Response to Inquiry into the Most Suitable Model for Implementing the National Injury Insurance Scheme (NIIS) for Queensland

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The adoption of a no-fault lifetime care and support scheme for all persons catastrophically injured in motor vehicle accidents in Queensland is strongly supported by the Vocational and Social Rehabilitation Program, CONROD. We consider that this scheme should be designed in a way which enables the following:

1. **Certainty of access** to injury related medical and dental treatment, pharmaceuticals, rehabilitation, ambulance transport, care and support, prostheses, aids and appliances, educational and vocational training, and home and transport modifications
2. **Time-based milestones and coordinated access** to rehabilitation and early intervention to promote optimal outcomes for individuals following catastrophic injury and facilitate independence and social and economic participation on a lifelong basis. These milestones can be established with reference to intensive case management models that have worked well for return to work schemes in Queensland.
3. **Flexible, individualised responses to lifetime care and support needs** that respond to changing life stages, living situations and incorporate existing and new social support networks
4. **Clear and understood choice** in care, including choice over who provides services, and where and with whom to live
5. **Ethical exit and re-entry points** into a coordinated system of lifetime care and support
6. **Safeguards** to ensure informed decision making and the protection of vulnerable persons from abuse and neglect, and financial exploitation. In addition, the verbal and auditory communication needs of individuals, especially those with cognitive disability, to be determined by appropriate professionals to ensure adequate understanding of choice and care.
7. **Formalised appeals processes** established including independent review of funding decisions by an external and independent body
8. **Structured processes for reviewing scheme performance** following established models of injury and disability management.
9. **Research** to support innovation within the scheme
10. **Support for families/significant others** as partners in recovery and long term care and support
11. **Consideration of interactions with the common law system**

1. Certainty

The current CTP scheme in Queensland fails to deliver certainty of access to required services and supports over an individual's lifetime due to:

- the contestable nature of insurer liability
- difficulties managing lump sum settlements to last a lifetime, and
- an under-developed and under-resourced public service sector.

Fundamentally, a no-fault LTCS should provide certainty of access to injury related services and supports from an early stage post injury, and for the duration of each individual's lifetime. To respond to the key failure of existing insurance arrangements to deliver certainty of access to

required services and supports for those acquiring catastrophic injuries in MVAs the following is recommended:

- Development of structured processes to ensure early notification of potential scheme participants by hospital based staff members. This should include funding to establish information management and billing systems within Queensland public hospitals, and to cover the increased administrative demands of providing support to LTCS participants. Failure to provide this funding under the NSW Lifetime Care and Support Scheme (LTCSS) increased the burden on clinical staff within NSW hospitals, decreasing the time available to provide clinical care (Strettles and Hodgkinson, 2010).
- A system of interim participation, as per the New South Wales Lifetime Care and Support Scheme (LTCSS), is recommended to ensure that all people seriously injured in MVAs receive timely and coordinated access to disability minimising acute care and rehabilitation services. This system responds to the heterogeneous and unpredictable nature of recovery after serious traumatic brain injury (TBI) and spinal cord injury (SCI), delivering services and supports which may enable participants to exit the scheme at 2 years post injury. It also has the potential to minimise harm related to the compensation seeking process (Kilgour et al., 2015b, Kilgour et al., 2015a, Murgatroyd et al., 2011), enabling individuals to focus on their process of recovery in the early stages post injury, rather than the adversarial processes involved in pursuit of a common law claim (O'Donnell, 2000).

2. Time-based milestones and Coordinated Access

Time-based milestones (critical events that need to occur at critical time-points) and coordinated access to rehabilitation services promotes optimal recovery outcomes after catastrophic injury and prevents secondary and tertiary disability (New Zealand Guidelines Group, 2006, Royal College of Physicians and British Society of Rehabilitation Medicine, 2003). Difficulties and delays accessing rehabilitation due to disputes over liability are commonly reported under fault-based compensation schemes (O'Donnell, 2000, Productivity Commission, 2011) including the Queensland CTP scheme (Review Committee of the Compulsory Third Party (CTP) Insurance Scheme, 1999, Harrington, 2013). The introduction of a no-fault lifetime care and support scheme will help ensure timely and coordinated access to rehabilitation and early intervention services after catastrophic injury. A structured approach to assisting individuals to navigate the wide range of services and supports required to promote their optimal recovery is required. A similar structured milestone model for return to work was successfully implemented in Queensland (Muenchberger et al., 2006). This should include:

- Early access to specialist case management (supports coordination) similar to the system of Early Support Coordinators (ESC) existent in the Victorian, Transport Accident Commission (TAC) scheme. Under this scheme, a TAC ESC establishes contact with a seriously injured client and/or their family members within the first two weeks of injury, and works collaboratively with the individual, their family and service providers to ensure continuity of care throughout hospital admissions and the period of transition from hospital to home.
- The establishment of peer mentoring programs to support catastrophically injured persons and their families at all stages of the rehabilitation continuum

- Ongoing monitoring of lifetime care and support needs and participatory goals by experienced practitioners or specialist support coordinators, at least annually
- A proactive approach to healthcare and disability including prioritized access to funding for an increase in services and supports when needed, and the involvement of neuropsychologists specialising in positive behaviour support to help sustain supportive relationships for individuals with brain injury and their families.

3. **Flexible and Individualised Responses to Lifetime Care and Support Needs**

Flexible, individualised responses to lifetime care and support needs that respond to changing life stages, living situations and incorporate existing and new social support networks are required. Guidelines for the diagnosis, acute management, and rehabilitation of people with traumatic brain injury recognise rehabilitation as a non-linear process, emphasising the episodic nature of rehabilitation needs and the need for long term care and support (New Zealand Guidelines Group, 2006). To ensure that LTCS participants achieve their optimal functional and participatory outcomes it is essential that the scheme provides:

- A person centred approach taking account of individual needs and goals, social and physical environments, and available and required resources and supports
- A central point of contact to coordinate responses to changes in care needs, life stages, living situations and social supports, including the adjustment or reintroduction of care and therapy as required.
- Maintenance therapies to prevent deterioration in function or social and vocational participation.

4. Clear and understood choice

People with a disability have a right to exercise choice over who provides their care and where and with whom to live. The UN Convention of the Rights of Persons with Disabilities states that '*persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities*'. To ensure that individuals and their family members are able to fully exercise their rights to make decisions in relation to the care and support a LTCS should provide:

- Readily accessible information about the scheme, entitlements, and available services and supports, including the provision of web-based, audio-visual and printed information to legal, medical and allied health professionals, individuals and their family members, and the community
- Funding and support for the appropriate use of assistive communication technologies and information systems to determine personal preferences and promote informed choice
- Decision making support for people with impaired capacity
- Capacity building in a range of supported housing models to ensure a variety of accommodation options are available for scheme participants – as per initiatives within the TAC and LTCSS (Harrington, 2015)
- Opportunities for self-managed funding as discussed below.

5. Ethical exit and re-entry points

The LTCS should provide ethical exit and re-entry points into an organised system of care, and maximise opportunities for participants to self-manage their injury in line with the Clinical Guidelines for the Delivery of Healthcare Services (2012). This should include:

- Support for self-managed funding including the option of periodic payments to meet ongoing care and support needs. Self-managed funding models show good potential for improving participatory outcomes and client satisfaction while reducing lifetime care costs for people with disability who have returned to the community. A review of the literature in relation to individualised funding models and a summary of experiences of Individualised Funding models operating in the TAC, LTCSS and the New Zealand Accident Compensation Commission (ACC) scheme is provided in the NTRI Forum 'Optimising self-managed funding for people with a long-term disability' Briefing Document and Dialogue Summary (Piccenna et al., 2015a, Piccenna et al., 2015b).
- An option for those who have received compensation settlements to buy into the scheme

6. Safeguards to Protect Vulnerable Persons

It is anticipated that a large majority of the participants in a LTCS will be people with traumatic brain injury (TBI). People with TBI often experience persistent neuro-behavioural difficulties, including ongoing cognitive impairments, loss of emotional control and personality and behaviour changes which can have a significant impact on their long term psychological adjustment, life satisfaction, employment and participation (Hoofien et al., 2001, Ponsford et al., 1995). Difficulties with executive functioning can impair decision making capacity and increase an individual's vulnerability to financial exploitation, abuse and neglect. These risks are increased for individuals with high care needs and significant communication difficulties. Safeguards are recommended to protect vulnerable persons from financial exploitation, abuse and neglect including:

- Support for financial management and decision making for those with impaired capacity
- Ensuring that no one service provider meets all of an individual's care and support and accommodation needs
- Funding for independent assessors who are trained to detect potential abuse and neglect to visit those living in vulnerable situations – e.g. adults with high care needs and/or communication impairments living independently in the community (as per TAC program)

7. Formalised Appeal Processes

The adoption of formalised appeals processes, including independent review of funding decisions by an external and independent body if disputes over funding decisions cannot be resolved via internal appeals processes within the scheme, is recommended. This is vital to ensure satisfaction is maintained within the scheme and the general community. An independent review panel should be established within 6 months of the schemes inception to review appeals related to funding decisions and scheme eligibility.

8. Structured Processes for Reviewing Scheme Performance

Scheme performance should be continuously reviewed on the basis of participant outcomes, participant satisfaction, and scheme viability. The outcomes of these reviews should be made publicly available to ensure transparency, accountability and promote community acceptance of the scheme. Structured review processes should include processes currently operating within the NSW LTCSS, including:

- Regular client satisfaction surveys – including participants, families and service providers, and other key stakeholders
- Actuarial reviews
- The establishment of an independent advisory panel within 6 months of the schemes inception to review scheme performance to meet quarterly
- Parliamentary reviews of scheme performance

9. Research to support innovation within the scheme

Research is vital to support innovation and ongoing quality improvement within the scheme. Systematic data collection regarding scheme participant's pathways, service usage and rehabilitation, social and vocational outcomes is recommended. Data collection systems should be designed in a way which promotes data linkage with other systems including, but not limited to, Medicare and Centrelink data. This would enable benchmarking with other injury insurance schemes both nationally and internationally and provide opportunities for analysis of the long term sociological impacts of injury insurance scheme design.

10. Support for Families/Significant others

The health and wellbeing of people with catastrophic injury and their families is integrally connected (Rotondi et al., 2007). Additionally, supporting the sustainability of family care, where appropriate, may help to prevent cost escalations within the scheme. However, while support for families is essential, there are instances where family are not the primary support or the wanted support. It is important that the scheme recognises the individual preferences of participants in this regard, by providing supports to family members or significant others (e.g. friends) who are a primary source of support, and intimately involved in the recovery of the individual. Such supports should include:

- Assessment of family/significant other support needs
- Funded counselling and respite for family members/significant others (including children and siblings)
- Travel allowance for families/significant others from regional/rural areas to support participants in specialist rehabilitation units in metropolitan areas
- Travel allowance for specialists to contribute to rehabilitation programs by visiting or Skyping with rural and remote families/agencies
- Carer support programs (similar to the LTCSS funded mentorship program)

11. Consideration of interactions with the common law system

Consideration of interactions with the common law system is recommended. Research within workers compensation schemes indicates that people involved in common law processes after injury experience poorer health outcomes, are more likely to experience non-durable return to work outcomes, and are more likely to express dissatisfaction with the claims process and rehabilitation experience than those in receipt of weekly benefits (PriceWaterhouseCoopers, 2003). Additionally, Gething et al. (2002) in a mixed method study involving 136 adults with TBI and 51 family carers found that filing a compensation claim in the common law jurisdiction of NSW was 'experienced as a profoundly negative experience by both injured people (with TBI) and their family carers' (p. xvi). It impacted on 'physical health, emotional health, finances, personal relationships, access to services and pursuit of lifestyle choices' (p. 176). Additionally, the compensation process was perceived to interfere with the re-adjustment process and delay rehabilitation, and its adversarial nature compounded the experience of stress and trauma after injury (p.174). Many participants reported negative interactions with doctors and lawyers (p.175). Murgatroyd, Cameron and Harris (Murgatroyd et al., 2011) reported similar findings in their study involving focus groups with 34 people severely injured in MVAs in NSW between 2002 and 2007, 21 of whom had compensation claims. They identified a number of themes consistent with the Gething et al. study. These included: 'adversarial claims and settlement processes'; 'an inability to move on with life during the claims process'; and 'an extreme dislike of medico-legal assessments' (p. 222). Prolonged delays reaching settlement (Harradine et al., 2004, Gething et al., 2002) and associated experiences of financial strain have been reported amongst adults with sTBI and their families in common law jurisdictions (Gething et al., 2002, Harrington et al., 2015). Similarly, common law claimants often experience delays obtaining CTP insurer funding approval to access required services and supports in the pre-settlement period (Strettles et al., 2005, Productivity Commission, 2011, Harrington, 2013). For those whose claims are settled, there is a risk of early dissipation of settlement funds within the preclusion period for accessing government benefits, which places compensation recipients at risk of homelessness and adverse health outcomes (Grant et al., 2015).

Despite these potentially adverse outcomes, some authors have suggested that the common law system may enhance opportunities for choice and independence in the long term, as injured persons can spend funds as they see fit (Government of South Australia, 2012, Productivity Commission, 2011). Receipt of a lump sum settlement can provide greater choice in how care and support needs are met, enabling people with catastrophic injury to purchase housing and services outside the scope of the scheme. Consideration of the adoption of 'no-fault' lump sum impairment benefits and the option of receiving loss of earning capacity payments in lieu of pursuing a common law claim, as per entitlements in the TAC scheme, is recommended. This would enhance opportunities for choice within the scheme, and may avert some of the potentially damaging effects of pursuit of a common law claim.

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