

“Corrected”

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

**REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE
MOTOR ACCIDENTS AUTHORITY AND THE MOTOR
ACCIDENTS COUNCIL**

At Sydney on Monday 16 February 2004

The Committee met at 10.00 a.m.

PRESENT

The Hon. C. M. Robertson (Chair)

The Hon. A. S. Burke

The Hon. D. Clarke

The Hon. A. R. Fazio

The Hon. G. S. Pearce

Ms L. Rhiannon

DAVID BOWEN, General Manager, Motor Accidents Authority, 580 George Street, Sydney,

CONCETTA RIZZO, Manager, Insurance Division, Motor Accidents Authority, 580 George Street, Sydney, and

KATHLEEN HAYES, Manager, Injury Prevention and Management Division, Motor Accidents Authority, 580 George Street, Sydney, affirmed and examined:

RICHARD JOHN GRELLMAN, Company Director, Chairman of the Board of the Motor Accidents Authority, 580 George Street, Sydney, sworn and examined:

CHAIR: If at any stage during your evidence you should consider that certain evidence or documents you may wish to present should be heard or seen in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Council may subsequently publish the evidence if it is decided it is in the public interest to do so. Do you wish to make an opening statement?

Mr GRELLMAN: By way of background, I first became Chairman of the Motor Accidents Authority in 1995. At that time the then scheme was suffering from an increasing level of instability. Various attempts were made to stabilise the then scheme. In 1995 some fairly significant amendments were made and in subsequent years less significant amendments were made. By the beginning of 1999 it looked as though the scheme was coming to the end of its life. A view is held by some that statutory schemes have a finite life, and by that stage that scheme was nearly 10 years old. Work commenced on the conception of a new scheme, which was introduced by Parliament in late 1999. That is the scheme we are living with today.

In early 2004, because of the nature of the scheme, while clearly the scheme continues to mature—it is not yet mature, by reason of the time it takes to move many of the claims through the scheme—many of the profiles and developments of the scheme are becoming clearer, but they are not yet totally clear. No doubt we will talk more on that later. When the new model was introduced the Government took the opportunity to introduce a new governance model. The board of directors now consists of six people; five non-executive and one executive director. David Bowen is the executive director, and of the five non-executive directors four would be regarded as totally independent and the fifth is independent, although he is a senior member of the public service: he is Roger Wilkins.

Supporting the board is the Motor Accidents Council, and the members of that group, either in their own right or as representatives, comprise various stakeholders or service providers. We believe the council has been a very useful forum for interested parties to be kept up to date with trends and developments within the scheme. In addition to the stakeholders and service providers, the council also has myself, Mr Bowen and the deputy chair of the board as its members. We can, firstly, expose the council to scheme trends and data and, frankly, we deal with the council on an open-book basis. Almost without exception, whatever the board of directors sees the council also sees. With the scheme starting to mature, this is becoming something we can do more of. In recent times we have been able to seek input from council members if we are contemplating any changes to the scheme or, indeed, if they would like to introduce or discuss any proposed changes.

It is a forum in which very interested parties who are familiar with the workings of the scheme and with the implications, positive and negative, of the people who ultimately become claimants in the scheme, can find a voice. In conclusion, on behalf of the board of the authority, I could give my perspective of how the scheme is operating at present. Without being complacent we are reasonably content with the way the scheme maintains its stability. We see premiums holding or falling, which is important for a statutory scheme. Almost all of the trends that we measure in terms of the way the scheme is operating are heading in the right direction and/or holding. We are not complacent but we are now approaching five years into the new scheme, and we feel it is showing very positive signs of continuing to work well.

Mr BOWEN: I have nothing further to add by way of opening statement. I will be guided by you, Madam Chair, as to whether you wish myself or Ms Rizzo to take the Committee through the contents of our report, particularly on the scheme performance indicators. Otherwise we will just answer questions.

CHAIR: Questions prepared by the Committee will cover that. As you may well realise the Committee has new members this year. Some questions may be perceived as seeking information that may have been given in the past, and that is because of the new membership. I advise witnesses that the Committee will take questions on notice, if necessary. The Committee has a phenomenally extensive list of questions and if we do not get through them they can be taken on notice. Most questions are not directed at one or other of you specifically and, therefore, you can choose who you perceive to be the best person to answer them. The Committee members may seek elaboration on some answers, as required.

In your opening statement you answered some parts of my question. In previous years it has been stated that the Motor Accidents Scheme was still in its infancy. To a large extent it has been difficult to draw definitive conclusions about the effectiveness of the scheme and its management. Are you now in a position to draw definitive conclusions about the effectiveness of the scheme?

Mr BOWEN: Perhaps the best indicator of that is that for year one of the new scheme more than 50 per cent of claims are finalised. That allows us to draw certain conclusions and see certain trends in relation to small claims. It is primarily small claims that will be finalised in the first 50 per cent of matters. However, the incurred cost of those claims would still be less than 20 per cent of the estimated total incurred cost. So there is still quite a bit of development to go, because as you would appreciate it is the larger claims that are finalised later, for good and legitimate reasons. They are the ones with the highest values and the ones on which we cannot draw any conclusions as yet. Obviously, after year one the percentages of both go down. It is very hard to say what is the trend of the new scheme. What we are doing, and did in our report, is compare what is happening in the new scheme for those types of matters to what was happening to a similar cohort of claims under the previous scheme.

The Hon. GREG PEARCE: Mr Bowen, when the Committee last met it expressed some concern that a number of stakeholders had been invited to prepare questions. They have done so and, in fact, have prepared very lengthy and detailed questions. Three days before the due date of the hearing the Committee received responses to those questions from you. The responses were, quite frankly, not just unsatisfactory but the Committee considered them to be quite insulting to the people who had gone to the trouble to prepare all those questions. Can you explain why the Committee did not get any response from you until 13 February?

Mr BOWEN: I had no communication from the Committee expressing any concern at all about our response to the stakeholder questions.

CHAIR: A letter was sent to Minister Della Bosca, and I requested a reply from the Motor Accidents Authority [MAA] in his absence at the end of last week.

The Hon. GREG PEARCE: That seems to be an unsatisfactory response from Mr Della Bosca. I do not want to dwell on those questions because they are detailed, but I will take you to one example. I refer to the Bar Association questions in relation to children killed in the motor accidents. I assume you know the issue.

Mr BOWEN: The issue of benefits to parents of children killed in motor vehicle accidents?

The Hon. GREG PEARCE: That is right. The MAA response to a lengthy series of questions was unsatisfactory. It referred to the ample questions, which is fair enough, and said that the Minister had requested the MAA to prepare an issues paper. It did not even respond whether that issues paper had been prepared. It then concluded that further response to the Committee on this issue is a matter for the Minister.

Mr BOWEN: That is correct. We are here to answer questions of fact on the operation of the scheme. The Bar Association submission and questions go to whether the scheme should be altered to introduce a new benefit. That is a question of policy and can only be answered by the Minister.

The Hon. GREG PEARCE: Mr Grellman, in your introductory remarks you said to the effect that statutory schemes have a limited life and that the previous scheme, which was suffering instability, was coming to 10 years, the implication being that was the life of that scheme. This current scheme is now five years on. Does it have a limited life of 10 years as well? Why is it so hard to come to any firm conclusions as to where it is going at the moment?

Mr GRELLMAN: I said there is a view held by some that statutory schemes have a limited life. It would be fair to say if the scheme is well designed and equitably dealing with the respondents who need to be attended to pursuant to claims, if it is affordable, fair and matters are being dealt with on a timely basis, the scheme should have a longer life. The previous scheme, which was starting to become quite unstable and the premiums increasing rapidly, had a series of dynamics that were almost inevitably going to produce gross instability. Perhaps one should not confuse the views of some that I referred to that statutory schemes have a limited life with the current scheme. I think I can speak for the Motor Accidents Authority in saying that we would hope and probably be close to quietly confident that this scheme will have a considerably longer life. The fact remains that some 4½ years in the scheme is still developing and we cannot be absolutely sure about it.

The Hon. GREG PEARCE: I am trying to get to an understanding of what you mean by "instability" and how you measure the effectiveness or the life of the scheme. You talked about fairness. I assume you meant fairness to people who are injured. Then you talked about the increasing premiums. The problem with the previous scheme seemed to be the increase in premiums. What do you mean by "instability"? Do you consider this current scheme to be a fair one? Obviously the emphasis has been on reducing premiums at this stage.

Mr GRELLMAN: The Motor Accidents Authority has introduced a four-arena assessment of whether the scheme is working. This is covered in our written submission and also our annual reports. We look at affordability, effectiveness, fairness and efficiency. Under those four headings we are considering, for example, under "affordability" the premiums relative to the average weekly earnings. We are seeing that the trend is heading in the right direction. Under "effectiveness", for example, we are looking at the timeliness of service delivery and whether or not people are being dealt with more quickly rather than less quickly. "Fairness" goes to issues like whether or not seriously injured people are being fairly or reasonably compensated. I might refer particularly to brain injuries and whether or not people at that end of the spectrum are being properly dealt with and compensated relative to someone who has a laceration or a couple of broken limbs. Finally, "efficiency" looks at the economics of the scheme and the transactional costs, such as legal, medical, investigation and insurance costs. Because it is statutory and compulsory it is often tempting just to look at the premiums itself. I do not think that is unreasonable. Over the last couple of years the average premium has either been holding or dropping.

The final point we consider and continue to work on—and it is not an easy issue—is insurer profit. There is a popular view that the insurance industry does make a lot of money out of this scheme. The Act empowers us to look at the profits they have derived and the prospective profit they may earn from premiums received while files might still be open. That is a complicated and complex arena, but we are working on that with the insurers. There is a fair degree of co-operation between the insurers and our people to try to form a common view as to how profitable this scheme is.

The Hon. DAVID CLARKE: Mr Grellman, following on from your initial comments and questions you have just been asked, you said the previous scheme was coming to the end of its life. Is that a delicate way of saying it was haemorrhaging heavily?

Mr GRELLMAN: Yes.

The Hon. DAVID CLARKE: When you say it was coming to the end of its life, it was virtually breaking down?

Mr GRELLMAN: I can expand briefly. The premiums were increasing dramatically. At the end of the day, when people own a motor vehicle and have to pay a premium, as you all obviously know, at a certain point it becomes a very political issue. That was the practical situation with which we were confronted.

The Hon. DAVID CLARKE: You said there was a view that some of these schemes go through a cycle or set period. Is that your view?

Mr GRELLMAN: Certainly it is. I am still hoping that this scheme, the way it has been built, may have more inherent stability than some other statutory schemes that I have looked at over the years. There is a degree of cyclical dynamic. The sorts of pressures that schemes like this can be subjected to come from a number of areas. Probably the two primary areas are the underwriters—the insurers—and the legal profession. In a sense they are diametrically opposed. Insurers, who have a very high duty to their shareholders and/or owners—because some of them are owned by overseas companies—have a

primary imperative to maximise their operating profit. If they can extract higher premiums and make a greater profit out of a line of business, they are very focused on that. The legal profession, both solicitors and barristers, quite appropriately, I might say, focused on how they can get a fair and appropriate result for their client. It is not necessarily the greatest amount of money. They are looking at heads of damage and ways to ensure that an injured person is appropriately and quickly compensated and treated. There is an obvious tension between those two professional groups.

The Hon. DAVID CLARKE: When we talk about a scheme coming to the end of the cycle, we are basically saying that it is not working?

Mr GRELLMAN: That is a fair comment. Could I add one rider to that? It usually will not be working because the insurers are taking too much money or the legal profession is taking for their clients and, indeed, in legal fees too much money. That is in simplistic terms.

The Hon. DAVID CLARKE: The annual report states that the MAA had a surplus of about \$11.5 million in the 2002-03 financial year compared to about \$4 million in the previous year. Will that ratio change as some of the bigger payouts become necessary? You indicated that a lot of the small claims are getting dealt with but the bigger claims are building up. Will those figures be out of skew as those large claims come up for payment?

Mr GRELLMAN: The surplus in the Motor Accidents Authority accounts is the money that the authority is holding for its own endeavours. The amounts ultimately paid to claimants will be paid by the insurers, the underwriters to the scheme. So it is a different bucket of cash from the one you are referring to there.

The Hon. DAVID CLARKE: When you say this surplus is being held for the endeavours of the authority, what endeavours are they?

Mr GRELLMAN: Maybe the General Manager might be best placed to answer that.

Mr BOWEN: It is the operational costs of the Motor Accidents Authority, including our assessment services. The surplus is generated because we set a levy each year on the insurers to fund our operations. In different years we will set that levy either to marginally create a surplus or marginally create a deficit if we wish to run the surplus down. The surplus at the moment will be significantly reduced in the current financial year. It was a little bit high because we were holding additional funds as a cash flow to fund nominal defendant payments for the HIH insolvency. The way that operates is that we have contracted Allianz to manage those claims. We verify and make the payments to Allianz and then we recoup it from Treasury. Just to enable the cash flow on a monthly basis we held additional funds. But we are running that down now.

The Hon. DAVID CLARKE: The increase in the surplus between those two years from \$4 million to \$11.5 million is something of a distortion that will not continue in the future?

Mr BOWEN: That is correct. It has also been difficult to predict our operational costs in the area of the assessment services because of the increasing volume of matters going through medical assessment and claims assessment. The approach of the board has been to be very conservative in budgeting in allowing for the maximum possible estimated number of matters going through. It has not reached it in the last few years. Therefore, there has also been a surplus built-up in that way.

Ms LEE RHIANNON: I would like to refer to some issues that Bicycle New South Wales has raised with the Greens. Bicycle New South Wales is concerned that not all green slip insurers would pay a cyclist injured by a compulsory third-party insured driver. Do you have any comments on that?

Mr BOWEN: I am not sure whether we have it with us but we can certainly provide you with details on the number of claimants who are bicyclists and the circumstances and numbers in which liability is not found. I do not see any reason why that would vary that much from the rest of the scheme. Liability is not found completely in a very small number of cases. Be it either a pedestrian or a cyclist and not have the driver at fault really means it is literally a case where the pedestrian has run out onto the road in front of a car and the driver could not do anything. The same with a cyclist. There would be a number of matters where there is a reduction in the amount of compensation paid because of contributory negligence. But we can find the actual figures for that for whatever period you like. I cannot see that there would be any change in the trends for that at all.

Ms LEE RHIANNON: I would be interested in that information.

Mr BOWEN: We will take that question on notice and undertake to get more details.

Ms LEE RHIANNON: Thank you very much. On that theme, Bicycle New South Wales also believes that there should be higher premiums for people with more dangerous cars, such as big cars, cars with bullbars and so on, and for people who drive their vehicles a lot. Can you comment on that suggestion?

Mr BOWEN: To some extent that is a question that would need to be put to the Minister because at the moment the premiums are set within a relative range produced by the MAA. For example, we will make comparisons between sedans, trucks and a whole range of other vehicles. On the basis of the MAA figures, the insurers then have a discretion—quite a wide discretion—either to provide a discount or to add a loading to it. We have undertaken some work looking at four-wheel drives, which is not quite finalised. To explain our problem, we pick up from our database information on the type of vehicle based on Roads and Traffic Authority [RTA] determinants. We cannot obtain through the RTA directly a separation of four-wheel drives from other types of sedan vehicles apart from the very large ones, such as land cruisers, which fall into the small trucks category. We have been endeavouring to do a data match based on the vehicle identification number [VIN]. Ms Rizzo might be able to explain the process—it starts to become a quite complicated data exercise. The feeling has been—and the research will either verify this or prove it wrong—that with a four-wheel drive the cost of claims to third parties will be higher but to some extent that will be offset by lower claims for vehicle occupants.

Ms LEE RHIANNON: Precisely.

Mr BOWEN: Therefore, you are left in a situation where if you look just at the issue of cost in the scheme it may well neutralise itself. I cannot give you the timing because we are still waiting for the RTA to assist us with the data-matching exercise.

Ms LEE RHIANNON: Does that suggest there could still be a need for higher premiums? It might balance out in financial terms but if there is a grouping those outside the car are being injured at a higher rate.

Mr BOWEN: To introduce premiums based on other than a risk factor would require the Government to make a decision to do so. At the moment the insurer will only adjust the premiums on a risk factor. As I said, from the insurance point of view it may balance out that the risk factor is negligible or indeed negative.

Ms LEE RHIANNON: When do you think that data will be ready?

Ms RIZZO: We do not have a timing for it. If you like I can explain the difficulty with it. To each vehicle is attached a vehicle identification number, which is something like 14 digits long. Unfortunately, each manufacturer attaches its own sort of code so there is no consistency between manufacturers. It is out of that information that you can get a descriptor of which vehicle is a four-wheel drive and other characteristics. But because there is no consistency in VIN numbers you have to set up a very detailed program. The RTA is doing that but the timing is theirs other than ours. So we are reliant on the RTA looking at the VIN and coming up with some identifier for four-wheel drives in particular because we have had an interest in this for a very long time.

Mr BOWEN: Other than from the insurance side we have an interest in this issue wearing our road safety hat. We are very strong advocates of better enforcement to prevent the use of bullbars that do not meet proper design standards or that have protrusions because of the particular danger that they pose to child pedestrians—a child will no longer go up and over but will often be hit at head height and knocked to the ground. That is a very serious injury concern. The other issue that we have identified with four-wheel drives is the danger that they pose when reversing. In fact, they are in this category with a number of other vehicles that are disproportionately at fault in child deaths in driveway accidents because of the poor rear visibility and the inability to see a child out the back. That is a road safety issue that we try to address. For example, we have been working with local councils and Kidsafe on a whole range of educational strategies aimed at driveway accidents in particular.

Ms LEE RHIANNON: Ms Rizzo, it appeared from the way that you described what is happening with the RTA that it might be a while before that data comes over.

Ms RIZZO: It could be because it is a very difficult task.

Ms LEE RHIANNON: It sounds like accessing this comparison could take quite a while.

Ms RIZZO: It does.

Mr BOWEN: We will endeavour to get a definite time frame so that if we cannot answer your question at least we can tell you how long it is likely to take.

Ms LEE RHIANNON: Thank you.

CHAIR: We have two other questions in relation to Bicycle New South Wales. Bicycle New South Wales advises that insurers are required to accept provisional liability where the injured person is a pedestrian or a passenger of a motor vehicle and that in practice this is extended to include cyclists by some insurers. Do all insurers do this?

Mr BOWEN: They certainly should. We have not had any complaints that I am aware of. Complaints about the insurer failing to accept that provisional liability are usually brought to our attention either directly by the claimants or by their solicitor. I cannot recall that we have had any—if we have had some, it is not very many.

CHAIR: Are insurers obliged to do so?

Mr BOWEN: They are obliged to accept provisional liability on the accident notification form for the early payment of treatment and, as I have indicated, I am not aware that that is not occurring at all.

CHAIR: What is the rationale for insurers accepting provisional liability in these circumstances?

Mr BOWEN: The rationale is that you can significantly improve the health outcome by early treatment and that it is preferable that the insurer pay up to the first \$500 while they further investigate the claim so that the person can get that treatment even though at a later point they may deny liability once they have investigated the circumstances of the accident.

CHAIR: Bicycle New South Wales has advised that while drivers are commonly aware that they may have to pay an excess if they are responsible for property damage in certain circumstances there is a lack of awareness of whether an excess similarly applies to accidents that injure a pedestrian or a cyclist. Bicycle New South Wales argues that the perception that drivers only have to pay an excess for property damage and not personal injury sends the wrong message to drivers. If a driver injures a pedestrian or a cyclist do insurers commonly recoup the excess as they are entitled to do under section 21 of the Act? If not, do you know why not? Is this confused information from them?

Mr BOWEN: I think they have confused a section of the Act that does not relate to an excess. I know a number of the sections of the Act very well but not all of them. There is an excess of \$500. I think I can say that as a matter of practice it is extremely rare for insurers to seek to recoup that sum.

The Hon. TONY BURKE: Mr Grellman, you referred earlier to some of the efficiency gains that have been made. I refer specifically to investigation costs in the annual report that have dropped from \$54.6 million to \$28.2 million. Can you explain what those investigation costs involve and how the amount has been reduced so radically?

Mr GRELLMAN: I will pass that question to our statistician.

Ms RIZZO: The sorts of investigation costs would include factual investigations by both the claimant's solicitors and by the insurers. That would include people investigating the situation of the accident. With the introduction of the accident notification form [ANF], where liability is accepted it has to be decided by the insurer within 10 days of the receipt of that form. Because the insurer must pay a maximum of \$500 the insurer is less likely to include as onerous investigations as they would otherwise have done. The ANF explains part of that process. As we have just discussed, liability is deemed accepted for certain individuals such as passengers, pedestrians and cyclists. That would explain part of it.

The other part of investigation costs is the medico-legal aspects. Under the old scheme, which was a much more adversarial scheme, both sides—the claimant's legal representatives and the insurers—would obtain their own medico-legal opinions before they came together to try to negotiate a settlement. With the introduction of the assessment services, it is not necessary to get those medico-legal reports. Just those two—the factual investigations and the medico-legal reports—are part of what has happened. In addition, under the new scheme insurers have probably become a bit tighter in the way they have been managing their investigation costs because part of the scheme involves them reducing their transaction costs.

The Hon. TONY BURKE: Are the medico-legal reports to which you referred counted as savings under the medico-legal section or under the investigation section of the annual report?

Ms RIZZO: They are under the investigation section because we do not have a separate section for medico-legals.

The Hon. TONY BURKE: On page 40 of the annual report there is a reference to legal and medico-legal costs reducing from \$87.2 million in the previous 45 months to \$35.3 million in the first 45 months of the new scheme. The next paragraph refers to investigation costs. I am trying to work out whether the investigatory aspects to which you referred are part of the investigation costs paragraph or the paragraph above.

Ms RIZZO: The medico-legals on the plaintiff's side would be included in the legal costs. I will have to check because I am not sure which bucket the medico-legals on the insurance side would fall into.

Mr BOWEN: The other aspect of investigative costs is surveillance and we informally try to discourage the insurers from over-reliance on surveillance. I think it is fair to say that insurers overestimate the number of matters in which there is real fraud and they tend to overuse video surveillance—or they certainly did in the past. We have tried to encourage them to reduce the amount of surveillance they do on injured people.

The Hon. TONY BURKE: Does this mean that there is simply less duplication of investigatory procedures or that claims are not investigated as thoroughly as before?

Ms RIZZO: I would suggest that it is probably a bit of both. But it is not that claims are not investigated as thoroughly but that we have a totally new way of making certain claims—that is, the accident notification form. It was introduced so that it would not be necessary to do the sort of investigation for smaller claims that might be done when you get a 14-page claim form. So I would say that it is a bit of both.

The Hon. AMANDA FAZIO: With regard to the CTP premium levy, the annual report at page 59 states that the main source of funding for the MAA was a levy of 1.4 per cent on CTP insurance premiums requested by licensed insurers. Is this the figure that gives you this bucket of money that goes up and down? Is the 1.4 per cent what you estimated you would need to cover this cash flow problem as a result of the collapse of HIH?

Mr BOWEN: The 1.4 per cent is traditionally split. Over the last five years we have attempted to split the levy into two, with 50 per cent of it going to operational costs of the MAA, which would include the surplus to cover Nominal Defendant cash flow. The other 50 per cent is attributable to the injury prevention and management side of our operations, which is funding road safety and rehabilitation programs.

The Hon. AMANDA FAZIO: In the Committee's first year of review the MAA indicated that evaluation performance information in the scheme will be reported in the annual report and in your annual publication, called CTP Statistics. The Committee has been provided with CTP statistical reports from 1996 to 2000. Have you now discontinued these CTP statistics reports, or are they buried in some other documents you produce?

Ms RIZZO: We have discontinued those.

The Hon. AMANDA FAZIO: I refer to complaints regarding the way in which CTP insurers handle claims. Page 16 of your annual report provides statistics on complaints for this reporting period,

and refers to 80 complaints relating to the way CTP insurers manage claims, compared to 60 complaints last year, and, in particular, that allegations of wrongful actions increased from 18 to 49 complaints. Do you know what factors contribute to this increase in the number of complaints?

Mr BOWEN: No, but I will take the question on notice and provide you with a more detailed breakdown of the basis of the complaints. Most of those will be alleging breach of statutory duty or one established under our claims handling guidelines, probably primarily to do with insurers meeting time frames.

The Hon. AMANDA FAZIO: What types of wrongful actions have been alleged?

Mr BOWEN: We will give you the detailed breakdown. As I indicated, I suggest that the majority of those will be that the insurers failed to meet the statutory requirement, such as a requirement to make a decision on liability within three months, or one of the obligations established under the MAA's claims handling guidelines. Those guidelines primarily go to putting obligations on the insurer to both meet time frames, and provide a range of information to the claimant and responses to the claimant. I think they will all fall into that area. We can certainly get for you the breakdown between the different ones.

The Hon. AMANDA FAZIO: How do consumers get to know about their right to complain to the MAA, given that most people will be dealing exclusively with their insurance company? Particularly if they are trying to manage their own claim, they do not have legal assistance. How do they know that they have a complaints mechanism available to them?

Mr BOWEN: Firstly, it is a requirement of our claims handling guidelines that the insurers advise each claimant of the right to take a matter to the Motor Accidents Authority by way of a complaint, and we audit compliance with those guidelines. Our claims handling guidelines audit was not included in the annual report, because it was not completed until November. We now have that available, so we can certainly provide it to the Committee to be tabled. It will show you each of the guidelines and the result of the audit.

The answer is twofold. First, there is an obligation on the insurer to advise the claimant of their right to come to the Motor Accidents Authority. Second, we provide within the MAA a claims advisory service that has a focus to primarily assist unrepresented claimants work their way through the system, but it is also a source of general information. We do publicise that in a variety of different arenas, including a green pamphlet that goes out with all registration papers. It has in it a push-out section that reads, "If you are injured in a motor vehicle accident, called the Claims Advisory Service." I suspect that most people do not push out the portion and put it on their fridge or in their wallet, because most people do not contemplate that they are going to be the victim of an accident. But we do as much as we can to promote the service.

CHAIR: In relation to these CTP statistics, if you no longer produce this publication is this information available anywhere?

Ms RIZZO: The information would not be available in a document as it was available when we produced that publication, but we have a very large database and the MAA does analysis on that database. So that if there was something that we needed to get out of that that was similar to what was in the CTP statistics publication, we would have to derive that from the database. It does not stand as a document, but we would still be able to derive it from the database itself.

CHAIR: It would be in relation to specific questions asked of the data?

Ms RIZZO: That is right.

CHAIR: Who has access to ask those questions? Can people approach you to ask those questions of the data?

Ms RIZZO: They can. Except, like most government authorities, we rely on published data rather than providing specific answers to specific requests on an ad hoc basis.

The Hon. GREG PEARCE: I would like to explore the comparisons you have provided to us on claim payments in the scheme performance document. You have compared the last 45 months of the

previous scheme to the first 45 months of the current scheme. Are there any anomalies in either the previous scheme or the current scheme which make those figures not comparable, or are they really comparable? In other words, are these figures a realistic comparison as to the difference between the two schemes, and if not what are the imponderables?

Mr BOWEN: I suppose like all statistics, it is the best we can do to pick a point of time in development and make comparisons. There will be a range of variables that could affect the outcome of this. For example, it is certainly the case that under the new scheme while the smaller payments have gone quickly we have now reached a point in time where the finalisation rate under the new scheme is equivalent to the old scheme for the second lot of payments. That may be partly attributable to the fact that there was a notable reluctance on the part of both parties to be the first through the new Claims Assessment Resolution Service.

Interestingly, when we hit October last year, which was the three-year point of limitation period, it started to generate a whole lot of activity and the number of matters coming through CARS increased quite significantly from October. That holding back will have affected the profile of the payments a little bit, but what you attribute to direct scheme changes in benefits and how much you can attribute to indirect scheme changes, such as having different assessment services, is very hard to make a call on.

The Hon. GREG PEARCE: The overall figure you give is that claim payments have fallen five \$250 million, from \$657 million to \$407 million?

Mr BOWEN: Yes.

The Hon. GREG PEARCE: You say that that represents expected savings from the reduction in payments on the smaller claims that are finalised earlier. What are those savings? Are they the expenses of the scheme, or are they benefits to the claimants, or a mixture?

Mr BOWEN: If you look at the graph on page 37 of our annual report, the main reduction is in non-economic loss. That is to be expected. Under the old scheme, about 40 to 45 per cent of claimants were receiving non-economic loss. The introduction of the impairment threshold was expected to reduce that to only 10 per cent of the claimants most seriously injured, so there has been a big reduction in non-economic loss payments for small to medium-size claims. The rest of those reductions are also as expected: reductions in legal costs and reductions in investigation costs. There are slight increases in non-economic loss in percentage terms, but probably not that much of a variation in actual dollar terms.

The Hon. GREG PEARCE: You do not have the dollar figures available?

Mr BOWEN: No, we do not have them.

The Hon. GREG PEARCE: If the Committee could have the figures for the non-economic loss for the 45 months of the old scheme and the new scheme; indeed, the figures that go with this document?

Mr BOWEN: Yes, we will see if we can provide the figures to you after the morning tea break.

The Hon. DAVID CLARKE: Ms Rizzo, what details were included in the CTP statistics when they were published between 1996 and 2000?

Ms RIZZO: I suppose I could compare them with the scheme performance indicators as we have included in the annual report, except that in that period, which is what I refer to as the old scheme, we did not have scheme performance indicators. So they were quite detailed statistics that we prepared, which measured similar things to what we measure when we look at the scheme performance indicators here but in probably more detail. We also looked at trends from accident year to accident year, which we have not yet done in the annual report but which we intend to do in the next annual report.

It would follow this sort of pattern. We would have a look at the overall number of claims, we would have a look at the claims frequency and the propensity to claim. The propensity to claim is comparing our data with RTA data to see what proportion of each group of injured people is likely to make a claim: passengers, pedestrians, et cetera. We would have a look at various indicators, such as the level of legal representation, the level of litigation, et cetera, which we summarise in our scheme performance indicators anyway.

Then we would go on to have a fairly detailed analysis of the types of injuries that come with those claims. We have not done that to date here, except for looking at brain injuries in particular, but we would intend to do that in the future. In addition, we would look at the payments that have been made, and we would also include the insurers' incurred costs. That was the section on claims. We also had a section on premiums, which is very similar to what we have here under affordability, which would have a look at the trends in premiums, very much as it is here.

What we did not have in that publication was anything on efficiency, which is our final scheme performance indicator, which is possibly the most important of all scheme performance indicators in that it shows how many of the dollars collected go back to the claimant.

The Hon. DAVID CLARKE: The CTP statistics would have provided valuable information, particularly for ascertaining performance and planning for the future, would they not?

Ms RIZZO: Yes, the publication had valuable information in it.

The Hon. DAVID CLARKE: And the CTP statistics were readily available to the public, were they not?

Ms RIZZO: They were.

The Hon. DAVID CLARKE: Why do you not publish them now?

Ms RIZZO: We consider that with the introduction of the new scheme and the adoption of the scheme performance indicators that the information is, in fact, better analysed and better presented by looking at what we have looked at and, in particular, what we do with the scheme performance indicators is a comparison between the scheme and the previous scheme to see how the new scheme is going. The scheme performance indicators are much more of an evaluation than the CTP statistics were ever intended to be.

The Hon. DAVID CLARKE: And they are published where?

Ms RIZZO: We do not publish the CTP statistics.

The Hon. DAVID CLARKE: No, the performance indicators?

Ms RIZZO: The performance indicators are in the annual report, so that is publicly available as well.

The Hon. DAVID CLARKE: In the same detail as the CTP statistics?

Ms RIZZO: There is probably less detail but there is an evaluation, which is very valuable.

The Hon. DAVID CLARKE: Setting aside the evaluation and dealing with the statistical information because people might make a different evaluation on that information, you have said that you publish evaluations but not the statistics that you base your evaluations on. They are not readily available to the public.

Ms RIZZO: No, I would not agree with that, but what I would say is that we do not publish the level of detail that we did publish before.

The Hon. DAVID CLARKE: Why would you not agree with me?

Mr GRELLMAN: We do include a lot of statistical data about evaluations.

Ms RIZZO: Yes, and I think it has to be seen within the context of it being quite a complex scheme and the fact that it takes quite some time for the claim notification, for the claim payment and for the pattern to emerge. Also, it is very easy for people who are not used to interpreting this data to misinterpret it. It is extremely easy for that to happen.

The Hon. DAVID CLARKE: Would you give that as a reason for not publishing the statistics; because people might wrongly interpret your evaluation? That is what I took you to just say then.

Ms RIZZO: Yes. We need to analyse and interpret the information because it is complex.

The Hon. DAVID CLARKE: What about others who would also like to analyse, interpret and evaluate that information? If those statistics are not available publicly, how can others do that?

Ms RIZZO: There is our annual report.

The Hon. DAVID CLARKE: But that does not contain the statistics that you were publishing up until 2000. How do other bodies, organisations and the public evaluate how the scheme is going if those statistics are no longer published?

Ms RIZZO: I suppose it comes down to whether they consider that there is enough in the annual report or not.

The Hon. DAVID CLARKE: It is very hard for them to make that decision. Unless they have the statistics that you are basing your evaluations on, how can they make that assessment? They can only make an assessment on what is provided to them and this important statistical information is now no longer made available to the public. Am I summarising your answer correctly?

Ms RIZZO: Yes, you are correct.

CHAIR: Another issue here is that the Committee has the right to ask for more detailed information if there is a perception that questions on the data were not appropriately framed.

The Hon. DAVID CLARKE: Yes, I am aware of that, but I am getting to a different matter altogether. Thank you very much.

Ms LEE RHIANNON: I would like to take up some issues to do with insurer profits. The Committee would like to gain a better understanding of the state of insurer profits since the 1999 amendments to the scheme. Could you summarise the situation, comparing the results from this year with previous years?

Mr BOWEN: Comparing the first year of the new scheme?

Ms LEE RHIANNON: I understand that the report identifies the indicative range of 5 per cent to 5.6 per cent of the gross premium as the minimum necessary to support CTP New South Wales and concludes that an industry average prospective return of 8.5 per cent is not inappropriate. What average prospective return would be inappropriate?

Mr BOWEN: Under the previous scheme the level of insurer profit as the percentage of gross premium was between 9 and 11—an average of about 10. One of the objectives of the new scheme was to reduce the amount of premium going to insurer profit and, therefore, the Motor Accidents Authority, when reviewing the premium filings, looked at it in the context of what had previously been charged and in the context of what was required to give insurers a reasonable return on capital. Up until the new scheme that had been done really by reference to the insurer indicating to the authority what their shareholder hoped-for return of capital was and translating that to a percentage of the premium.

In 1999 we took the view that this had to be done much more rigorously and not relying upon an insurer indication of what was reasonable and we published a couple of papers that were tabled in earlier Committee reports as to how it went about the assessment of profit and the determination of what was reasonable. We have picked up a methodology that is not without some complexity but does have the advantage that it is used by some United States State regulators as a measure over there. That came up with the result that the minimum level of profit required for this business, when you translate into a percentage of the premium, is about 5.5 per cent of the gross premium.

We have taken the view that in 1999 when the insurers started to write the business under the new scheme there was a considerable degree of uncertainty as to what could be the outcome of the scheme, whether it would reduce the level of claim costs and other costs in the way that was anticipated or, indeed, whether it would be ineffective. So there was an element to which we have allowed the insurers to include a component for that uncertainty but we have been pressing it down ever since. When

one starts to look at the trend of this over time, you will see that the percentage of premium going to profit is decreasing.

It is also fair to say that that is now becoming apparent in the marketplace, in that we have increasing competition with the insurers. They are finding the new scheme to be stable and reasonably predictable. Therefore, there is increasing competition and even since our annual report we have had insurers refiling—they are only required to refile once a year mandatorily but they are now voluntarily refiling in between to reduce the amount of premium and that is an indication of their willingness to write, so we would expect that to continue to go down.

Ms LEE RHIANNON: You said there was a formula that allowed insurers to put in their own component. Can you indicate what percentage that is?

Mr BOWEN: There is a minimum level which generates a return on capital for the insurers. There are a number of variables that go into that but there is essentially a minimum level and there is probably then a maximum level and that is what the policyholder will pay to get coverage. We put ourselves into the position of collective policyholder and have to make a judgment on that. We would like to see those two get closer and closer together but we are having some interesting discussions with the insurance industry, who take the view that our minimum level is too low for them to meet shareholder returns and at this stage we are awaiting a more detailed proposal from the insurers as to an alternative methodology for calculating premium in this class of business.

We are entering reasonably new territory here and I am content to do that, but we are trying to do that in conjunction with some of our other regulatory colleagues, such as APRA. For example, it has not been the practice of the insurance industry to look at returns or the allocation of a return on capital by way of different lines of business. Under the new Commonwealth regulatory regime they are starting to be required to do that. Most of them have plans in place for better analysis of their own business so that we can look at capital allocation by line of business and then make determinations of what is a reasonable return on that.

The delay with the insurers in responding to the MAA methodology has been the knowledge that what they are doing in conjunction with the New South Wales MAA may well act as a precedent for Commonwealth and other regulators to look at returns in other lines of business. I think that is a good thing. It is becoming much more transparent and we are much more able to say, "Yes, this is reasonable" rather than just guessing at it.

Ms LEE RHIANNON: I return to my first question about comparing the results from this year with previous years. You said in answer to my second question that there has been a decrease in the profits. Can you indicate by how much?

Mr BOWEN: There has been a decrease in the amount estimated to go to profit in the insurer premium filings. Each year when the insurer files a premium, they make an estimation of how much of that premium will be required to go to claim payments, how much to expenses and how much is left in profit. The big variable in that is the amount that goes to meet claims expenses because it is making assumptions about how the scheme will continue to develop, so the reduction I talked about is in the insurers' estimates in their filing each year. To determine what actually will go to profit will be after claim payments are made.

If the insurers have an excess, they will start to release capital and that release of capital becomes their profit on this business. They would not be in a position at this stage to have released any capital from year one other than the claim payments made because of the difficulty—well, not difficulty because you can make an assessment of what the incurred value of the outstanding claim is, but still on year one you are making an assessment as to what the entire amount that may finally be paid out will be and there is still quite a way to go. As I said, whilst it is 50 per cent of claims, it is less than 20 per cent of claim payments, so you still have big chunk of large claims to pay and until that amount is determined and paid out, you will not know what is left.

I certainly can give you the MAA's estimate of what would be the total incurred value of claims for year one, but it does not translate to actual profit until that comes to fruition, and it will never come to that point; it will either be lower or higher because there will be developments one way or another. However, we can give you that particular figure; that is, premiums less total incurred value, adjusted for

investment returns and the like, will give you an indication of what the profit may be. That is the best I can do.

The Hon. GREG PEARCE: I notice in the Bar Association's questions it referred to a prior report in November 2002, which was commissioned by you. It indicated that if the scheme continued to operate in a fashion consistent with the performance to 30 September 2000 it would ensure that profit for the first year of operation of the new scheme would constitute 23 per cent of premiums collected. That seems to be vastly different from the 5 per cent or 5½ per cent you are talking about now.

Mr BOWEN: Yes, and that is why I say the incurred costs is an estimate based upon applying old scheme performance to this. It certainly will be the case, or I believe it will be the case, that the insurer's profit will be higher than they filed for year one. How much higher is uncertain.

The Hon. GREG PEARCE: Is that 23 per cent figure likely to be the outcome?

Mr BOWEN: I can nearly guarantee that will not be the outcome exactly.

The Hon. GREG PEARCE: So, 22½ per cent?

Mr BOWEN: No. It is an actuary's best guess as to what will happen. If I can give you a good indication of what the largest potential variable would be. That has in it an estimate of superimposed inflation, that is, how much the claims will increase in cost over and above normal inflation, which, in statutory compensation schemes is measured by average weekly earnings. That is an estimate based upon how the large claims have developed in the old scheme. It is a best estimate but it is not an exact science. It is assumed that previous levels of superimposed inflation cannot continue. To give you a very crude example but one that is somewhat telling, if you looked at the largest single claim payment in each year, from 1998 to 2003 that doubled. The largest single claim payment in 1998 was a bit over \$8 million. We had a claim last year where the claim payment topped \$16 million. If you applied that level of inflation, all of the profit would disappear and the insurers would be looking at a loss. Clearly, you do not do that. You do not assume that that level of inflation is going to continue, and you bring it back to what you think will happen in the future. But, it is not a science, despite what the actuaries may say. The reason we know that is that they write all these big cautions on the front.

The Hon. GREG PEARCE: Inherently in your business you are working on these sorts of best guesses all the time?

Mr BOWEN: Yes.

The Hon. GREG PEARCE: The whole scheme operates on those best guesses and actuaries' guesses?

Mr BOWEN: Yes. Going back, the reason I can confidently say the level of profit will be higher than the insurers filed in year one is that the claim frequency, the number of claims anticipated, was lower. It is pretty hard to put a handle on why that is the case. It is not because small claims are not being filed, because we have this new accident notification form and the amount of payment there is very low. So, claim notifications are still coming in. There have been reductions in percentage terms in the level of road accidents but not enough in the serious injuries to warrant this effect. But there has been a reduction in overall claims.

The Hon. DAVID CLARKE: Just interjecting there, when you spoke about the highest claim going from \$8 million to \$16 million—is that what you said?

Mr BOWEN: Yes.

The Hon. DAVID CLARKE: That may have nothing to do with inflation; it may simply be a claim worth twice as much as one that was worth \$8 million?

Mr BOWEN: We look at what the heads of damage in that sort of area are. I do not dispute that it may have been worth \$16 million, but if you then look at the largest 10 payments, the amount allocated for care has increased significantly, so the lifetime cost of care is increasing. New heads of damages are being compensated. For example, it is now fairly common for someone to be compensated for financial management assistance. The levels of non-economic loss have not changed that much. In

some of those larger claims there are greater levels of damages for technical aids and other support. I am not saying that is inappropriate, but it is an indication of how claims costs can escalate.

The Hon. GREG PEARCE: Then, the 23 per cent figure is what your actuary has given you for the first year of operation of the scheme?

Mr BOWEN: Yes.

The Hon. GREG PEARCE: Have you updated that figure? Has it been tested again?

Mr BOWEN: No, we have not updated it.

The Hon. GREG PEARCE: So, out of premiums for the first year you have \$1.4 billion and then we are talking about \$300 million insurers' profits?

Mr BOWEN: If that comes to pass.

The Hon. GREG PEARCE: Have you had any actuarial reports on the expected profits for the subsequent years of the scheme, other than the first year?

Mr BOWEN: No.

The Hon. GREG PEARCE: So you have one report that showed 23 per cent, and that scared you off?

Mr BOWEN: No, that is not the case. In fact, one comment I wanted to make earlier after something Ms Rizzo said is, for what period of time we keep doing our analysis by way of comparing a new scheme to an old scheme cohort. We have probably reached the point where that may still be interesting in the future but it is not as good an analysis. For us, from the annual report ending this financial year, what we believe is more important is to look at trends under the new scheme, and that will include a trend in what is happening with profit levels.

The Hon. GREG PEARCE: Everybody is concerned about profit levels, as we have been asking for years what are the expected profits. You have had one report done for the first year. He did the report in 2002 and it showed a massive \$300 million profit or 23 per cent of premiums collected and then you stopped asking the question. No wonder we have not been able to get an answer before.

Mr BOWEN: That was provided at the last committee meeting, and with all the caveats on it you simply cannot say because the estimated incurred cost is going to be with this we will deduct that from premiums and the rest will be insurer profit. I have been very careful to make the point that it is only an estimate. For example, it is not an estimate that would be acceptable to the federal regulator for the insurers to show as a liability on the books, because it includes no prudential margin.

The Hon. GREG PEARCE: It is not an estimate that would be acceptable to the general public either, to have insurers under this amended scheme getting almost a quarter of the premiums as profit. That is such an embarrassing figure for you that you stopped asking the question after that.

Mr BOWEN: That is not the case.

The Hon. GREG PEARCE: That is the only bit of information we have.

Mr BOWEN: But it is not an estimate of profit. You derive a profit estimate from that.

The Hon. GREG PEARCE: When will you be able to give us an estimate?

Mr BOWEN: As I indicated, the profit that the insurers derive from the scheme will be after they are able to release capital on the payment of claims. That is an estimate of what the total incurred value of claims payments will be.

The Hon. GREG PEARCE: That is your best estimate?

Mr BOWEN: It is our actuary's best estimate at a point in time.

The Hon. GREG PEARCE: And it is so outrageous that you stopped asking the question?

Mr BOWEN: No, that is not the case. The point is, we continued to do comparisons to the old scheme.

The Hon. TONY BURKE: Section 28 of the Act refers to a separate report being given on insurance profit. I am wondering what the rationale was, instead of doing a separate report to include it in the annual report, and is this what is intended to happen in the future?

Mr BOWEN: We included that in the annual report this year. That was because previously we had provided a separate report and the committee last year made some comment on that. So, this year it asked us to include in the annual report, so this year we included it in the annual report, and not separately.

The Hon. TONY BURKE: What is the time frame for the Motor Accident Authority [MAA] to prepare the report on insurer profit each year? For example, when are insurers required to report to you and how long does it take you to analyse that information and prepare your own report?

Mr BOWEN: This is a report of the estimated profit included in the premium filings. So, we do that as the insurers file. The insurers are required to file once a year and generally they also file for a 1 July commencement. They do not have to. If they file in February they do not have to file again until the next February unless we require it. A number of other things change on 1 July each year, such as relativity tables and the MAA levy, the Roads and Traffic Authority payment and bulk billing payments, so they are generally filed for a 1 July commencement each year and therefore we included that in our annual report.

The Hon. TONY BURKE: The methodology for calculating profit, from insurer to insurer there are some quite different methods, be it staffing, be it whether they do their advertising of a brand across a range of products or whether they do their advertising specific to the green slip products. In calculating profit under your methodology, what is income offset against?

Mr BOWEN: The premium filing is constructed from a whole range of different expenses and costs, including acquisition expenses, which are expenses the insurer has to get the product out there, advertised and marketed. We look at that in two ways. One, we look at their trend over time to see whether there have been any changes in that which would require them to justify an increase. We have also in the past looked at it by reference to the amount of their acquisition expenses disclosed in the insurer returns to the Australian Prudential Regulatory Authority, and where they have not been able to directly compare it or where the comparisons show up significant differences we have questioned the insurers on that. It is not a large variation in acquisition expenses between insurers but there are some to do with the different types of strategies they have. For example, the NRMA and GIO sell primarily through shopfront or through existing customers, and AAMI sells mainly through the telephone, whereas some others like QBE and Allianz sell mainly through agents and brokers. That will have a bearing on their acquisition expenses profile and therefore the amount allowed for it in the premium filings.

The Hon. TONY BURKE: So where they are advertising, for example, is not so much specific to green slips as across the whole brand, how much are they able to allocate?

Mr BOWEN: How much of brand allocation?

The Hon. TONY BURKE: Yes.

Mr BOWEN: We can give you that. It is not a lot. Because this is a compulsory product, we do not allow them a lot of latitude for including general advertising costs in their premium filings. I will find that out for you.

(Short adjournment)

The Hon. AMANDA FAZIO: I wanted to ask a few questions about accident notification forms and the claims handling guidelines. In relation to the accident notification forms, in previous years the committee has examined and addressed the level of awareness amongst medical practitioners as to the existence of the accident notification form. Has the MAA conducted a more recent analysis of the level of awareness among medical practitioners?

Mr BOWEN: No, we have not done a further survey of medical practitioners. It is our intent to do a follow up one this year. With the level at which accident notification forms are being lodged it gives us some contentment that they are out there and they are being used by medical practitioners and we know we have issued over 500,000 of them through GP offices.

The Hon. AMANDA FAZIO: Do you also issue those through accident and emergency departments in hospitals?

Mr BOWEN: No. A person who has been admitted to hospital and in acute care is likely to make a full claim and is likely to have a serious enough claim that they may go straight past the accident notification form and submit a full claim.

The Hon. AMANDA FAZIO: Do you not think though it would be valuable to have not just the accident notification forms but also the prescribed medical certificates available in accident and emergency departments?

Mr BOWEN: The certificates cannot be signed by practitioners in accident and emergency, it requires an examination to be conducted. So they are not going to be signed by accident and emergency doctors, it would require someone to visit a GP.

The Hon. AMANDA FAZIO: Do you think that there is a further need for work to be undertaken to raise awareness? My concern is simply that, say for example, someone is involved in a motor vehicle accident and they are taken to hospital in an ambulance; there they might be given some sort of splint or a sling for their arm or whatever and told to go and see their GP; they then present at the GP's office and they really have no evidence to give the GP to say that they have actually been involved in a motor vehicle accident. For all the GP knows they could have fallen down the stairs at home. I just think that that continuity of information flow between accident and emergency departments and GPs needs to be formalised.

Mr BOWEN: The visit to hospital will be recorded and that information can then be included in the claim form. In terms of awareness—and this is really picking up from what our last survey indicated—with people who attend upon individual GPs, some individual practitioners usually do not have any problem at all because the GP is aware of the existence of the accident notification form and will make use of it. Our primary concern is with people who attend medical clinics where the form may be kept in a drawer in the front desk and there is a large number of GPs working through the clinic and it may be under-utilised in those circumstances.

CHAIR: Being from the country I am just interested in this issue: In the country the accident and emergency services are default general practitioner services in many cases, particularly for poor people. I am interested about access for country people.

Mr BOWEN: Access to the accident notification form? As I indicated, we have sent out over 500,000 in pads. We have got every practice and every individual doctor in the State.

CHAIR: I guess my question is that many of these people have no access to a doctor except in an accident and emergency centre. I am just interested that it has not come up as an issue.

Mr BOWEN: It has not come up as an issue. If they are, in whatever circumstances, effectively seeing a GP then certainly they can get that person to sign off on the medical certificate in the ANF.

The Hon. AMANDA FAZIO: When you are doing a future analysis of the levels of awareness would you be prepared to include staff in accident and emergency departments even just as a sample study?

Mr BOWEN: We would certainly be prepared to talk to them about whether they want to have another form or not to hand out in what is often quite a hectic place. That is a matter that would be theirs to determine. I am saying we will be happy to make the offer for it to be available. For people who are admitted and have serious injuries we have very good liaison, for example with the social workers, in all of the spinal cord units and the brain injury units to make sure that injured people are aware of what the provisions of the scheme are and how they can access it.

The Hon. AMANDA FAZIO: Section 51 of the Act requires you to review each year the maximum amount of treatment expenses for injured persons that insurers are required to pay on accident notification forms. We were talking earlier about this amount of \$500. The maximum amount of \$500 has been the same since 1999. What processes do you undertake when you conduct an annual review of this amount and what conclusions were drawn from the last review you undertook? Do you think this figure is adequate, or should it go up?

Mr BOWEN: We consider it is adequate for two reasons: one is that the actual amount paid out on accident notification forms on average is less than that and so it is not pushing towards that threshold; and secondly, the insurers have, as a matter of practice, paid above the \$500 amount if it will complete the matter on the accident notification form without requiring a full claim to be lodged. So if a matter may be finalised for say \$800 it is the practice of the insurers to make the payments up to that amount simply on the accident notification form, even though they are not required to do so, without requiring a full claim to be lodged. So the two points in conjunction satisfy us that at the moment it is okay.

The Hon. AMANDA FAZIO: Just turning to the claims handling guidelines, last year you advised that the claims handling guidelines were due to be reviewed. Has this review been undertaken?

Mr BOWEN: Yes, the review is current. As I indicated in response to one of the earlier questions, we have completed a further audit of the guidelines and we can now table the report. We cannot table it today, I am sorry, but we will provide it to the committee. As a result of that further audit we propose some amendments to the claims handling guidelines. We sent those out to various stakeholders for comment in December. We have received responses from the Insurance Council and the Bar Association, and we are still awaiting a response from the Law Society at this stage.

The Hon. AMANDA FAZIO: One of the issues that has been raised with me in relation to the claims handling guidelines is the difficulty that some people encounter in establishing a loss of income due to the casualisation of the work force. The cases that have been cited to me have been instances where people work for those large personnel placement agencies where basically a person is sent out for one week or two week assignments and is told to go and work for employer X for two weeks starting on a Monday and finishing on a Friday. That person does not know what their next work placement will be; they are not guaranteed a placement until the agency rings the person on a Sunday night and says, "Okay, next week we are sending you off to do sheet metalwork at Blacktown. You will be there for three weeks". They are all casual placements that these people have obtained through these agencies.

If they are involved in a motor accident sometime after they have finished on the Friday and before they are rung up and given a firm offer of employment for the next week, they do not technically have a loss of income because they are casuals from week to week. So even if they could go back to the agency that places them and prove what their earnings had been over the previous 12 weeks to get an average, at the time they are injured they do not have a definite offer of work for the next week and so they have a very difficult time arguing to the insurance company handling their claim that they have actually had an economic loss and that they should be compensated for it. In your review of the claims handling guidelines has that issue been raised by anyone?

Mr BOWEN: I cannot answer that. I will certainly make inquiries to see whether it has been.

The Hon. AMANDA FAZIO: It is just a concern to me because often those people are the least able to attempt to manage a claim themselves because they are in the lower levels of the work force. They are probably less likely to be prepared to run off and get legal representation to help them with their claim and, given the degree of casualisation of the work force, I think it is a problem that will only increase rather than decrease, so I would appreciate you having a look at that and letting the Committee know if that has been a concern with any of the insurance companies that handle claims.

Mr BOWEN: It will not be directly addressed through the claims handling guidelines which are focused primarily upon the insurers' procedures and communications and the like but we can have a look to what extent it has been raised as an issue with us. I cannot answer substantively as to whether or not it is a problem at this stage.

The Hon. GREG PEARCE: Ms Rizzo, did you manage to get those figures for the claim payment chart?

Mr BOWEN: We have got some figures but they are really back of the envelope calculations. We would just like to go and verify them and take it on notice and send them through to you.

The Hon. GREG PEARCE: Well, I am a little disappointed at that. I mean you have presented the tables here. I would have thought the figures would be reasonably easy to—

Mr BOWEN: I prefer to verify them before I table them at a Parliamentary committee.

The Hon. GREG PEARCE: So you are happy to give us charts and some of the figures but you need to verify—

Mr BOWEN: All of the information we produce in our annual report, as you would appreciate, we check to make sure it is absolutely correct. On the basis of some calculations that we have done over the phone I would not wish to provide them to the Committee. I will take the question on notice.

The Hon. GREG PEARCE: Can I put it to you that the non-economic loss in the 45 months of the last scheme was about \$170 million? Would that be close to the figure you have got there?

Mr BOWEN: Yes.

The Hon. GREG PEARCE: And for the first 45 months of the new scheme \$50 million?

Mr BOWEN: And that would be about an expected reduction.

The Hon. GREG PEARCE: And economic loss—

Mr BOWEN: I think what you are asking now is to answer your question on individual matters and as I have indicated I am quite happy to give the information in the table form with the figures as against the percentages but I do not wish to go through them each individually now.

The Hon. GREG PEARCE: Well, my concern is you have been able to give us the table, it must have been prepared in your office. These are fairly fundamental figures. I would not have thought that there is a great deal of verification that is needed. You should be able to find the draft from which this chart was prepared.

Mr BOWEN: Yes, the chart will be a draft. We are saying we will make information available but we just want to check it. I think that is reasonable. You are obviously working off some calculations of your own which may or may not be correct.

The Hon. GREG PEARCE: When I look at the way you have reported those percentages it gives one impression, but it may well be that a large portion of the savings that have occurred are in fact a reduction in benefits to claimants.

Mr BOWEN: I make no secret of that; the largest component of the savings will be a reduction in benefits to claimants. That was clearly going to be the case from the 1999 amendments. There was to be a significant reduction in benefits, particularly for non-economic loss and some in other areas as well as the savings in the investigation, legal costs and the like.

The Hon. GREG PEARCE: I am trying to ascertain that. When you answer that question on notice, I need the figures to clearly show the amount of projected savings on payments to claimants on the other categories.

Mr BOWEN: I cannot do that. It will show the difference in the amount paid at the same time. It is different to ask for a calculation on projected savings by head of damage.

The Hon. GREG PEARCE: I am sorry, I did not mean that. You said that a reduction in non-economic loss of \$120 million would be expected. On what basis would that be expected?

Mr BOWEN: That non-economic loss of benefits would be restricted to those most seriously injured by the introduction of the impairment threshold to replace what was a verbal threshold.

The Hon. GREG PEARCE: So when we get down to it, at the moment we can say that in so far as you have had any studies or work done to identify profit levels, the only study is the actuary's report. For the first year that study indicates a 23 per cent profit level. When it comes to how the savings have been achieved, a very significant or large part of those savings are payments to claimants that have been taken away from them.

Mr BOWEN: Yes. And we say that in our report.

The Hon. GREG PEARCE: Yes, that is fine, I just wanted to be clear on that.

Mr BOWEN: We say that claim payments have fallen by \$250 million. It is not a hidden figure.

The Hon. GREG PEARCE: Mr Grellman, the Motor Accidents Council [MAC] is meant to advise the board. We will you give an indication of the types of issues that have been recommended to the board from the MAC? I want to get a feel for the value of the MAC, and what sort of work it is doing.

Mr GRELLMAN: That is one of two roles that it plays. The first is the channel through which we can convey scheme development data. For example, we might have insurers putting forward a proposition that the approach that is embodied in the Act for a particular right to claim should be revisited. The MAC might see that as an area that is opening up the flow of funds that were not expected or budgeted for. However, more usually the insurers are generally content to work with the legislation as it is. The legal profession is perhaps a bit more vocal in pursuing the rights of injured motorists and will often raise issues such as benefits paid to parents of children killed in motor vehicle accidents be considered.

The Hon. GREG PEARCE: Are you talking about the legal profession or the MAC?

Mr GRELLMAN: The legal profession representatives on the MAC. As you would appreciate, the MAC members representing the bar and the Law Society have their own groups of colleagues who help them determine what issues they are concerned about.

The Hon. GREG PEARCE: I am trying to get a feel for the value of the MAC to the authority and the Minister. Can you give a range of recommendations that have come from the MAC? Or is it just a review board?

Mr GRELLMAN: No, I think it plays a useful role. At the moment the most useful aspect of it has been a mechanism whereby a lot of the mystery of the way that the scheme has developed has been removed. We are giving it to a group of people who are well qualified to understand those developments and ask searching questions. That is very useful, because it is a compulsory scheme and we could get that information to the broad public, but it may struggle to understand it. That group is quite well qualified to understand it. The MAC being able to access that detailed data—and we have already talked about the statistics of it—is a very valuable mechanism. As the scheme trends start to firm, the members representing the bar and the member representing the Law Society certainly bring forward more issues for debate and discussion.

The MAC does not have any decision-making authority; it rests with the board to make recommendations to any amendment to legislation, for example. Frankly, the MAC as a group may be the best group to debate and discuss those issues. It has been a bit hard for the MAC to fully find its feet while we have been waiting for the scheme to mature somewhat. At least one member of the MAC is present, and we have fairly robust discussions. We do not agree on everything but I sense a fair degree of goodwill in the group. The minutes are formally undertaken and we could give the Committee copies of those minutes if members would be interested in the sorts of issues that are covered.

The Hon. GREG PEARCE: A selection would be useful, perhaps for the last couple of meetings.

Mr BOWEN: In addition, all of the guidelines that we have issued since 1999 such as whiplash, anxiety, post-traumatic stress, carer competency, attendant care for spinal cord injury, and others, as well as drafts for claims handling guidelines, and stakeholder comments will go to the MAC before they are promulgated. Market practice guidelines for insurers have been tabled at the MAC. Although the chairman has indicated that it is not a determinative body, it has been the practice on anything like that, that before it is promulgated we take it through the Motor Accidents Council.

Mr GRELLMAN: If any particular member of the council, on seeing a particular issue, would like to take it to their constituents and come back to the next MAC meeting that occasionally occurs.

Mr BOWEN: One other matter has taken up quite a bit of time of the council. As indicated in our report, last year the assessment areas were starting to cope with workload problems. We put a fairly aggressive reduction program in place. We also set about benchmarking the processes and producing performance indicators and started on an improvement process for that assessment area. That has been publicly run through the Motor Accidents Council. In that area there are so many statistics, to get clarity we need to ask what are the key performance measures. The council has been very helpful in identifying those.

The Hon. GREG PEARCE: Mr Grellman, I notice in response to the Plaintiff Lawyers Association that in a couple of issues the MAA response effectively was an agreement that some changes to the legislation were required in relation to unregistrable motor vehicles and a couple of other matters. Currently do you have recommendations with the Minister for amendments to the Act? How do you handle that? Do you send them up as they arise?

Mr GRELLMAN: I will refer that to Mr Bowen, he handles that dialogue with the Minister.

Mr BOWEN: At the moment we are putting together a range of matters which go on to some substantive matters such as the nominal defendant and others which are effectively a tidying up of the new procedures. We have not formally submitted all of those to the Minister at this stage. The reason is that we are anticipating further procedural changes as a result of our current review of the motor accidents assessment services. There will be a need for changes so we are waiting for the review to be completed and we will then put a package to the Minister.

The Hon. GREG PEARCE: Do you have a time frame in mind?

Mr BOWEN: Yes, it is to be completed by June. The intent is to put it to the Minister in the middle of the year.

The Hon. GREG PEARCE: If there are real loopholes, it will involve potentially significant amendment.

Mr BOWEN: The matter that the Australian Plaintiff Lawyers Association raised was based on an actual case. In that case the court found for the plaintiff, so that removed the immediate need for an amendment.

The Hon. DAVID CLARKE: Mr Bowen, what are the total claim payments for year one claims in the past 12 months: that is October 2002 to October 2003?

Mr BOWEN: I will take that on notice and get the information for you.

The Hon. DAVID CLARKE: Do you have that figure?

Mr BOWEN: I do not have it with me, but it is available.

The Hon. DAVID CLARKE: What is the total of the claim payments for year one claims paid in the year October 2001 to October 2002?

Mr BOWEN: I am happy to get the claim payments by year, if that would assist you.

The Hon. DAVID CLARKE: Do any of you have that information with you?

Mr BOWEN: Not here.

CHAIR: That question will be taken on notice.

The Hon. DAVID CLARKE: Is that information readily available?

Mr BOWEN: Yes.

Ms RIZZO: No, it is not.

Mr BOWEN: I am sorry; it is not readily available.

Ms RIZZO: We would have to get our analysts to run a specific program to get that information. It is not readily available.

The Hon. DAVID CLARKE: Is the information readily available for the year October 2001 to October 2002?

Ms RIZZO: Not in the form that you have asked. We would have to get our analysts to run that specific information. We can do that, as you have requested it.

The Hon. DAVID CLARKE: Have you compared those figures?

Ms RIZZO: We do not have that information in the way you have asked for it.

The Hon. DAVID CLARKE: Why do you not keep that?

Ms RIZZO: Because the analysis that we do does not depend on it. I am very happy to have that analysis run as soon as I get back to my office.

The Hon. DAVID CLARKE: Do you believe it relevant to compare what payments have been made each year in respect of claims from year one? Is that of relevance in judging the scheme?

Ms RIZZO: I have touched on our approach previously. In our annual report this year I said that we have produced a comparison of the old scheme with the new scheme, for the new scheme in total. I said also that we intend in the next annual report to split that by accident year. That is the stage at which that sort of analysis is relevant. To date, because we have presented it in our annual report in toto, we have not had to look at that.

The Hon. DAVID CLARKE: I am a little confused about that. You believe it is important to compare the payouts each year, for instance for claims lodged in year one of the scheme. Do you believe that is important information?

Ms RIZZO: To date it has been most important to look at the new scheme versus the old scheme in total. But at this stage of the development of the scheme, I think that in our next annual report it would be most important that we should look at it by accident year, which is what we intend to do in our next annual report. When it comes time to prepare the next annual report that should be done.

The Hon. DAVID CLARKE: A year-by-year payout in respect to year one, year two and so forth of the scheme?

Ms RIZZO: Accident year by accident year. That is important and by the time we prepare our next annual report that is how we should do it.

The Hon. DAVID CLARKE: Has it been done in the past?

Ms RIZZO: Not to my knowledge in the new scheme. The MAA has not done it. In CTP statistics we would have looked at it, that is possibly the comparison you are making.

The Hon. DAVID CLARKE: Has it been published in the past?

Ms RIZZO: It was published in the CTP statistics for the old scheme.

The Hon. DAVID CLARKE: You ceased publishing those statistics in 2000?

Ms RIZZO: I do not recall.

The Hon. DAVID CLARKE: They were published between 1996 and 2000, so they have not been published for the past four years.

Ms RIZZO: That is correct.

The Hon. DAVID CLARKE: To clarify that, you believe it is important that the payouts, year by year, in respect of claims put in in year one, year two and year three, be published?

Ms RIZZO: I believe that in our next annual report we should examine the trends of claims on an accident year basis in comparison to what we are doing now, which is examining them all together. We now have enough information and enough development to take a look at it accident year by accident year.

The Hon. DAVID CLARKE: Would it have been important to have specific information to show, for example, how much was paid out in, say, 2001 to October 2002 for claims that were lodged in the first year of the scheme?

Ms RIZZO: I believe that the way we have presented the information in the annual report is the best way that that information should be presented to date.

The Hon. DAVID CLARKE: The information I just referred to has already been ascertained and is available and you have compared it year by year?

Ms RIZZO: No, I have not.

Mr BOWEN: Year-by-year payments on a single accident year do not tell you anything at all about the scheme or how it is performing. It just tells you how the payments have been going for that year. Unless you are comparing it to something, you do not know whether it is better or worse, good or bad. As Ms Rizzo said, our focus has been on comparisons to past years. We are now in a position to look at that year-by-year payment by comparing it to trends under the new scheme.

The Hon. DAVID CLARKE: The scheme has been going since October 1999, that is, four years. Do you think it is important that we should have had a year-by-year comparison over that four-year period?

Mr BOWEN: What is it telling you about scheme performance? It is not telling me anything at all about scheme performance unless I can compare it to something else.

The Hon. DAVID CLARKE: You do not believe there is any value in keeping those statistics?

Mr BOWEN: I do not believe that looking at a single accident year and the payments in a subsequent year tell us anything at all about how the scheme is performing.

The Hon. DAVID CLARKE: Do you agree it is important if we judge those statistics in respect to claims lodged for the first year, for the second year and so on?

Mr BOWEN: I agree that becomes important.

The Hon. DAVID CLARKE: That is what I am talking about. The scheme has been in operation for four years. You say that is important but it has not been done to the present time.

Mr BOWEN: It has not been done. This report is to the end of June 2003. For the last year there will have been less than 2 per cent of claim payments. You are making a comparison of such a small amount that you need some time for it to develop to see what it means.

The Hon. DAVID CLARKE: Let us take the year commencing October 1999 and the year commencing October 2000. Do you believe it would be worthwhile to compare how the scheme is proceeding in respect to those two years?

Mr BOWEN: Yes. We have indicated that the intent is from this year that we will report on trends under the new scheme rather than comparing new to old scheme. We needed to build up a sufficient period of time to be able to say, "Yes, we can start to seek trends from which we can measure scheme performance". A one-year-to-one-year comparison I do not believe adds any information to scheme performance.

The Hon. DAVID CLARKE: It is not one year to one year. It began in October 1999 and we are now in 2004. It is more than one year.

CHAIR: I understand from the briefing the Committee has received from the Motor Accidents Authority that the intention has been to have comparison within the scheme from now on. Before that it was not appropriate because the figures were not available.

Mr BOWEN: The figures were not developed enough.

The Hon. DAVID CLARKE: There would be figures available since the scheme has been in operation in October 1999. To date there has been no comparison for those figures.

Mr BOWEN: No.

The Hon. DAVID CLARKE: Do you intend to do that in the future?

Mr BOWEN: That is the intention this year, rather than to compare backwards.

The Hon. DAVID CLARKE: In the second year of the Committee's review the MAA advised that the instance of fraud within the scheme is not an issue of major concern. Why is that the case?

Mr BOWEN: That is from our own discussions with insurers. I should point out one thing: the discussions at that time were talking about claimant fraud, manufactured claims. The insurers keep a fairly close eye on that in terms of where they are in investigating matters with a suspicion of fraud.

The Hon. DAVID CLARKE: You do not believe it is a matter of major concern now?

Mr BOWEN: No. We have had an issue of concern to do with fraud, but that has been to do with fraudulent purchases of green slips, not on the claimant side.

The Hon. DAVID CLARKE: Why do you believe it is not a matter of major concern?

Mr BOWEN: Because the insurers thoroughly investigate claims. They are able to look at claims by related parties, where they are coming from, where the accident occurred and the vehicles that were involved. If they were encountering problems there they would let us know.

The Hon. DAVID CLARKE: Have the insurance companies always been able to do that?

Mr BOWEN: When fraud was last a significant issue in the scheme—this was about 1995—there were some fraudulent claims identified. They were done through that sort of matching: where they came from, who was involved, what vehicles were involved. We do not believe that now there is very much, if any claimant fraud. I suspect what fraud there is is probably more by way of exaggeration of injury.

The Hon. DAVID CLARKE: Do you have anything to base that on? Is that just a hunch?

Mr BOWEN: The circumstances now are that it is extremely difficult and probably not worthwhile for someone to manufacture an accident in which an injury is sustained for the purpose of bringing a CTP claim. Because of the scheme changes you have to be reasonably seriously injured now to be able to maximise out your benefits, other than your actual loss. To get access to non-economic loss, which might have been considered to be the reward for the injury, you have to be fairly seriously injured. The propensity to generate a claim there is pretty limited.

The Hon. DAVID CLARKE: As to the fall of \$250 million in claim payments, the truth of the matter is that is due not so much to any new streamlined scheme but simply that the benefits to the injured parties have been slashed. The fall of \$250 million is probably in proportion to the slashing of benefits to injured persons. Would that be true?

Mr BOWEN: Yes.

The Hon. TONY BURKE: In general terms how would you describe the current state of the CTP insurance market in New South Wales?

Mr BOWEN: At this stage the market is as competitive as it has been in a decade. The position is that while the number of insurers has reduced, they are all substantial insurers, either domestic or international, and the current jockeying on price is an indication that they are starting to chase increased market share for CTP. From their point of view it is a good product. It is a healthy and competitive market at this stage with insurers in it who are substantial and viable. So we have both capacity and competition, which are the MAA's two concerns to be maintained.

The Hon. TONY BURKE: When you say the number of insurers has reduced, are there figures available?

Mr BOWEN: There has been a reduction in general insurers within Australia overall. HIH took out two of our registered insurers. Otherwise, there have been a lot of mergers and acquisitions by the larger companies of the medium and small firms. For example, the NRMA owns SGIO and CGU. Allianz picked up CIC and FIA and Suncorp purchased GIO. That is affecting CTP. It is certainly not being driven by CTP.

The Hon. DAVID CLARKE: Are you able to find any information on the percentage of the market held by various insurers?

Mr BOWEN: I think we have that in our annual report. Sorry, that information on market share is not in there but we can certainly provide it for you. To give indicative numbers, the NRMA has round about 39 to 40 per cent of the market. That is by premium dollar. It will have slightly more than that in terms of policies because it focuses on the domestic end. QBE and AAMI each has around 11 per cent, GIO 7 per cent, and Zurich 6 per cent. There are two Allianz companies—Allianz itself and Allianz CIC. They have a combined total of around about 26 per cent.

The Hon. TONY BURKE: Do you foresee any movement in the number of insurers over the next 12 months?

Mr BOWEN: I do not believe that any of our insurers will leave the market in the next 12 months. We have that possibility in our minds at all times from the point of view of looking to ensure that there are enough insurers participating so there will be capacity to write 100 per cent of the CTP market. I do not think there will be any new entrants. From the point of view of the MAA it would be desirable to look for additional entrants, but that is not looking likely at this stage.

The Hon. TONY BURKE: Do you have any role in encouraging extra entrants into the market?

Mr BOWEN: We have had discussions with those who expressed interest to let them know what the regulatory environment is should they be willing to operate. The reality is that there are a really no other Australian insurers companies of sufficient size to enter the market at the moment. If there were to be an additional entrant it would be an international company coming in and setting up an Australian subsidiary.

The Hon. TONY BURKE: At page 14 of the annual report under the heading "Maintaining market capacity and competitiveness" the MAA states: "The MAA's insurance division completed the bulk of its research into ways that the CTP market capacity and competitiveness could be maintained. A report with recommendations will be finalised early in the next reporting period." Are you able at this stage to outline any of the major findings of that research?

Ms RIZZO: What we are looking at there is to try to identify if there are any potential rating factors that we can introduce to encourage insurers to identify segments of the marketplace and price differently. Initially we will have a very thorough look at how they are pricing currently. As David addressed briefly beforehand, setting a premium is a three-stage process. The MAA declares relativities in certain geographic areas and vehicle types—there are about 20 vehicle types and five geographic areas—and the insurers file a premium. Then they can apply a discount or add a loading depending on characteristics they choose. That is open to them.

Mr BOWEN: Providing it is a valid risk rating factor.

Ms RIZZO: Yes, providing it is a valid risk rating and it is not discriminatory in that sense. What we want to do is identify where some other risk factors are. We are looking at the overseas experience to see if we can come up with anything that is valid in the New South Wales context.

The Hon. TONY BURKE: How do you go about the geographic areas aspect?

Ms RIZZO: At the moment there are five geographic areas: Sydney metropolitan area; outer metropolitan area, which starts at Penrith; Newcastle; Wollongong; and the rest of the State. There is a little history in that some of the old areas were based on old transport districts so they were unusual groupings. But we have tried to amalgamate based on postcodes, because it is the most identifiable geographic area and everybody knows their own postcode. We have amalgamated groups of postcodes into areas that define a risk that can be counted and analysed and that is a large enough base for an insurance risk to be carried.

The Hon. TONY BURKE: Is it based on the postcode where an accident occurred or the postcode where the vehicle involved in the accident is registered?

Ms RIZZO: It is based on where the vehicle is garaged and registered.

The Hon. TONY BURKE: Can the Committee receive a copy of that report when it is published?

Ms RIZZO: Yes, definitely.

The Hon. AMANDA FAZIO: To follow on with some questions about risk ratings, the Minister's review noted that despite there being a significant level of risk for female drivers there is only limited gender rating by insurers and the MAA was pursuing the matter. Can you update the Committee on the progress on this issue?

Mr BOWEN: Yes. As I have indicated, we can identify different risk variables and encourage insurers to rate on that basis but we cannot mandate it. The response from the insurers when we have raised issues of gender is that they believe there would be a response to minimise the amount of the premium by registering vehicles in a woman's name but that the risk would still be the same and you would, over a short period, do away with the gender variants. We have the one example—which I think has now been followed—of AAMI providing a discount for women in the 23 to 25 age bracket given that normally people up to 25 are put on the maximum. I think the NRMA also provides something similar for their customers who have been with them for five years and have no accident claims on their comprehensive for that period. We certainly think there is scope for the insurers to do more in that area.

The Hon. AMANDA FAZIO: The Minister's review also stated that you were working with the RTA to identify ways to reward drivers with good safety records with eligibility for registration and CTP insurance discounts. What is happened with that?

Mr BOWEN: The RTA has through its Internet site the capacity to issue a person with a copy of his or her driving record and we are encouraging insurers to use that as a positive indicator. It has not happened yet and the MAA needs to consider next whether we allow an additional discount beyond the current rating factors for a safe driving record—either no demerit points or no traffic offences, as distinct from parking offences, for five years.

The Hon. AMANDA FAZIO: Following on from my earlier questions about forms, in relation to consumer attitudes to MAA forms and guides you previously advised that you internally monitor consumer acceptance of MAA forms and guidelines and that independent researchers have been engaged to undertake external monitoring of consumer acceptance. What was the outcome of the internal monitoring process and the monitoring undertaken by external researchers?

Mr BOWEN: That occurs through our claims advisory service and relates to the accident notification form and the claim form. I will have to take that question on notice and provide more details later.

The Hon. AMANDA FAZIO: Thank you. The Bus and Coach Association of New South Wales has advised that the high cost of premiums is having a detrimental effect on its members. The Committee is aware that the MAA has been involved in negotiations in the past with insurers to secure

reduced premiums for bus operators. Can you inform the Committee as to the background to this issue and what part the MAA has played in trying to resolve it?

Mr BOWEN: We will answer that question in two parts. Ms Rizzo will first indicate what has been happening with the premiums and discussions that we have had with insurers. We have also had a program with the Bus and Coach Association in the road safety area about which I will provide some additional information.

Ms RIZZO: My understanding is that the main issues for the Bus and Coach Association are in the Central Coast area. I previously spoke about the five geographic regions. A couple of years ago we amalgamated the Newcastle region, which was a fairly small region centred around Newcastle, with the Central Coast area. Quite a few buses that previously would have paid a country relativity in that area now have to pay a Newcastle premium, and there is quite a big difference. We have introduced a transition relativity—a transition premium—to allow those buses to pay in between what they would have paid previously and what they must pay now. Unfortunately, as you would expect, not very many buses are garaged in that area and the claims experience differs significantly between operators. It is my understanding that all companies buy their premiums from the association, which gives them a flat premium. So there would be dissatisfaction among the people who have a better claims experience. In order to try to help them out in a temporary way we have decided to transit those relativities because we appreciate that they are large increases.

The Hon. AMANDA FAZIO: Turning to the inquiry into long-haul trucking, the key recommendation of the final report was the implementation of a code of practice. Can you provide any information about the development of the code?

Mr BOWEN: There is a whole lot to that. The main changes to respond to long-haul trucking are within the responsibility of the Minister for Transport and also Minister Della Bosca in his capacity as the Minister responsible for WorkCover. Changes have been announced in both those areas but because they are outside the responsibility of the MAA I will refrain from commenting upon them.

The Hon. AMANDA FAZIO: My last question goes to the sponsorship of the South Sydney rugby league team. In response to our question you advised that last year the sponsorship arrangements with the South Sydney rugby league team were being evaluated. Has that evaluation been completed and, if so, what are the results? But the question I really want to ask is why on earth did you sponsor them in the first place and what possible positive impact could that have on road safety or CTP insurance?

Mr BOWEN: I will answer the second part of your question first. The background is that the MAA identifies from our claims database risk areas for the purpose of devising our road safety program, and the high-risk area is young drivers, particularly young male drivers. Quite a few years ago—probably 2000—we undertook some fairly detailed market research into attitudes of young men, the media that caught their attention and the mechanisms by which messages may be delivered to them. It was quite apparent that an interest in sport was high on their list and that was a means of getting their attention that we should consider utilising. The other piece of background information is that previously we had a program with the Australian Paralympic Committee whereby we provided traineeships to the Paralympic athletes and in response to that traineeships payment athletes spoke about their personal experiences as victims of motor vehicle accidents. The feedback we received was that that was a very powerful way of talking to young people and that they retained the message.

The sponsorship of the South Sydney team served two purposes. One was to promote a new brand, which was the Arrive Alive brand, and to bring people in through our Internet site and into contact with a whole range of information about road safety issues that were relevant to them. But the main purpose was to make use of the South Sydney players as spokespersons for road safety in a very tailored road safety program whereby they would undertake a training run with primarily older school-age students who were about to get their licence or who had just done so and talk to them about their personal experience. We brought in all the players—we have done this in each subsequent year—for training in presentation skills. But we did not want to polish them up. We did not want them to be MAA advocates; we wanted them to talk about their own experiences. We found that all of them—I do not know whether this reflects rugby league or primarily the age of the players—had a personal experience of their or their friends being involved in an accident, which sometimes had ended tragically or could have been quite tragic bar happenstance.

The first year we ran the program Bunnies in the Bush in the country in conjunction with country rugby league. Last year we ran the Bunnies in the Burbs program in Sydney primarily through the schools, with the Department of Education and the police. I am not sure what we have planned for this year: probably a little more of the same. We have evolved into other areas of sponsorship. We now sponsor music festivals and art and film as different communication tools. In looking at the amount of money expended on this we should bear in mind that while it is substantial in terms of our budget it is only quite modest when compared with what you might spend if you ran a two- or three-week advertising campaign on some generic road safety issue where you can burn \$1 million or \$2 million extremely quickly. We think that sort of campaign has a role in influencing people to maintain good standards but this is a tougher audience and they are not going to listen or tune in to that sort of generic road safety advertising. We need something that is more individually focused. I cannot remember the figures for year two but in year one, for example, they spoke to more than 12,000 students, which is a pretty impressive number and hopefully had some impact.

The Hon. AMANDA FAZIO: Thank you. You have almost convinced me.

Mr GRELLMAN: The frightening thing is that a rugby league player, some of whom may not be well educated, will have more credibility with an 18-year-old kid in Brewarrina than the local policeman or that kid's parents. That is simply a reflection of our society. This is an initiative that we think has worked pretty well. It comes up for review in a month or two because we entered into the relationship for three years. I think at the next board meeting the board will be given a full brief on how our people think it has gone and what impact it has had. Of course, it is one of those initiatives that you can never really measure. For example, if one young man's behaviour has been modified and subsequently he does not end up in a wheelchair, whatever it costs us is inexpensive, but you can never tell.

CHAIR: With regard to the Justice Policy Research Centre study, quite a different range of studies have been undertaken. Can you describe the nature of the project and when it is due for final completion? Are you happy with what the centre does for you?

Mr BOWEN: There has been a range of projects. We engaged the Justice Policy Research Centre, under a slightly different name, in 1999 when it had been in existence for a few years and funded through the legal profession that funds the Law Foundation. After we had entered into the engagement with the centre, the director of that unit, Ted Wright, became the dean at Newcastle University and to some extent we had engaged that centre because of Professor Wright's background as probably the best-known civil justice researcher in the country. There was a detailed program of activities for the centre to undertake, and it produced stage one and stage two reports, which have been provided to this Committee previously.

CHAIR: What you mind providing the Committee with further copies?

Mr BOWEN: Yes, we are happy to do that. We can provide you with a schedule of all the reviews the centre is undertaking, together with the reviews that are completed. There are a couple that are outstanding and are now quite significantly overdue. This had to do with Professor Wright being quite ill over the last 12 months. While he has researchers to assist him, he likes to sign his name off on these matters, and frankly I would prefer that it came under his name in any event. We are awaiting one from him at the moment, which is to do with a follow-up report on legal costs. He did a preliminary report stage one in 1999-2000.

CHAIR: With regard to injury management and rehabilitation, the Minister's review contained a recommendation about a proposal for a national catastrophic care scheme. Can you update the Committee on the development of that issue?

Mr BOWEN: Yes. The matter is on the agenda of the heads of Treasury group, which is the Commonwealth and all the State Treasurers, and it will be dealt with by the group at its meeting in a week or 10 days time.

CHAIR: With regard to be rehabilitation grants program, your annual report states that 64 applications were received and funding of more than \$7.5 million was approved. Of the 64 applications, how many were approved?

Ms HAYES: About 25. The details are shown on pages 25 and 26.

CHAIR: How does the \$7.5 million figure compare with previous years since 1999?

Ms HAYES: It is probably a little higher than previous years. Typically, the budget for rehabilitation projects is about \$2.5 million. Last year we had a round of capital funding, which was approximately \$6 million all up, so that year was perhaps bigger than other years.

CHAIR: Are these projects usually pilot projects?

Ms HAYES: In a sense they are, in that they are usually one-off initiatives. The authority does not provide recurrent funding for the projects, so they tend to be one-off initiatives, but not necessarily pilot projects.

CHAIR: One of the projects that received funding was the rural spinal cord injury developing spinal networks project. Would you be able to give the Committee a brief description of that project?

Ms HAYES: That is the second round of funding for that particular project. Essentially, the purpose of the project is to improve the delivery of spinal cord injury services in rural New South Wales. At the moment people with spinal cord injury tend to depend on the units that are in Sydney, both for acute medical care and then for support for their medical issues once they return to their communities. We have been trying to address that by improving the knowledge of people in rural areas, particularly general practitioners and allied health people who have been working with a group of people to try to manage their medical problems closer to their homes rather than having to come back to Sydney.

The first part of the project involved providing funding for education programs in a number of areas in New South Wales. The project that has been approved this year will be looking at trying to provide those services right across New South Wales. Moving on from an education model to actually having people in each area, who will establish some sort of network of allied health professionals and provide ongoing education to those groups.

CHAIR: How do you go about evaluating or auditing the grant projects?

Ms HAYES: At the assessment phase or after they are approved?

CHAIR: Both.

Ms HAYES: In the assessment phase, the applications we get for funding are generally reviewed by external experts. Depending on the type of projects, we would identify usually two or three people who would have expertise in that area to provide advice to the MAA on whether the project is valid, whether it is feasible and whether it would be useful. Having done that, recommendations are being made to management about whether they would be approved or not. Once they are approved, we have people within the MAA staff who would monitor those projects on a quarterly basis to make sure they are actually doing what they say they were doing to start with. In relation to our funding, we also pay that on a quarterly basis, so that people do not actually get paid unless they can demonstrate that they are making satisfactory progress.

Mr GRELLMAN: A lot of these requests ultimately end up with the board. We have at hierarchy of delegated authorities. For example, David has authority to approve grants up to a certain level, and then David plus one of the independent directors up to another level, and beyond that they come to the board. It is to reduce the amount of time needed to debate them.

CHAIR: Do you have any information about the outcomes of the guidelines on managing whiplash-associated disorders, for example?

Ms HAYES: That is a project that started a couple of years ago, and information is just starting to come through about the usefulness of those guidelines, and we would probably be in a position to forward reports to you within the next few months.

CHAIR: How do you evaluate it?

Ms HAYES: In a number of ways. A large study is being done looking at health outcomes of people who sustained whiplash injuries. PricewaterhouseCoopers are taking quite a rigorous scientific approach to looking at what people's health outcomes are and comparing them across the years since the

guidelines have been introduced. We are also looking at their use by, in particular, physiotherapists and general practitioners because they are the group that use them most, and surveying those groups about their effectiveness. We have also looked at costs in our claims register to see whether the costs have changed since the guidelines were introduced. The other group that we would evaluate them with would be the insurers themselves, asking them how they have used them since they have been introduced.

The Hon. GREG PEARCE: I take you to the accounts at page 64, which is the statement of financial performance, particularly the notes relating to provision for HIH. There was a grant from the Treasury of \$554 million last year, which seems to have offset movement in outstanding claims and other expenses. Could you outline what that is and how it relates to the provision for HIH?

Mr BOWEN: That represents the total estimated incurred value of HIH CTP claims.

The Hon. GREG PEARCE: Is it an actual cash grant?

Mr BOWEN: No, it is a transfer of liability to the Nominal Defendant. It offsets the liability which is shown in our books at \$546 million.

The Hon. GREG PEARCE: How does that relate to the provision that is referred to in the notes at page 73?

Mr BOWEN: It probably directly relates to it.

The Hon. GREG PEARCE: The figure is \$423 million. Perhaps you could take the question on notice: What was the total HIH liability and what is the current outstanding position?

Mr BOWEN: Yes, we will take it on notice.

The Hon. DAVID CLARKE: Earlier I asked you about the total claim payments for year-one claims paid in the last four months, and you took the question on notice.

Mr BOWEN: Yes. We will provide the figures for how much has been paid each year for the first accident year.

The Hon. DAVID CLARKE: And for the second year of the scheme as well?

Mr BOWEN: Yes, we would be happy to do that, bearing in mind my comments that I think it is very hard to draw conclusions from that, other than on a comparative basis.

The Hon. DAVID CLARKE: For example, if \$100 million were received in insurance payments in year one, and in year two \$100 million were received, but in year four the payout in respect of year one was \$200 million and the payout in respect of year two worth \$400 million, that would be very important statistical information to have.

Mr BOWEN: It would be interesting. I am not sure that it tells you anything about how the scheme is performing, unless you can make a comparison to some like years.

The Hon. DAVID CLARKE: As you are aware, victims of the Glenbrook disaster were initially covered by the Motor Accident Compensation Act 1999 but were then dealt with directly by the Government, and apparently were compensated at a higher level than the Motor Accidents Scheme would have allowed. Are you aware of that?

Mr BOWEN: Yes.

The Hon. DAVID CLARKE: I think that also applied to the victims of the Waterfall disaster. The Law Society has suggested that this is an example of inconsistencies in the legislative approach to tort law, that people with similar injuries are being treated in a different way. What is your view on that?

Mr BOWEN: The victims of the rail accidents were compensated under the Transport Administration Act, which applied the Motor Accidents Act, but the damages provisions did not apply the whole Act. They were not motor accident victims, they were victims of rail accidents which had picked up the provisions under the Motor Accidents Act, which seems to have been something that

“Corrected”

started when the Motor Accidents Act was introduced in 1988 because it simply brought forward what had been a wider coverage under Transcover. That is probably about as much comment as I can make on the matter.

The Hon. DAVID CLARKE: Do you not agree that it seems to be out of kilter? There seems to be an anomaly that people with similar injuries are being paid at vastly different levels of compensation?

Mr BOWEN: I think you need to direct that question to my Minister.

The Hon. TONY BURKE: Minister Della Bosca has advised that he intended to ask the board of MAA to consider organisations that provide assistance to bereaved parents when the board was looking at the 2004 grants program. Has the 2004 grants program been finalised and have grants been made to organisations?

Mr BOWEN: No, we will have our budget for funding presented to the board next Wednesday. Do we have the priorities?

Ms HAYES: No. Usually we advertise in about August or September.

Mr BOWEN: When do we put the priorities to the board?

Ms HAYES: In about June.

Mr BOWEN: We set a global budget in February for the program from 1 July and then we provide the board with some recommendations as to areas for priority funding that program and then we call for applicants later in the year. That recommendation, through the Minister, will go to the board at its May or June meeting when it sets the funding priorities.

The Hon. TONY BURKE: So the 2004 grants program will begin in about August or something like that?

Mr BOWEN: It was for approval, yes. It begins on 1 July but we are in the process of calling for grants, so it will take a little bit of time to roll out.

(The witnesses withdrew)

(The Committee adjourned at 1.02 p.m.)