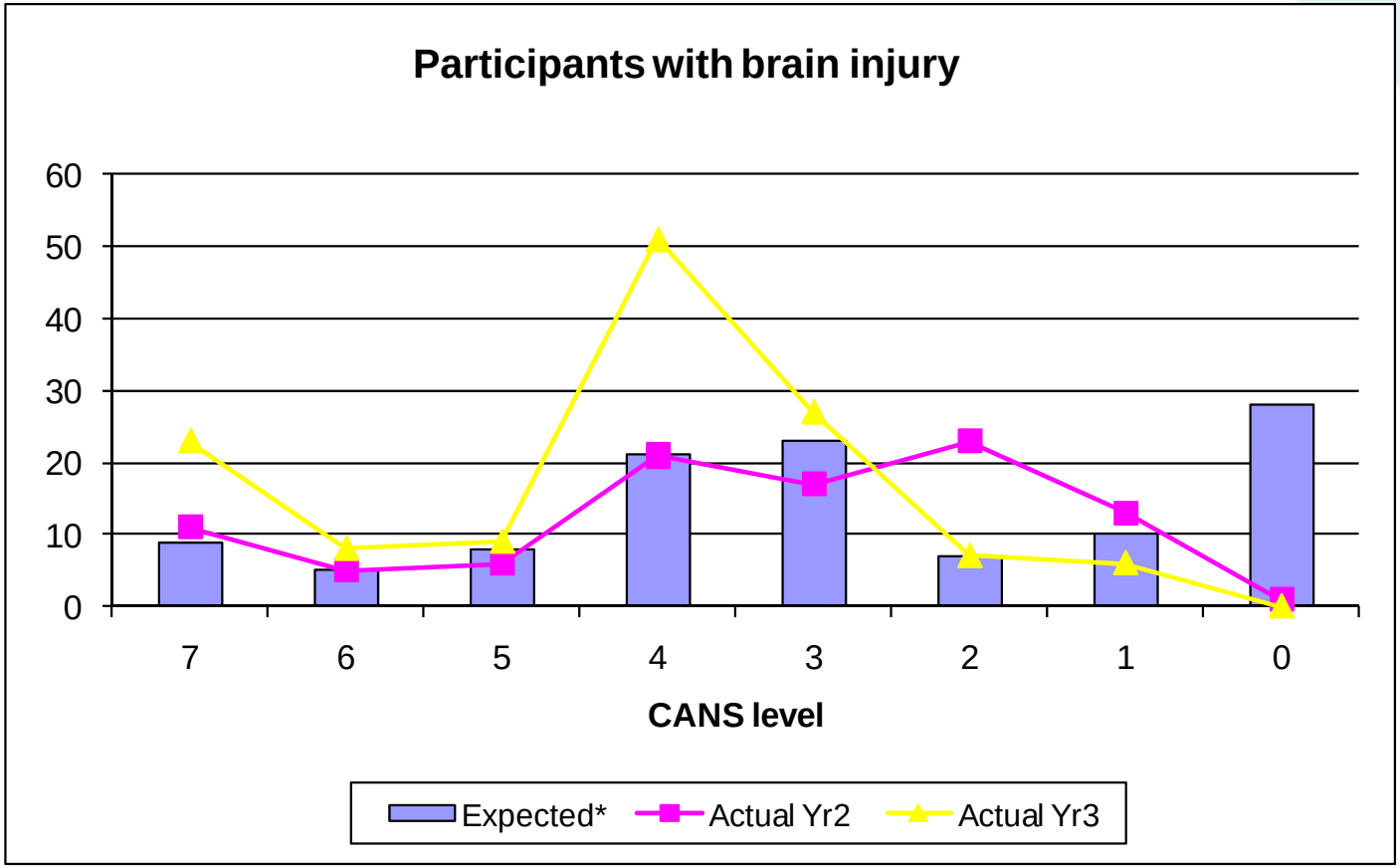
Participants with brain injury
as at 21 May 2010



CANS level (incidence)

7 - 24 hour care / day
6 - 20 - 23 hour care / day
5 - 12 - 19 hour care / day
4 - 11 hour care / day
3 - Can be left alone for few days a week
2 - Can be left alone almost all week
1 - Can live alone
0 - Community living

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Participants with SCI
as at 21 May 2010

Level (incidence)	Expected*	Actual	
		Yr2	Yr3
C1-3	1	6	0
C4	4	2	5
C5	6	4	4
C6	6	1	1
C7	1	1	1
C8	1	0	0
T1	1	2	0
T2	1	1	1
T3	1	1	4
T4	1	3	1
T5	1	0	1
T6	1	0	0
T7	3	0	1
T8-T12	3	9	5
L1+	5	6	1
All	36	36	25

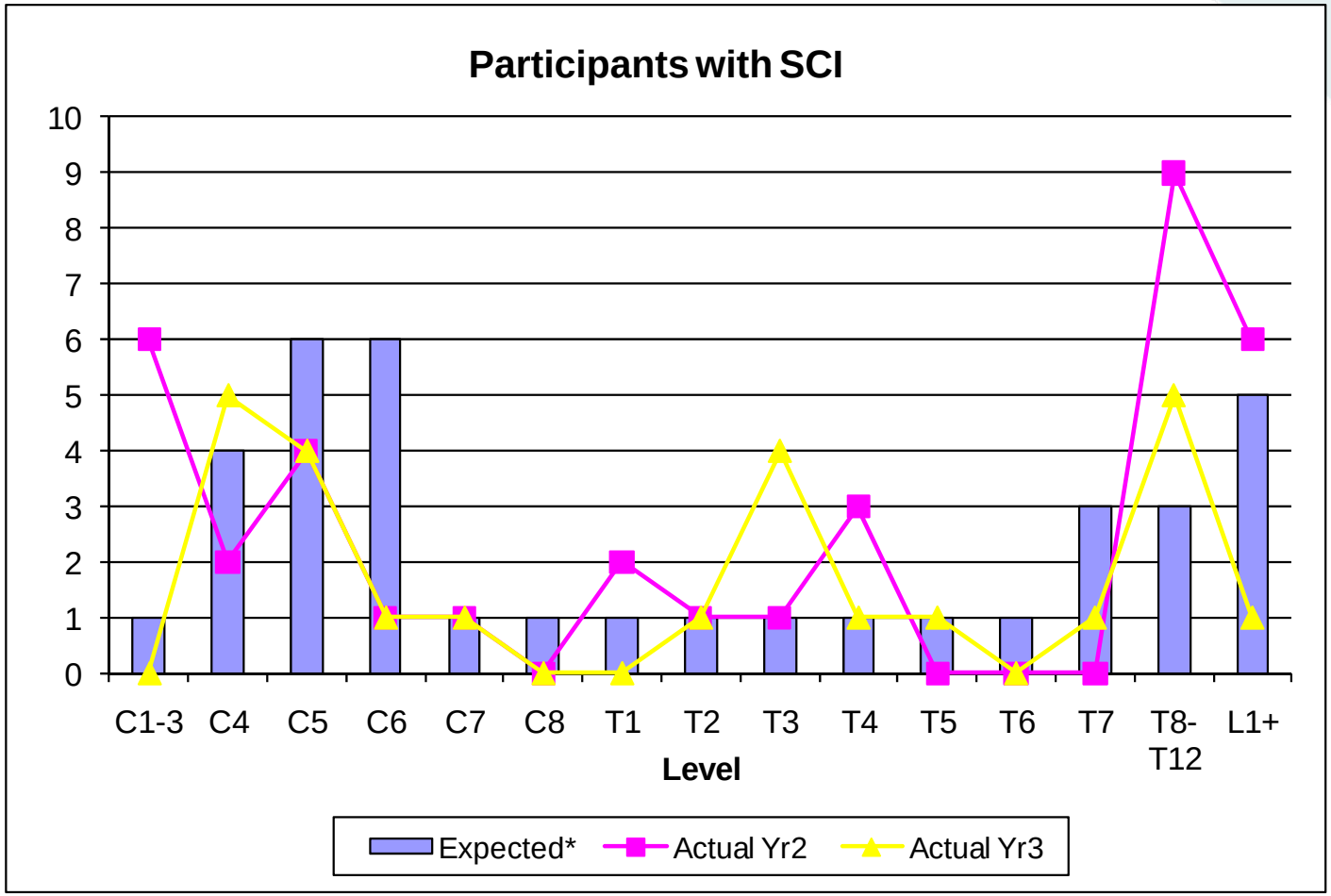
* Actuarial valuation of outstanding claims liability as at 30 June 2009 - PWC

Actual numbers for Year 2 (01/10/2007-30/09/2008)

Year 3 (01/10/2008-30/09/2009)

lifetime care & support

Participants with SCI
as at 21 May 2010



lifetime care & support