

4 January 2016

Research Director  
Communities, Disability Services and Domestic and Family Violence Prevention Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Email: [CDSDFVPC@parliament.qld.gov.au](mailto:CDSDFVPC@parliament.qld.gov.au)

Dear Sir/Madam

**Inquiry into a suitable model for the implementation of the National Injury Insurance Scheme**

The Insurance Council of Australia (ICA) is pleased to respond to the Queensland parliamentary inquiry into the implementation of the National Injury Insurance Scheme (NIIS). Our submission focuses on the motor vehicle accident component of the NIIS.

The ICA is the representative body of the general insurance industry in Australia. This includes the four licensed insurers who underwrite the QLD compulsory third party (CTP) motor accidents compensation scheme.

The terms of reference require the Committee to consider a no-fault lifetime care scheme or a hybrid common law and no-fault care arrangement. As we submitted to the Insurance Commission of Western Australia, a hybrid scheme has the potential to create inconsistencies in the level of care and support those catastrophically injured may receive. We consider that such a scheme would not meet principles of simplicity, consistency and fairness.<sup>1</sup>

For this reason, the ICA supports a no-fault lifetime care model based on the NSW Lifetime Care and Support Scheme (LTCS). In NSW, non-catastrophic injuries are underwritten by general insurers under third party arrangements. Catastrophic injuries are managed separately on a first party basis by the statutory LTCS. The scheme is funded by a levy paid when motorists purchase a CTP Green Slip insurance policy. Whilst this scheme removes common law rights for ongoing care and support, injured people retain the right to pursue other benefits under the CTP scheme such as income loss.

The NSW LTCS model is consistent with the ACT scheme and will also be consistent with the SA scheme once CTP becomes competitively underwritten from 1 July 2016.

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<sup>1</sup> Insurance Council of Australia, *ICA submission into options for no-fault catastrophic injury cover in Western Australia*, 23 December 2014

The ICA is in favour of the QLD NIIS model being closely aligned with the catastrophic injury schemes of these jurisdictions. In particular, close alignment between NSW and QLD will prevent the complications that arise from cross border inconsistencies. Consistency between the two schemes will provide greater certainty for insurers and motorists who operate across both these states.

We also suggest that the operations of the scheme, such as claims management processes, be similar to the NSW LTCS. For insurers already operating in NSW, this would assist in making implementation for 1 July 2016 easier to achieve.

The ICA notes that the NSW LTCS already meets the NIIS minimum benchmarks for motor vehicle insurance. Whilst the full details of implementing the NIIS in QLD are being developed, the QLD government may wish to consider – as an interim arrangement – entering into an agreement with the NSW LTCS, where the latter provides treatment, rehabilitation and care for participants of the QLD catastrophic injury scheme. This is the approach the ACT has taken and it has ensured that the ACT scheme complies with NIIS minimum standards.

It is our members' experience that the competitively underwritten CTP scheme can interact smoothly with the catastrophic injury scheme, provided that a number of factors are in place.

Firstly, the catastrophic injury scheme must fully fund all required treatment and care for its participants. This will prevent recovery from the CTP scheme.

Secondly, unambiguous legislation is needed. Clear legislation will enable all parties to understand the benefits available under the CTP policy and the benefits available under the catastrophic injury scheme. Fixed lines of demarcation will ensure no overlap between the two. In NSW, ambiguity in the legislation contributed to uncertainty around the eligibility of LTCS participants to recover damages for gratuitous care. The matter was ultimately decided by the High Court in *Daly v Thiering [2013] HCA 45*. Following this judgment, the sections in question of the *Motor Accident Compensation Act 1999* and the *Motor Accidents (Lifetime Care and Support) Act 2006* were repealed. To avoid repetition of such a lengthy and costly process, the ICA advocates for a catastrophic injury scheme established with a clear legislative mandate.

Thirdly, clear and easy to navigate processes for the CTP claims managers who will be interacting with the catastrophic injury scheme is a necessity. Our members are happy to provide insights and best practices learnt from the NSW experience in this regard.

The ICA supports funding of the NIIS by a levy attached to the CTP premium. We consider it imperative that the levy is designed to fund future benefits only. This reflects our point on maintaining a seamless interaction between the two schemes. A clear demarcation establishing when lifetime care and support benefits become claimable against the catastrophic injury scheme, will be simpler for stakeholders and will enable our members to adjust their premiums, ensuring they no longer cover the benefits that are to be funded by the levy.

To address the long term nature of liabilities in a NIIS, the ICA submits that QLD's catastrophic injury scheme be funded on actuarial valuations that consider the long tail nature of catastrophic injury claims. This is the current practice in NSW, and it is fundamental in safeguarding the viability of the scheme.

Introduction of a separate catastrophic injury scheme will impact insurers' pricing, claims operations, regulatory reporting and internal reporting. Our members' staff will need to be trained on these changes and their IT systems will have to be adjusted to reflect the new requirements. Such changes are significant and time intensive. Our members will require several months implementation time and will need to be provided with the design, and in particular the funding arrangements, of QLD's catastrophic injury scheme as soon as possible.

The ICA considers this point to be of the utmost urgency, and as such, we have written to the QLD Treasurer on this matter. We stress to the Committee the importance of sufficient lead times for insurers. This is fundamental if the catastrophic injury scheme is to be implemented smoothly from 1 July 2016.

If you wish to discuss any of the issues raised in this submission further, please contact Vicki Mullen, General Manger, Consumer Relations & Market Development Directorate, on (02) 9253 5120 or [vmullen@insurancecouncil.com.au](mailto:vmullen@insurancecouncil.com.au)

We look forward to working with the QLD government on this matter.

Yours sincerely



Robert Whelan  
Executive Director and CEO