

**Submission
No 10**

FIRST REVIEW OF THE LIFETIME CARE AND SUPPORT SCHEME

Organisation: The Law Society of New South Wales

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THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: ICC:PWml1293487

18 May 2017

Committee Director
Standing Committee on Law & Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: lawandjustice@parliament.nsw.gov.au

Dear Director,

First review of the Lifetime Care and Support scheme

The Law Society of NSW welcomes the opportunity to provide a submission to the Legislative Council Standing Committee on Law and Justice's ("Standing Committee") First review of the Lifetime Care and Support scheme. The Law Society's Injury Compensation Committee has contributed to this submission.

New Guidelines

Representatives of the Law Society met with the Lifetime Care and Support Authority ("Authority") at their offices on 19 December 2016 with regard to the new Guidelines. The Law Society has not received any further update since this meeting. We are concerned about the lack of progress made on these Guidelines.

Role of the Authority

The Law Society notes that the Authority will be taking on a vastly increased workload under several schemes. Specifically, we note the increased role of the Authority as a result of the following developments:

- The Authority's recent takeover of the claims management of catastrophic injuries under the workers' compensation scheme;
- The Authority's anticipated role under the new CTP scheme as the relevant insurer for all medical treatment and care provided more than five years after the motor accident concerned; and
- The implementation of the National Injury Insurance Scheme ("NIIS"), which will see the Lifetime Care and Support Scheme become a very large part of Insurance and Care NSW ("icare").

We query what steps have been or will be taken to increase the Authority's capacity to cope with this extra workload.

We recommend that the Standing Committee monitor developments with the implementation of the NIIS.

Autonomy of decision-making

The Law Society supports the concept of self-management in the area of disability. However, we believe that true self-management entitles the participant to choose his or her own service provider rather than being required to select the provider(s) chosen by the Authority.

We query what steps are being taken to ensure that true autonomy of decision-making is protected within the enlarged scheme for which the Authority is responsible.

Administrative appeals mechanism

The Law Society notes that there have been no further developments to create an accessible administrative appeals mechanism which is external to the Authority.

We maintain that an administrative appeal in the Supreme Court is not an adequate remedy for participants who are invariably impecunious and face adverse costs if they lose. We have ongoing concerns that an organisation which is not subject to effective oversight by an external and accessible tribunal is at risk of failing to adjust to community expectations.

Thank you for considering this submission. Should you have any questions, please contact

Yours sincerely,

Pauline Wright
President