

**INQUIRY INTO REVIEW OF THE MAA AND THE MAC -  
EIGHTH REVIEW**

**Organisation:** Law Society of NSW  
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**Position:** President  
**Date received:** 22/08/2007

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To: Rachel Callinan Director  
Fax: 9203 3416  
Organisation: Legislative Council  
Department: Standing Committee on Law & Justice  
From: SHERIDA CURRIE  
Department: PRACTICE  
Fax: 9233 7146  
Date: 22 August 2007  
Pages to follow: 3

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**Subject:** Eighth review of the exercise of the functions of the  
MAA and MAC

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**Message:**

Dear Rachel

Supplementary submission follows. Thank you for your indulgence.

Regards,

SHERIDA CURRIE  
Senior Legal Policy & Research Officer  
Practice Department

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Our Ref: GJD:SRC:MotorAccidents2007(F5/D19)(6292)

22 August 2007

Ms Rachel Callinan  
Director  
Standing Committee on Law and Justice  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

**BY FAX: 9230 3416**

Dear Ms Callinan

**Re: Eighth review of the exercise of the functions of the MAA and MAC**

Further to the submission made by the Law Society's Injury Compensation Committee forwarded to you on 21 August 2007, the Injury Compensation Committee appreciates the opportunity to make a supplementary submission.

By way of introduction, the Standing Committee should be aware that the Injury Compensation Committee has had the opportunity of reviewing the Submissions made by the Bar Association and is in general agreement with those Submissions.

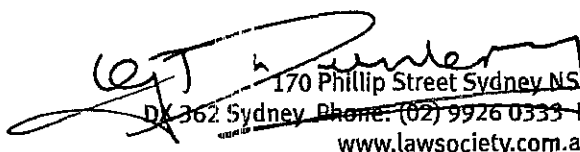
The following additional matters are presented for consideration by the Standing Committee.

**A. VARIATIONS IN "OBJECTIVE" ASSESSMENTS BY MAS ASSESSORS**

It is not uncommon for MAS assessments, including those where Reviews take place, for the assessments made of Whole Person Impairment (WPI) to vary significantly among assessors. Noting that the system adopted is intended to improve consistency, these variations in assessments are of real concern.

Clearly there is a need for greater consistency amongst MAS Assessors as well as ongoing training and review of their performance.

It is also of concern that a number of MAS Assessors would appear to consistently assess WPI at either nil or at a lower level than other assessors. Whilst this may not impact on a claim exceeding the 10% WPI threshold, it can impact on assessment of other heads of damage.

  
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## **B. COSTS**

- (i) The Law Society's Injury Compensation Committee is currently assisting the Motor Accidents Authority in a Study of the Impact of the Costs Regulation on Claimants. It is anticipated that this review may well demonstrate that insurers are being unfairly subsidised by injured claimants.
- (ii) The cost of medical reports, many of which are regulated in the Costs Regulation, generally far exceed the amount that can be recovered under the Regulations (\$677.00 plus GST). It is not unusual for the cost of a report from a Qualified Specialist to exceed \$1,500.00. Even the cost of treating doctor's reports, which should not exceed \$326.00, may well cost up to that amount.

This situation is compounded by insurers who do not request reports from treating doctors as required by the Guidelines. Indeed it is not uncommon for insurers to rely on their own doctors rather than meet the cost of obtaining reports from treating doctors who would normally provide a much fairer and better informed assessment of the claimant's ongoing disabilities and impairment.

A combination of these factors can severely prejudice claimants. Needless to say the situation is far worse when claimants are dealing direct with insurers and do not have the benefit of legal advice.

## **C. INSURERS' PROFITS**

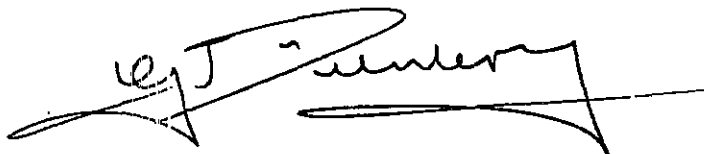
As covered in detail in the Bar Association Submissions, there is an ongoing need to monitor the excessive insurer profits to ensure that the premium collected used to fund appropriate compensation for insured claimants.

## **D. GENERAL**

There is an increasing tendency by insurers to change admissions of liability at a late stage. This can cause practical difficulties to the claimant and can delay the matter significantly.

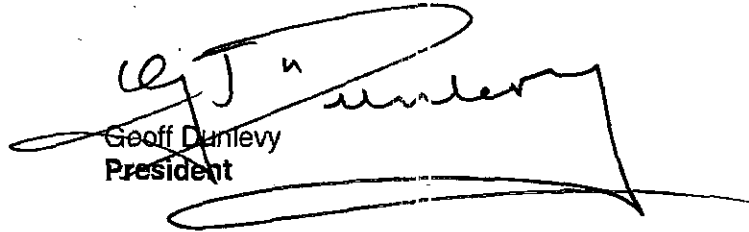
It is essential that this practice and other similar tactics are closely monitored by the Motor Accidents Authority. The Authority should continue to ensure that insurers adhere to the Claims Handling Guidelines and all breaches are referred to the Compliance Division of the Motor Accidents Authority for appropriate action.

The Standing Committee should be aware that the Law Society maintains a close and ongoing relationship with the Motor Accidents Authority. In addition to regular input and meetings on specific issues, the Law Society is also represented on the Motor Accidents Council. The assistance received from David Bowen, General Manager, Cameron Player, Assistant General Manager and Belinda Cassidy, Principal Claims Assessor, amongst others, is much valued.

A handwritten signature in black ink, appearing to be 'D. J. ...', written over a horizontal line.

The Law Society representatives welcome the opportunity of addressing the Standing Committee and addressing any issues arising from the Review.

Yours sincerely



Geoff Dunlevy  
President