



One Company
Many Brands



14 July 2016

Research Director
Education, Tourism, Innovation and Small Business Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: etisbc@parliament.qld.gov.au

RE: Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016

Suncorp welcomes the opportunity to provide feedback on the *Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016* (the Bill).

Suncorp commends the Government on committing to implement the National Injury Insurance Scheme (NIIS) for workplace accidents, and agree that as far as possible this should be aligned with the scheme implemented for catastrophic motor vehicle accidents.

However, we remain disappointed that the Queensland Government has chosen not to implement a full lifetime care model for individuals injured in catastrophic accidents, and hold concerns about the ability of a hybrid scheme to meet the NIIS minimum benchmarks for care and support.

The Suncorp Group

Suncorp Group Limited and its related bodies corporate and subsidiaries (collectively 'Suncorp') offer a range of financial products and services in banking, general insurance, life insurance and superannuation across Australia and New Zealand. Suncorp has relationships with over nine million customers nationally.

Suncorp is Australia's largest personal injury insurer. Suncorp's statutory insurance products include both workers' compensation and compulsory third party (CTP) insurance. Suncorp has over 85 years of personal injury insurance experience, with our Suncorp, AAMI, GIO and Vero brands.

In respect to statutory classes of insurance, our community focused activity is centred on risk management, injury prevention, social participation and quality of care for those injured or with a disability.

We actively support Wheelchair Sports, which encourages individuals back into the community, improving rehabilitation and work capacity. Our long-term association with Youngcare has created housing and support for young people with disability in Queensland and New South Wales. We are also interacting with State Treasuries and providing information for consideration in regard to implementing a National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS).



Concerns regarding a hybrid NIIS scheme

Suncorp continues to support the implementation of the NIIS through a full lifetime care model, based on the Lifetime Care and Support Scheme (LTCS) for motor vehicle accidents in NSW.

The LTCS scheme is funded by a levy paid when motorists purchase a CTP policy. This scheme removes common law rights for ongoing treatment, rehabilitation, care and support, however injured people retain the right to pursue common law claims for economic and non-economic loss. The same model can be applied to catastrophic injuries arising from work accidents.

The benefits of a full LTCS for individuals who suffer catastrophic injuries from a work accident include:

- medical and rehabilitations cover, which is not provided by the National Disability Insurance Scheme;
- fewer delays in accessing cover;
- early intervention leading to better rehabilitation outcomes;
- removal of potential incentives to delay recovery in common law schemes; and
- earlier social and economic participation for the individuals with injuries and their carers.

By contrast, the blended model proposed in the Bill has the potential to deliver treatment, rehabilitation, care and support for catastrophically injured individuals inconsistently. This model is also not the best design to promote speedy social and financial independence, and is unlikely to meet the proposed minimum NIIS benchmarks for work accidents.

Ultimately, the potential to opt out of NIIS to pursue common law damages for treatment, rehabilitation, care and support will create uncertainty and greater complexity.

It is difficult to calculate the cost of care and support over a lifetime. If common law payments fail to accurately reflect the cost of an individual's needs, there are potential negative impacts upon the injured person, their family, the Queensland health system and the workers compensation scheme.

Over-assessment of common law damages for an injured person's lifetime needs will add financial pressure to the scheme, without improving outcomes. This is because the surplus funds pass to the injured person's estate upon death. This is not the intended use of scheme resources.

Of more concern, an under-assessment of common law damages could result in an individual running out of money or withholding care and support to conserve funds. This impacts upon the injured person's ability to receive consistent and timely treatment, rehabilitation, care and supports during their lifetime.

As a decision has already been taken to implement the blended NIIS for motor accidents, it is logical for catastrophic work injuries to use the same mechanism. However, it will be important to monitor the impact of adopting the blended model to ensure the adequacy of common law payments during an injured person's lifetime and potential financial repercussions for the Queensland Government.

Scheme Design Principles

Suncorp considers the three fundamental aims for an effective personal injury insurance scheme are fairness, outcomes and affordability. Suncorp also believes that there are six guiding principles which define an effective personal injury insurance scheme across all statutory classes.



These principles guide our input into scheme design and improvement with each of our regulators and governments nationally, and should be considered as part of any scheme changes.

These guiding principles include:

- *Social outcomes* – The scheme’s emphasis needs to be on the individual’s health and social outcomes (wellbeing), with a reduced focus on compensation payments. The ideal scheme should seek to support individuals in becoming self-sufficient both socially and economically.
- *Sustainability* – The scheme should be self-sustaining and operated with sound pricing and capital management practices so that liabilities remain fully funded. The Suncorp paper titled “How international financial markets impact personal injury insurance” provides an extensive discussion of the impact that bond yields have on the premium rate and capital requirements of insuring in a long-tail scheme.¹
- *Competition* – Private competition is a key driver of innovation and can lead to improvements in pricing, claims management and health outcomes for claimants. The advantages of scheme privatisation are discussed more extensively in the white paper produced by Suncorp, titled “Reflections on underwriting options for personal injury insurance.”² Further, Suncorp has commissioned PwC to economically model the benefits of introducing private capital into three personal injury schemes.³
- *Defined and controlled benefits* – Benefits that are clearly defined by realistic timeframes, dollar amounts, caps and limits reduce ambiguity and inconsistent outcomes. This reduces complaints, disputes, litigation and volatility which would otherwise have adverse impacts on the scheme’s affordability and financial viability.
- *National consistency* – Progressing national harmonisation of personal injury schemes will see fair and consistent benefits for all individuals, regardless of state of residence and/or location of the accident. Employers, consumers and insurers will also gain benefits from a consistent approach across jurisdictions.
- *Dispute resolution* – All decisions should be reviewable through a robust and cost effective dispute resolution system. It is important that all participants of the scheme, particularly claimants, have the opportunity to have their cases independently reviewed in a low cost, expedient and objective manner.

Suncorp believes that a scheme designed with these principles in mind will achieve the best possible outcome for its participants and claimants.

Suncorp has also consistently advocated that the NDIS and NIIS should be based on insurance principles. The key insurance principles that apply are:

- actuarial assessment of cost of reasonable and necessary supports;
- consistent allocation of resources based on managing the long-term costs of supporting people with disabilities and their carers while maximising economic and social benefits; and,
- investing in research and encouraging innovation; and monitoring, evaluating and reporting on the overall performance of the scheme.

¹ Suncorp website - http://www.suncorpgroup.com.au/sites/default/files/pdf/news/270812_CI_When%20markets%20hit%20motorists.pdf

² Suncorp website - <http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Suncorp%20White%20Paper%20-%20What%20scheme%20works%20when%20people%20get%20hurt%20-%20Nov%202012.pdf>

³ Suncorp website – Competition Policy Review – Draft Report -

<http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Harper%20Competition%20Policy%20Review%20-%20Suncorp%20response.pdf>



Evaluation and review

It will be important to review the operation of the NIIS at regular intervals once established, to ensure there are no unintended consequences as a result of the changes. It will be particularly important to monitor the adequacy of common law payments to ensure individuals have adequate funds to access treatment, rehabilitation, care and support services during their lifetime, on a needs basis.

If it is shown that the blended model is not meeting the needs of injured individuals, and financial pressure is placed upon Queensland's health budget or its workers compensation scheme, the Government should commit to moving toward a full lifetime care model as recommended by insurers, medical professionals and disability advocates.

Suncorp is happy to work with government to successfully transition to the NIIS for all catastrophic injuries. Suncorp has been an active participant in similar reforms across multiple jurisdictions, and we are happy to share our experience with the committee.

If you wish to discuss this submission further, or to arrange a briefing, please contact me on

[Redacted contact information]

Yours faithfully

[Redacted signature]

Matthew Kayrooz
**Head of Accident and Trauma
Insurance Australia**

Attached: Suncorp submission to Federal Treasury: *Consultation regulation impact statement – National Injury Insurance Scheme: workplace accidents* (8 April 2015)

8 April 2015

Ms Leesa Croke
The Treasury
Langton Crescent
PARKES ACT 2600

By email: niisris@treasury.gov.au

**RE: NATIONAL INJURY INSURANCE SCHEME – WORKPLACE ACCIDENTS - CONSULTATION
REGULATION IMPACT STATEMENT**

I refer to the National Injury Insurance Scheme (NIIS) - Workplace Accidents - Consultation Regulation Impact Statement (the Consultation RIS). Suncorp welcomes the opportunity to participate in this consultation process. The Consultation RIS raises four public policy options in providing lifetime care and support for all newly acquired catastrophic injuries arising from work accidents.

Suncorp contends that in responding to the economic challenges facing Australia, the better public policy settings to support those catastrophically injured at work into social and financial independence are:

- Option 2 - minimum benchmarks; or
- Option 3 – harmonisation.

Whilst Option 3 is the preferred option, Suncorp acknowledges that Option 3 would require substantial stakeholder good-will to implement. Therefore, Option 2 is likely to be the more practical option to pursue. Both Options 2 and 3 would also provide certainty to employers and employees and would encourage economic growth.

The Suncorp Group

Suncorp Group includes leading general insurance, banking, life insurance and superannuation brands in Australia and New Zealand. The Group has 14,500 employees and relationships with nine million customers. Suncorp Group Limited is a top 15 ASX-listed company with \$94 billion in assets.

Nationally, Suncorp is the largest personal injury insurer. This submission is made on behalf of the Suncorp Commercial Insurance division which operates Suncorp's statutory insurance products, including workers' compensation and compulsory third party (CTP) insurance. Suncorp has over 85 years of personal injury insurance experience, with our Suncorp, AAMI, GIO and Vero brands.

In respect to statutory classes of insurance, our community focused activity is centred on risk management, injury prevention, social participation and quality of care for those injured or with a disability. Suncorp values the communities in which we live and work and have entered into partnerships with a range of organisations who are also dedicated to making a difference to those who have been affected by personal injury.



These community partnerships are with Youngcare, Disability Sports Australia, Wheelchair Sports NSW, Technical Aids for the Disabled, the Australian Road Safety Foundation and Inspire Foundation. Suncorp also works with youth education initiatives such as the P.A.R.T.Y. Program and has a partnership with the Driver Education Centre of Australia, which aims to address some of the root causes of severe personal injury on Australian roads.

Sharing of ideas is part of our collaborative approach, and as Australia's largest personal injury insurer, Suncorp is often asked to undertake research and comment on industrial and societal issues. We also participate in wider industry matters through our involvement with the Insurance Council of Australia and relationships with scheme regulators and state treasurers. Our interaction with state treasuries includes providing information for consideration in regard to implementing the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS).

The Consultation Regulation Impact Statement

This Consultation RIS is focussed on identifying the best way of providing lifetime care and support for all newly acquired catastrophic injuries arising from work place accidents. Suncorp considers both Option 2 (minimum benchmarks) and Option 3 (harmonisation) are the better public policy settings. Options 2 and 3 would operate separately from the NDIS, as they would be funded by each jurisdiction's workers compensation premiums.

Suncorp considers both Options 2 and 3 would better meet Australia's economic challenges but acknowledges Option 3 would require substantial stakeholder good-will to implement. This is because attempts to harmonise workers compensation schemes have proved to be notoriously difficult based on past experiences. Historically, each Australian workers compensation scheme has been developed over many years through a series of hard-fought battles between employers, unions and other vested interest groups.

Option 2 is the more practical approach and would provide greater flexibility for jurisdictions offering more than the minimum benchmarks, something that Option 3 would prevent, as it would be inconsistent with a fully harmonised version of lifetime care and support.

Under Option 2, New South Wales, Victoria, the Northern Territory and from 1 July 2015, South Australia would satisfy the minimum benchmarks. Western Australia, Tasmania, the Australian Capital Territory, Queensland and the Commonwealth would need to amend their workers compensation schemes to meet the minimum benchmarks. These jurisdictions fall short of the minimum benchmarks due to restrictions in care and support benefits and/or the ability to commute future entitlements into lump sums.

The benefits of Option 2 and Option 3 for individuals who suffer catastrophic injuries from a work accident include:

- treatment and rehabilitation cover, which is not provided by the NDIS;
- fewer delays in accessing cover;
- early intervention leading to better rehabilitation outcomes;
- removal of potential incentives to delay recovery in common law schemes; and
- earlier social and financial participation of individuals with injuries and their carers.



The New South Wales Lifetime Care and Support Scheme (LTCS) would be an excellent model to roll out nationally. It is a scheme capable of expansion to include catastrophic work accidents. The funding mechanism for catastrophic claims from motor vehicle accidents in New South Wales should be explored and if appropriate, adopted for catastrophic work accidents.

Suncorp contends that Option 1 is not the ideal public policy option. For those jurisdictions that fail to meet the minimum benchmarks, it is unclear how they would fund the 'top up cover' fee to the NDIS. If the 'top up cover' fee is funded through the State/Territory's own tax revenue sources or through taxes received at a Federal level,¹ this would represent a cost shifting exercise from employers to individual and/or corporate taxpayers nationally.

This approach is likely to create a moral hazard, as the nexus between premium paying businesses and the risk of catastrophic work accidents is weakened. It is vitally important to ensure businesses have a financial incentive to keep their workplaces safe.

Practically, under Option 1, workers would need to navigate two systems, the NIIS for workplace accidents and the NDIS when used as a safety net, where the jurisdiction does not offer the minimum benchmarks. Further, workers who suffer catastrophic work injuries would not have the benefit of the NDIS as a safety net, if they are over the age of 65 at the time of the accident. This raises unnecessary complexity.

In respect to the retirement age, the Western Australian workers compensation scheme is the only scheme that has completely removed the age restriction enabling a mature worker to access benefits even if an injury occurs after reaching retirement age. All other Australian schemes restrict access to scheme benefits based on the retirement age. The NIIS is intended to cover lifetime care and supports for those catastrophically injured on a needs basis only. This is appropriate and should apply to catastrophic work accidents. The intent is to maximise functional capacity as early as possible to foster social and financial independence.

Suncorp is of the view the Western Australian model is the preferred public policy setting, and aside from lifetime treatment, rehabilitation, care and supports on a needs basis for those with catastrophic work injuries, all other scheme benefits should be available if the work accident occurs after retirement age, but with appropriate caps. This approach would encourage mature workers to enter, re-enter or remain in the workforce.

As an aside, the debate on the retirement age needs to be clarified. Eligibility for the age pension varies between 65 to 67 years² and is likely to be increased again into the future. Many workers compensation laws nationally and the NDIS limit access to benefits upon reaching 65 years of age, with certain exceptions. From a public policy perspective, it would make more sense to stipulate age restrictions based on the age requirements for the age pension (the pensionable age) to ensure seamless interaction between the statutory personal injury, aged care, welfare, and disability schemes. It should also be aligned with superannuation and retirement policy settings.

Finally, Suncorp is of the view the non regulatory approach is not a viable option. A more detailed response to each option can be found in **Attachment A**.

¹ Australian Government The Treasury – *Re:think – Tax discussion paper*, March 2015 at page 21 - http://bettertax.gov.au/files/2015/03/TWP_combined-online.pdf

² Department of Human Services – *Age Requirements for the Age Pension* - <http://www.humanservices.gov.au/customer/services/centrelink/age-pension>



In analysing the options, Suncorp has considered the role Australia's statutory personal injury schemes have in respect to Australia's ongoing economic challenges, which was stated in Suncorp's lodged submission to the *Consultation RIS - National Injury Insurance Scheme: Motor Vehicle Accidents*. The discussion is largely repeated below.

Economic Challenges

The Intergenerational Report 2015³ re-affirms the ageing population is a key challenge over the next forty years. With the ageing population reducing workforce participation, it will be crucial to enhance productivity growth to maintain our overall standard of living nationally. Whilst this is indeed a national issue, it is incumbent upon governments to work co-operatively in achieving enhanced productivity growth by ensuring statutory personal injury schemes are designed to support those injured into early self determination both socially and financially.

Apart from an ageing workforce, the compelling economic argument for disability reform⁴ represents another vehicle to head-off Australia's economic challenges. The objective of a fully implemented NDIS and NIIS is to support individuals becoming self-sufficient both socially and financially. Supporting those who have a disability and have capacity⁵ and their carers⁶ into the workforce would assist in expanding the tax revenue base, which in turn should assist with productivity growth.

Similarly, statutory personal injury schemes designed to support individuals in becoming self-sufficient, both socially and financially, in a timely fashion after an injury is also crucial in arresting any decline in workforce participation rates. These considerations form the basis of our comments in this submission.

Scheme Design Principles

Suncorp considers the three fundamental aims for an effective personal injury insurance scheme are fairness, outcomes and affordability. Suncorp also believes that there are six guiding principles which define an effective personal injury insurance scheme across all statutory classes. These principles guide our input into scheme design and improvement with each of our regulators and governments nationally. They also guide our input into this RIS Consultation Paper.

These guiding principles include:

- **Social Outcomes** - The scheme's emphasis needs to be on the individual's health and social outcomes (wellbeing), with a reduced focus on compensation payments. The ideal scheme should seek to support individuals in becoming self-sufficient both socially and financially.

³ Australian Government The Treasury – 2015 Intergenerational Report, Australia in 2055 -

<http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/2015-Intergenerational-Report/HTML>

⁴ Productivity Commission – Disability Care and Support, Volume 2, chapter 20 –The benefits of reform -

http://www.pc.gov.au/data/assets/pdf_file/0018/111294/23-disability-support-chapter20.pdf

⁵ The Productivity Commission estimated that implementation of the NDIS, if combined with DSP reform to encourage greater participation, could lead to an increase in employment of people with a disability of some 220,000 by 2050: source: *Future Growth in DSP receipt – not all bad news* -

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2F2783695%22>

⁶ Of the 2.6 million carers, almost 2 million are of workforce age: Source: Australian Bureau of Statistics 2006.



- Sustainability - The scheme should be self-sustaining and operating with sound pricing and capital management practices so that liabilities remain fully funded. The Suncorp paper titled “How international financial markets impact personal injury insurance” provides an extensive discussion of the impact that bond yields have on the premium rate and capital requirements of insuring in a long-tail scheme.⁷
- Competition - Private competition is a key driver of innovation and can lead to improvements in pricing, claims management and health outcomes for claimants. The advantages of scheme privatisation are discussed more extensively in the white paper produced by Suncorp, titled “Reflections on underwriting options for personal injury insurance.”⁸ Further, Suncorp has commissioned PwC to economically model the benefits of introducing private capital into three personal injury schemes.⁹
- Defined and Controlled Benefits - Benefits that are clearly defined by realistic timeframes, dollar amounts, caps and limits reduce ambiguity and inconsistent outcomes. This reduces complaints, disputes, litigation and volatility which would otherwise have adverse impacts on the scheme’s affordability and financial viability.
- National Consistency - Progressing national harmonisation of personal injury schemes will see fair and consistent benefits for all individuals, regardless of state of residence and/or location of the accident. Employers, consumers and insurers will also gain benefits from a consistent approach across jurisdictions, which would foster greater competition.
- Dispute Resolution - All decisions should be reviewable through a robust and cost effective dispute resolution system. It is important that all participants of the scheme, particularly claimants, have the opportunity to have their cases independently reviewed in a low cost, expedient and objective manner.

Suncorp contends that a scheme designed with these principles in mind will achieve the best possible outcome for its participants and claimants.

In respect to the NDIS and NIIS, Suncorp supports public underwriting of these schemes. Public underwriting of catastrophic personal injury insurance is necessary as the cost of capital the regulator currently requires would make the premiums prohibitive. The prudential requirement for capital is based on the long tail nature of these claims and the volatility of costs of these claims. In addition, the risk associated with these schemes is common to the whole community and there are limited measures which can be used to mitigate the underlying risk.¹⁰

For non-catastrophic personal injury insurance schemes, Suncorp considers competitive underwriting and claims management is preferable as private capital is aimed directly at risk; competition in the marketplace is

⁷ Suncorp website - http://www.suncorpgroup.com.au/sites/default/files/pdf/news/270812_CI_When%20markets%20hit%20motorists.pdf

⁸ Suncorp website - <http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Suncorp%20White%20Paper%20-%20What%20scheme%20works%20when%20people%20get%20hurt%20-%20Nov%202012.pdf>

⁹ Suncorp website – Competition Policy Review – Draft Report - <http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Harper%20Competition%20Policy%20Review%20-%20Suncorp%20response.pdf>

¹⁰ Productivity Commission - *National Workers’ Compensation and Occupational Health and Safety Frameworks*, 2004 p323; Suncorp website – *Financial System Inquiry 2014* - http://fsi.gov.au/files/2014/04/Suncorp_General_Insurance.pdf



likely to generate incentives for efficiency and innovation; there is greater transparency of any governmental influence over premiums and the risk of private insurer failure can be reduced by prudential regulation.¹¹

Suncorp's position and advocacy has been that NDIS and NIIS should be based on insurance principles, noting that these schemes are called insurance schemes and not welfare schemes. The key insurance principles that apply are:

- actuarial assessment of cost of reasonable and necessary supports;
- consistent allocation of resources based on managing the long-term costs of supporting people with disabilities and their carers while maximising economic and social benefits;
- investing in research and encouraging innovation; and
- monitoring, evaluating and reporting on the overall performance of the scheme.

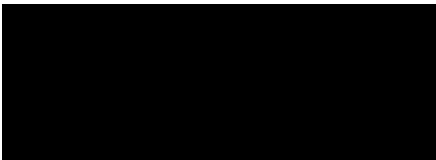
Conclusion

Suncorp considers both Option 2 and Option 3 together with the stated scheme design principles to be the most appropriate and better options. Suncorp prefers Option 3 but acknowledges this option would require substantial stakeholder good-will to implement and therefore Option 2 is likely to be the more practical option to pursue.

Nevertheless, we believe both options would make a significant contribution to arresting the shrinking tax revenue base, as our mature workforce moves into retirement. Suncorp contends the New South Wales LTCS is an excellent model to expand to include catastrophic work injuries and roll out nationally.

If you wish to discuss this submission further please contact me on 02 8121 3708 or our Senior Corporate Affairs Manager, Duncan Bone on 02 8121 0277 or 0402 895 592 or by email - duncan.bone@suncorp.com.au.

Yours faithfully



Chris McHugh
Executive General Manager
Statutory Portfolio & Underwriting Management
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¹¹ Suncorp website - *Competition Policy Review – Draft Report* - <http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Harper%20Competition%20Policy%20Review%20-%20Suncorp%20response.pdf>



Appendix A

NATIONAL INJURY INSURANCE SCHEME – WORK PLACE ACCIDENTS CONSULTATION REGULATION IMPACT STATEMENT QUESTIONS

Question 1 Is this chapter a correct statement of the problem – pages 4 to 6

Yes. Suncorp notes there are 11 main workers compensation schemes in Australia (eight State and Territory schemes and three Commonwealth schemes) offering no-fault coverage for work place accidents. However, full lifetime care and support is not available in all jurisdictions for catastrophic injuries. Some schemes allow scheme caps, the ability to commute existing and future rights into lump sum payments, restrictions to benefits based on the retirement age or the requirement to prove fault to access common law damages.

The Productivity Commission observed in its review of the disability sector,¹² that workers compensation schemes are generally not adequately equipped to support these lifelong needs. Suncorp agrees with these observations particularly where the aim is to support social and financial independence of those injured. Suncorp would go further to state that the delivery of lifetime care and supports requires a holistic public policy approach from all levels of government to meet the challenges facing workers compensation schemes including:

- modification of current private or rental homes;
- the lack of suitable alternative housing stock for those with severe brain damage;
- building purpose built accommodation;
- changing family dynamics after a catastrophic injury such as the breakdown of relationships and assets;
- changing family dynamics as family members take on care services. For example the potential for stress, abuse and lack of appropriate care and support for either those injured and carers;
- the development of unhealthy co-dependency relationships instead of independence;
- transparency issues between all stakeholders such as client, funder, care agency and carers;
- lack of care accreditation or regulatory minimum standards or requirements of care and reporting; and
- difficulties engaging those acting in a Government Trustee role, due to lack of specific expertise of personal injury schemes.

Question 2 Do you have any data of the quantum of these problems, i.e. existing costs? – page 6

No, other than to say anecdotally (from Suncorp's claim experience) that against all workers compensation claims received, catastrophic claims represent a very small percentage but they carry a significantly greater proportion of claims cost. Ongoing care, support and accommodation represent the greatest cost components for these claims.

Question 3 Do you agree with the description of the base case? – page 6

Yes. The description of Option 1 (the base case) is correct. What is not clear however, is how those jurisdictions that fail to meet the minimum benchmarks, would pay the 'top up cover' fee to the NDIS. If the

¹² Productivity Commission – *Disability Care and Support*, Volume 2, chapter 18 –A national injury insurance scheme at page 890 - <http://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume2.pdf>



'top up cover' fee is funded through the State/Territory's own tax revenue sources or through taxes received at a Federal level,¹³ this would represent a cost shifting exercise from employers to individual and/or corporate taxpayers nationally.

Western Australia, Tasmania, the Australian Capital Territory, Queensland and the Commonwealth currently fail to meet the minimum benchmarks and these jurisdictions would be subsidised at the expense of individual and/or corporate taxpayers. This would weaken the vital nexus between premium paying businesses and risk assessment of catastrophic work accidents. It would distort the true cost of insurance and act as a disincentive to provide safer workplaces. It is vitally important to ensure businesses have a financial incentive to keep their workplaces safe.

Under Option 1, workers would need to navigate two systems, the NIIS for workplace accidents and the NDIS for the safety net cover, where the jurisdiction does not offer the minimum benchmarks. Further, workers who suffer catastrophic work injuries would not have the benefit of NDIS as a safety net, if they are over the age of 65 at the time of the accident. This raises unnecessary complexity.

It is intended that the NIIS scheme for motor vehicle accidents would cover lifetime treatment, rehabilitation, care and support on a needs basis only. It is assumed this would also apply for catastrophic work accidents. The intent is to maximise functional capacity as early as possible to foster social and financial independence. Practically, how this would work in respect to ascertaining weekly benefit entitlements, in the event of a clear work capacity would need to be considered. For example, where a catastrophically injured worker were able to take up work duties, despite ongoing disabilities.¹⁴

Question 4	Are the minimum benchmarks and harmonisation options reasonable and appropriate? Are there further options that should be considered? – pages 7 to 12
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Yes. Suncorp considers both Options 2 and 3 are the better public policy vehicles to meet Australia's economic challenges but Suncorp acknowledges that Option 3 would require substantial stakeholder good-will to implement.

Under Option 2 (minimum benchmarks, a federated model of the NIIS for work place accidents) jurisdictions would have the ability to implement the minimum benchmarks in a way that best suits their jurisdiction. It would also allow flexibility for jurisdictions to exceed the minimum benchmarks, if desired.

It is noted that New South Wales, Victoria and the Northern Territory currently meet the minimum benchmarks, whilst Western Australia, Tasmania, the Australian Capital Territory, Queensland and the Commonwealth would need to reform their schemes to meet them. South Australia has already passed legislation designed to comply with the NIIS for lifetime care and support for catastrophically injured workers, which is expected to commence on 1 July 2015.

Option 3 (harmonisation of lifetime care and support model where eligibility and entitlements would be identical nationally) would also significantly contribute to the shrinking tax revenue base challenge, as the ageing workforce moves into retirement. This is Suncorp's preferred option, but acknowledges that substantial stakeholder good-will would be required by the Commonwealth, States and Territory Governments to formulate such an agreed model.

¹³ Australian Government The Treasury – Re:think – Tax discussion paper, March 2015 at page 21 - http://bettertax.gov.au/files/2015/03/TWP_combined-online.pdf

¹⁴ ABC News, 29 March 2015 - Rob Pyne becomes the first quadriplegic elected to parliament in Australia - <http://www.abc.net.au/news/2015-03-29/first-quadruplegic-elected-to-queensland-parliament/6356944>



It is assumed the NIIS for catastrophic work accidents would cover lifetime treatment, rehabilitation, care and supports on a needs basis only. The overarching aim is to apply the agreed support services to maximise social and financial independence early in the recovery process, and prevent cost shifting to more intensive supports over a longer period of time, where ever possible. Policy settings that facilitate these objectives have an important role in responding to work force participation challenges. Practically, how this would work in respect to ascertaining weekly benefit entitlements, in the event of a clear work capacity would need to be considered.

Question 5 Do you agree that there are no feasible non-regulatory options? – pages 11 to 12

Suncorp believes that a holistic approach is vital to ensure seamless interaction between statutory personal injury, health, disability and welfare schemes, as well as superannuation and retirement settings to encourage workforce participation by mature workers and workers with disabilities and their carers. This cannot be achieved without a regulatory approach.

Question 6 Do you agree with the identified impact of the base case on workers? – pages 12 to 14

Yes, agree with the identified impacts. Under Option 1 (base case) catastrophically injured workers identified as requiring 'top up cover' from the NDIS are:

- workers in Queensland who elect to take a common law payment, which runs out before they reach 65 years of age;
- workers in Western Australia who receive insufficient attendant care since this is not guaranteed;
- workers in Tasmania who take a lump sum conversion which runs out before they reach 65 years of age;
- workers in the Australian Capital Territory who elect to take a common law payment or a lump sum conversion, which runs out before they reach 65 years of age; and
- workers in the Commonwealth schemes, if they receive an inadequate amount of attendant care.

However, Suncorp understands that if a person were accepted into the NDIS before the age of 65 years, he/she would have the option to remain within the scheme upon reaching 65 years, as opposed to moving to the aged care scheme in certain circumstances.¹⁵

Workers 65 years and over sustaining a catastrophic work injury would be prejudiced on a number of counts. First, the worker would not be able to access the NDIS safety cover. Secondly the worker would have limited workers compensation cover due to current retirement restrictions. This would create significant cost shifting to the health, aged and welfare schemes for this small but growing cohort of workers. Lack of appropriate coverage would act as a disincentive for mature workers seeking to enter, re-enter and remain in the workforce.

In any event, prior to reaching 65 years, the worker under Option 1 would need to navigate two schemes, namely the NIIS and NDIS for 'top up cover' for a fee to be paid by the relevant Government. This adds unnecessary complexity. Further, 'top up cover' fees, represent a cost shifting exercise to individual and/or corporate taxpayers, weakening the important financial incentive of businesses to maintain safe workplaces. Cost shifting to the health system would also occur, as NDIS provides care and supports only, not health services.

¹⁵ National Disability Insurance Scheme – Operational Guideline – Access – When a Person Stops being a Participant - http://www.ndis.gov.au/sites/default/files/documents/og_access_when_stop_being_participant2.pdf

Question 7	Do you have any data on the impacts on workers? – page 14
Suncorp is unable to provide data.	
Question 8	Do you agree with the identified impact of the base case on governments? – pages 14 to 15
Yes. Suncorp repeats and relies on its response to question 6 above. Under Option 1, there is a risk that costs would be shifted to other government departments. This risk arises in cases where common law damages are paid and the damages are either inadequate or poorly managed by the claimant. ¹⁶	
Question 9	Do you have any data on the costs to governments? – page 15
Suncorp is unable to provide data.	
Question 10	Do you agree with the identified impact of the base case on the private sector? – pages 15 to 16
Yes. As stated previously, if Government is to pay ‘top up cover’ to the NDIS, this would represent a cost shifting exercise to individual and/or corporate taxpayers ¹⁷ weakening the important financial incentive for businesses to maintain safe workplaces. Cost shifting to the health system would also occur, as NDIS provides care and supports only, not health services.	
Question 11	Do you have any data on the impacts on the private sector? – page 16
Suncorp is unable to provide data.	
Question 12	Do you agree with the identified impact of the minimum benchmarks on workers? – pages 16 to 17
<p>Yes, Suncorp is of the view that both Option 2 (minimum benchmarks) and Option 3 (harmonisation) are the better options. These options would offer lifetime treatment, rehabilitation, care and supports on a needs basis only for eligible injured workers. Suncorp is of the view these options would better support injured workers into social and financial independence, through appropriate early medical and rehabilitation intervention to enhance functional capacity.</p> <p>Both Options 2 and 3 could be fully funded through funding mechanisms similar to that adopted by the New South Wales Lifetime Care and Support Scheme (LTCS). The benefit is that it would significantly reduce cost shifting to taxpayers and other government departments.</p> <p>Both Options 2 and 3 would facilitate the important objective in responding to work force participation challenges. From a practical perspective, how this would work in respect to ascertaining weekly benefit</p>	

¹⁶ ABC News - Centrelink pension denied after Canberra man spends compensation on TV, fishing gear and pool table – 31 January 2015 - <http://www.abc.net.au/news/2015-01-31/centrelink-pension-refused-after-football-compensation-spent/6059346>

¹⁷ Australian Government The Treasury – Re:think – Tax discussion paper, March 2015 at page 21 - http://bettertax.gov.au/files/2015/03/TWP_combined-online.pdf



entitlements, in the event of a clear work capacity would need to be considered. For example, where a catastrophically injured worker were able to take up work duties, despite ongoing disabilities.¹⁸

The application of the minimum benchmarks, as currently formulated, would have different applications in different workers compensation schemes. For example the definition of worker excludes a number of categories, which are not excluded in some jurisdictions' workers compensation schemes. To reduce gaps in coverage for workers, it is suggested that attempts be made to harmonise key definitions for the minimum benchmarks, including the definition of worker. This is crucial to ensure consistent coverage nationally and to prevent cost shifting to other government schemes.

Suncorp calls into question the benefit of excluding from the NIIS, a worker catastrophically injured whilst engaging in serious or wilful misconduct. If such cover is not offered to those who fit this category they would be left to rely on government funded schemes such as health, welfare, disability and possibly the criminal justice schemes. Such an approach would not foster rehabilitation towards a functioning and contributing citizen willing to repay his/her social debts.

The other aspects of minimum benchmarks such as type of injuries, entitlements and reporting standards should be consistent with the minimum benchmarks for motor vehicle accidents to avoid confusion and disputation. Currently there appear to be some differences, which may lead to disputes.

Question 13 Do you have any data on the impacts on workers? – page 17

Suncorp is unable to provide data. However, Suncorp believes disability and statutory personal injury reform, with Government support, would need to foster cultural changes to ensure mature aged workers and workers with disabilities are given employment opportunities.

Question 14 Do you agree with the identified impact of the minimum benchmarks on governments? – page 17

Yes, Suncorp considers New South Wales LTCS is an excellent model to be expanded to include catastrophic work accidents and rolled out nationally. Ultimately the NIIS should be expanded to include all classes of accidents and rolled out nationally once funding sources have been secured.

Suncorp believes governments are better placed to underwrite catastrophic schemes because the lifetime timeline in the delivery of care and support services. The holistic and integrated public policy settings required to marshall the resources, such as appropriate accommodation, are crucial to ensure seamless interaction between statutory, disability, health, welfare, aged care and the criminal justice schemes and to prevent unnecessary or unwanted cost shifting.

It is also an opportune time for Queensland, Western Australia, Tasmania, the Australian Capital Territory and the Commonwealth to consider reforms to their statutory personal injury schemes¹⁹ as a mechanism to support work force participation and to prevent unnecessary cost shifting to other government schemes, ultimately funded by taxpayers.

Question 15 Do you have any data on the impact on governments? – page 17

¹⁸ ABC News, 29 March 2015 - Rob Pyne becomes the first quadriplegic elected to parliament in Australia - <http://www.abc.net.au/news/2015-03-29/first-quadruplegic-elected-to-queensland-parliament/6356944>

¹⁹ Suncorp website - Competition Policy Review – Draft Report -

<http://www.suncorpgroup.com.au/sites/default/files/pdf/news/Harper%20Competition%20Policy%20Review%20-%20Suncorp%20response.pdf>

Suncorp is unable to provide data. However, Suncorp suspects there is significant cost shifting to the health, disability, welfare, aged care and criminal justice systems due to features of current statutory scheme design and the lack of competitive underwriting in certain schemes.²⁰

Question 16 Do you agree with the identified impact of the minimum benchmarks on the private sector? – pages 18 - 20

Suncorp has no reason to doubt the expected changes to premiums if Option 2 is adopted.

The New South Wales LTCS is a scheme that delivers treatment, rehabilitation, care and supports to those catastrophically injured in a motor vehicle accident on a no-fault basis. New South Wales offers a two tier system for motor vehicle accidents. A publically underwritten scheme for the catastrophic injuries and a competitively underwritten scheme for non catastrophic injurers. Suncorp contends this two tier approach is the better approach to reduce the accidents in the first place and increase functional capacity early after the accident.

Suncorp contends the New South Wales LTCS is an excellent model capable of being expanded to include all accident classes and rolled out nationally. The funding mechanism currently in place for motor vehicle accidents should be explored and adopted, if appropriate, for catastrophic work accidents.

In the Australian Capital Territory, the LTCS for motor vehicle accidents was established in 2014 and the Government is currently in negotiations to have its claims managed by the New South Wales LTCS. This is an excellent, cost effective approach to deliver lifetime care and support services in smaller jurisdictions. Such an approach could be adopted for catastrophic work accidents more broadly.

Suncorp agrees there is a place for total and permanent disability insurance (TPD) within the statutory personal injury and disability schemes, especially as a 'top up cover' in respect to income replacement.

Question 17 Do you have any data on the costs of the minimum benchmarks on the private sector? There is likely a range of costs given the number of different options – page 20

Suncorp is unable to provide data. However the New South Wales LTCS has demonstrated capacity to perform its duties well. It makes financial sense to use a scheme already available rather than establishing a new scheme.

Question 18 Do you agree that these are the options for private insurers? If not, please outline other options that you would like considered – page 20

Suncorp repeats and relies on the responses to questions 16 and 17 above.

Question 19 Do you agree that the implementation of the minimum benchmarks is unlikely to act as a disincentive to consumers purchasing private insurance products? – page 20

Suncorp contends there is a place for TPD insurance products and it is up to insurers to educate the public on the role TPD insurance products has in complementing NDIS and NIIS coverage, especially for income replacement.

²⁰ ibid



Question 20	Do you agree with the identified impact of harmonisation on workers, governments and the private sector? – pages 20 to 21
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Suncorp is of the view that both Option 2 (minimum benchmarks) and Option 3 (harmonisation) are the better options. Options 2 and 3 would operate separately from the NDIS, as they would be funded by each jurisdiction's workers compensation premiums.

Both Options 2 and 3 are better vehicles to meet Australia's economic challenges. Whilst Option 3 is the preferred option, Suncorp acknowledges this option would require substantial stakeholder good-will to implement. This is because attempts to harmonise workers compensation schemes have proved to be notoriously difficult based on past experiences. Historically, each Australian workers compensation scheme has been developed over many years through a series of hard-fought battles between employers, unions and other vested interest groups. Option 2 may be the more practical option to pursue.