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The Research Director
Communities, Disability Services and Domestic and Family Violence Prevention Committee
Parliament House
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Submission on inquiry into a suitable model for the implementation of the National Injury Insurance Scheme

The Actuaries Institute welcomes the opportunity to submit comments in respect of the Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee)'s inquiry into a suitable model for the implementation of the National Injury Insurance Scheme for motor vehicle accidents (the Inquiry).

Background

The Inquiry's Terms of Reference include an investigation of "The most suitable model for implementing the National Injury Insurance Scheme (NIIS) for 1 July 2016 as entered into by Queensland in a Heads of Agreement with the Commonwealth in May 2013 with options including:

- a no-fault lifetime care scheme; or
- a hybrid common law and no-fault care and support arrangement."

In reviewing the suitability of these options, the Committee will give consideration to:

- sustainability and affordability for the Queensland government;
- affordability for Queensland taxpayers and motorists;
- the long term nature of liabilities in a NIIS; and
- the desire to target full funding of long term liabilities in accordance with actuarial advice.

Queensland's NIIS Heads of Agreement

The "Heads of Agreement between the Commonwealth and Queensland Governments on the National Disability Insurance Scheme" signed on 8 May 2013 sets out the commitments the Queensland Government has made in respect of the Commonwealth Government's NIIS. In this agreement, the Queensland Government has:

- agreed in principle with the National Injury Insurance Scheme (NIIS) minimum national benchmarks that have been developed for the provision of **no-fault** lifetime care and support for people who are catastrophically injured in motor vehicle accidents
- accepted responsibility for 100 per cent of the costs of NDIS participants who are in the NDIS because they are not covered by an injury insurance scheme that meets the minimum motor vehicle benchmarks.

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While the details of the option for a hybrid common law and no-fault arrangement have not been set out, any such hybrid arrangement would not meet the Queensland Government's in principle commitment to the provision of a no-fault lifetime care and support scheme. (We note that while the Western Australian Government is introducing a hybrid NIIS model from 1 July 2016, the WA Government has not signed a Heads of Agreement with the Commonwealth in respect of NIIS.)

Actuaries Institute Comments

As outlined above, as part of the Inquiry, the Committee will give consideration to the financial affordability of each option, taking into account the long term nature of liabilities in a NIIS.

We expect due consideration will also be given to the impact of each option on participants' experiences and outcomes under each scheme.

As a professional body, the Actuaries Institute holds the 'public interest' or 'common good' as a key principle in developing policy. As such, we make the following further comments in relation to the two options being considered.

No-fault lifetime care scheme

We consider the following to be some of the relative advantages of a no-fault lifetime care scheme over a hybrid common law/no-fault arrangement:

- Participants are treated consistently, regardless of the nature or cause of their injury.
- Participants have their care arrangements co-ordinated for them, ensuring that participants receive the services appropriate to their needs
- No-fault lifetime care schemes have a focus on early intervention, with an emphasis on rehabilitation and maximising participant outcomes from the outset, arguably resulting in a lower lifetime cost to the scheme. The timeframes involved in the legal process of pursuing a common law application are avoided, with the participant receiving compensation as and when services are required, rather than needing to wait until a settlement can be reached.
- The adversarial nature of a common law system, where fault must be attributed to an individual or organisation, can be avoided, allowing the focus to be on improving a participant's recovery and return to health, rather than the focus being on the amount of compensation to be awarded.
- Participants are not exposed to savings, investment and mortality risk. That is, funding for services such as attendant care and home help will be available for as long as required, rather than the participant having to make decisions about how much they can afford to spend on services today versus uncertain future needs. This is particularly an issue for NIIS scheme participants who have suffered catastrophic injuries and are already dealing with significant stress in coming to terms with their injury and focussing on recovering. These factors are further compounded for participants with an acquired brain injury, which often results in a diminished capacity to manage their financial affairs.



Hybrid common law and no-fault care and support arrangement

We consider the following to be some of the relative advantages of a hybrid common law/no-fault arrangement over a no-fault lifetime care scheme:

- This option maintains the status quo for motorists involved in an accident where they were not at fault.
- Participants with access to common law in a hybrid scheme have tailored legal advice available to help them understand their entitlements under the NIIS.
- Under a hybrid scheme, savings, investment and mortality risk associated with the common law component is born by the scheme participant, which reduces the scheme funders' exposure to these risks.
- Once a common law payment has been made to a participant, the Queensland Government would not be required to continue to manage that participant's care needs, nor reserve for the long term liabilities associated with such a claim.

We recommend that a full costing of each of these options be undertaken as part of the Inquiry, in order to assess the affordability of each option for the Queensland government, taxpayers and motorists.

The Actuaries Institute would be pleased to discuss this submission with the Committee or to provide further input once the NIIS scheme design has been drafted. Please contact our CEO David Bell [REDACTED]

Yours sincerely

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Lindsay Smartt
President