Submission of the
Australian Lawyers Alliance
to the
Queensland Parliament
Communities, Disability Services and Domestic and
Family Violence Prevention Committee

Inquiry into a fair and balanced model for implementing the National Injury Insurance Scheme

January 2016
IN SUMMARY:

This is an important social reform that is overdue.

Our members work direct with catastrophically injured citizens every day.

Supporting catastrophically injured Queenslanders does not have to come at the cost of removing legal rights of fellow citizens.

Lawmakers have a responsibility to protect individual rights.

The recent Western Australia reforms demonstrate how supporting our citizens and protecting rights can coexist in a financially sustainable way.

There are already safeguards in place for recipients of lump sums; and there are simple reforms available to strengthen them.
INTRODUCTION

The Australian Lawyers Alliance (ALA) welcomes the opportunity to provide a submission to the Communities, Disabilities Services and Domestic and Family Violence Prevention’s inquiry into a suitable model for the implementation of the National Injury Insurance Scheme (NIIS).

The ALA are strong advocates for Queenslanders injured in motor vehicle accidents and support this effort to expand their care and support, whilst also protecting rights.

The establishment of the NIIS and the National Disability Insurance Scheme (NDIS) are significant social reforms that go to the very core of why Queenslanders pay taxes and elect representatives to govern on their behalf.

In establishing a scheme to support those suffering catastrophic injuries in motor vehicle accidents, we are ensuring our fellow citizens are treated with dignity and respect during their formative recovery period and during the new life they are establishing for themselves.

But just as Government has a responsibility to provide a safety net for those with profound injuries and disabilities, it also has a responsibility to implement policies prudently and carefully, putting the interests of those suffering catastrophic injuries first.

Queenslanders have little patience for waste, over-regulation and bureaucratic fervour. They also have long memories for governments and lawmakers who strip away long-standing, well supported rights. They rightly expect that lawmakers consider the full consequences of any decision and ensure that citizens are not unfairly placed at a disadvantage from those decisions.

As the Committee considers the issues and assertions made during this Inquiry process, it is critical that decisions made regarding the implementation of the NIIS are made based on the real world experience of those who assist injured Queenslanders on a daily basis.

Our members know firsthand what those injured in a motor vehicle accident go through, and the hurdles they face. We see them in the immediate aftermath of their accident, work with them to get their own affairs in order, and help them readjust their lives as they recover.

While economists and public servants will be keen to detail the theoretical models and a purist view of system design, it will not reflect the reality of kitchen table conversations in Maroochydore and Mackay.
The best decisions for Queenslanders suffering catastrophic injuries will almost always be made by them, their families and those who live in their communities. And as experience has shown, the best schemes to support that are those that provide choice and self-determination.

To assert that a public servant in CBD office towers in Brisbane, Sydney or Canberra always knows best is ignorant at best – arrogant at worst.

AN OPPORTUNITY FOR A FAIR AND BALANCED MODEL

This is a long overdue reform, and Queensland will be the last state to settle its scheme to meet the NIIS benchmarks.

But the advantage of being last is that lawmakers can review what other States have done.

The ALA supports a dual pillar approach - retaining the existing CTP scheme in full without any diminution of coverage and rights, and levelling up by expanding coverage for those catastrophically injured in circumstances of no-fault.

Specifically, of the options considered by the inquiry, the ALA supports a hybrid common law and no-fault care and support arrangement as being both the fairest and best balanced scheme model to support people catastrophically injured in these circumstances, whilst also ensuring no diminution of existing rights.

This position is based on looking closely at the experience of other states and jurisdictions, and it is the view of the ALA that a hybrid option such as what is being considered by the committee is possible in an affordable and publicly acceptable way.

In particular, we assert that the Western Australia model that has recently been both developed and articulated in great detail provides an ideal framework for the future.

A key principle of the new WA scheme is the provision of choice while protecting existing rights.

Preserving the common law right to lump sum compensation provides people with choice and independence and satisfies the ‘no disadvantage’ principle. The legal principle of restorative justice that is a cornerstone of the common law system will be retained for those able to prove fault as their injuries were caused by another person’s actions. The justice is to provide compensation to people injured by others to attempt to ‘restore the injured person to a position they would have been in if not for the actions of others’.

The protection of existing rights is also fundamental to the work of Members of Parliament and the Parliament of Queensland. With respect, we would direct Members of the Committee to the Legislative Standards Act 1992 and the requirement that legislation has sufficient regard to rights and liberties of individuals and as such...

“...sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation-
(a) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
(b) is consistent with principles of natural justice; and
...
(g) does not adversely affect rights and liberties, or impose obligations, retrospectively…”

These are heavy responsibilities, and ones that go to the core of the brief set by the Government in looking at the introduction of a scheme for the NIIS.

While the removal of common law rights has a convenience in some economic theory and bureaucratic organisation, there is a broader and more fundamental question for lawmakers to confront: Can we provide support and dignity to those catastrophically injured whilst also having respect for the existing legal rights of Queenslanders?

Our concern is that an economically convenient view of the world creates a false choice between protecting legal rights and supporting those catastrophically injured. Recent experience in Western Australia and the Australian Capital Territory demonstrate its hollowness.

**A MODEL BASED ON EXPERIENCE**

The ALA believes that the recently developed Western Australian scheme is the best response to meeting the national benchmark. The scheme required a modest increase of premiums of no more than a cup of coffee a week, which was broadly accepted by their public as worthy and necessary.

The planned WA scheme offers lifetime care and support for those with catastrophic injuries regardless of fault, with choice.

In Western Australia, rights are retained through a hybrid common law and no-fault care and support model. It is a scheme that successfully provides coverage for everyone with choice, for a modest cost, and it is the firm view of the ALA that such a scheme model can and should be implemented in Queensland.
In Western Australia, those injured in at-fault accidents are able to recover under the same heads of damages as other states, with the additional option to choose whether to seek lump sum compensation for care and equipment as part of their damages claim, or accept it from the state-run Lifetime Care and Support scheme. This approach best supports the principles of choice and self-determination in giving people options and autonomy that should underpin any successful scheme.

The practical effect of this is that those with catastrophic injuries who can rely on fault-based remedies are much more likely to be able to fund the cost of their own housing and care, rather than rely on a government scheme. This will also ameliorate the pressure on service availability driven by the NDIS.

The secondary effect of this is that it provides choice and lifelong self-determination for those families who opt to take a lump sum for their equipment and care. Like Queensland, Western Australia is a largely decentralised state with people often living significant distances from major centres. The ability to make decisions locally about care and equipment, when they are needed, is critical for people living in such circumstances.

Below are some de-identified, real-life Queensland case studies that demonstrate the benefits that such arrangements can have for people catastrophically injured and their families who are able to access such an option:

**Case study 1**

Mary was married and several months pregnant when she was involved in a motor vehicle accident. She was 27 years old and working as a nurse at the time. She held Bachelor and Masters degrees in nursing. The driver of the vehicle in which she was a passenger lost control. She was thrown from the vehicle which then came to rest on her. Mary suffered quadriplegia and a minor brain injury.

The matter settled for $3m clear of the $600,000 in rehabilitation costs already paid by the insurer. A private trustee company was appointed as administrator. They received a payment out of court of the net sum of $2.8m, noting that Mary had a Centrelink preclusion period of 30.5 years.

Of the $2.8m received, $1m was used to buy a suitable home and vehicle, and modify them to meet Mary’s needs, and those of her husband and baby. This was key in allowing both Mary and her family choice around the most appropriate options for home and vehicle modifications, and self-determination in the timing for these to best suit the family’s needs in managing Mary’s care. Such measures would not have been possible in a timely or sufficient way under a sole statutory scheme - Mary’s family would have continually had to seek payments to provide for such projects over time and at the discretion of authorities, rather than having choice and self-determination in this process.
The remaining $1.8m was used to set up a tax-free account-based pension (using the superannuation rules and structure).

Mary’s trustee arranged an income stream starting at $70,000 pa indexed to CPI. This level of expenditure would see the real value of the fund maintained indefinitely. It therefore gave room for the trustee to accommodate ad hoc expenses such as car replacements, and increased expenditure as Mary got older and required more care.

Mary and her husband had the peace of mind of knowing that Mary would always have a suitable home, that her invested funds would last, that her trustee would look after the financial side of things and that she and her husband had flexibility and choice as to how they spent the funds provided.

If Mary had been in NSW under their Lifetime Care and Support Scheme:

- She would not have been able to claim for future care
- She would not have been able to claim for past care
- She would only have been able to claim economic and non-economic loss which would have delivered a net sum of approximately $900,000
- This would not have been enough to buy a disability-adapted house and vehicle in Brisbane and leave enough to cover her other financial needs for life. Thus difficult compromises would have had to be made.
- She would still have required an administrator in light of her brain injury but she would not have had a choice of providers due to the small sum available for ongoing management, so would have to be managed by the Public Trustee
- Not only would her finances be state government managed for life, but all her care arrangements would be too
- Instead of being able to get on with their lives, Mary and her husband would face a lifetime of engaging with bureaucracy, proving that any requests were “fair and reasonable” (as defined by the agency).

Case study 2

Vijay was also 27 years old and living at home with his parents when he was injured in an industrial accident at work. He suffered a brain injury, inter-abdominal injuries and multiple fractures.

His WorkCover claim was settled for $1.4m. A repayment to Centrelink amounted to $25,000 and he was precluded from receiving Centrelink benefits for 12 years.

Vijay’s parents interviewed a number of private trustee companies before selecting the one that was a good match for them and their son. This company was appointed administrator of Vijay’s settlement funds in light of his brain injury.
$400,000 was initially spent to cover modifications to Vijay’s parents’ home, to purchase and modify a car, and to cover the cost of multiple surgeries.

Again, the provision of these funds to Vijay’s family meant that the family had choice about what was required in care and equipment to best meet their son’s needs. The timing and specifics of this were also able to be determined by Vijay’s family, again ensuring they had the ability to make decisions when needed regarding care and equipment for their son.

The remaining $1m was invested so as to deliver a flexible income stream to accommodate Vijay’s life care plan. The plan includes future surgeries, psychological treatment, aids and equipment, medication, rehabilitation and future care.

Vijay’s financial needs could be accommodated by an income stream of $40,000 pa plus an allowance for ad hoc withdrawals from the investment.

Vijay’s parents had the peace of mind of knowing that he would eventually inherit their home, and that they could provide more or less of the care he required depending on their health and energy. They also greatly valued the fact that they could select the care providers who they felt were best able to meet their son’s needs.

If Vijay had been in NSW under their Lifetime Care and Support Scheme:

- He would not have been able to claim for future care
- He would not have been able to claim for past care and no payment to his parents would have been possible
- These two “heads of damages” (past and future care) would be abolished
- He would only have been able to claim economic and non-economic loss which would have delivered a net sum of approximately $700,000
- There would never have been any option of Vijay buying a home with his funds
- He would still have required an administrator in light of his brain injury but he would not have had a choice of providers, so would be managed by the Public Trustee
- Not only would his finances be state government managed but all his care arrangements would be too
- Government staff would determine what care and treatment Vijay would receive
- His parents could not, under any circumstances, be paid to provide care
- Vijay and his parents would face a lifetime of engaging with bureaucracy.
These case studies highlight what is at stake – longstanding legal rights, freedoms and choices, independence. Insurers will be paying less and governments will be taking on more. Individual families will suffer.

It is important to note that Western Australia achieved their commendable outcome because they were prepared to deliver a scheme that went beyond the standards anticipated in the minimum benchmarks, and it is the view of the ALA that Queensland also has this option and can implement this option.

As part of the scheme design the ALA recognises that the Government may seek to guarantee that lump sum payments are managed in a sustainable and responsible way. This is currently what occurs in the vast majority of circumstances, and the ALA would support appropriate safeguards to ensure this remains the case, such as mandatory referral of catastrophically injured people for expert financial advice by Certified Financial Planners.

The WA model has been criticised on the purported basis that damages settlements invariably dissipate. There is no empirical evidence for this assertion. Lawyers who work with the most seriously injured invariably ensure that their clients obtain expert specialised financial advice. In this highly competitive market, in which both public and private trustee options are available, flexible income streams set up in the private sector deliver funds over the projected lifetime of the client.

Furthermore, all jurisdictions in Australia have long had protective regimes in place to ensure that any person who does not have the capacity to manage a large personal injury settlement can have a trustee company or other suitable person appointed to make financial decisions on their behalf. Competition on the basis of price and service ensure good outcomes for protected persons. This regime for managing lump sum compensation has operated smoothly for decades ensuring that settlement monies are applied prudently, as they should be.

Most critically however, it is important to again emphasise that the Western Australia scheme provides people with options: to take a lump sum for their future care and equipment or to accept it from the State-run Lifetime Care and Support Scheme.
PRESERVATION OF EXISTING RIGHTS ESSENTIAL

In engaging in this reform Queenslanders should reasonably expect that their existing rights are retained, preserving their freedom to pursue compensation in at-fault circumstances.

This process should not be used to remove rights by stealth, or via the creation of a false choice.

The ALA rejects any use of this important process to seek to impose Newman Government style thresholds as occurred with the State’s workers’ compensation scheme, or other limitations on Queenslanders’ rights to seek the secure full compensation they are entitled to in at-fault situations.

Nor should this necessary and important reform be allowed to become a mechanism to implement a whole of jurisdiction no-fault scheme. The experience of such mechanisms in other jurisdictions, like New Zealand, strongly suggests that over time this will see a degradation of the care and choices available for the catastrophically injured.

Some 40 years’ ago, New Zealand introduced a national scheme which abolished the right to pursue any damages claims. Those injured by the most egregious negligence, irrespective of how seriously injured and disabled they may become, are legally disentitled from pursuing a claim to recover their past and future losses. The scheme was, and remains unique. In the UK, USA, Canada and Australia; the common law has been and continues to be a foundation stone for legal rights in seeking compensation. The common law has proven to be a flexible and resilient facilitator of access to justice in all of those jurisdictions.

Central to the New Zealand scheme is a fundamental shifting of the cost burden from the wrongdoer and their insurer to the public purse, with poor results. Very early in the life of the New Zealand scheme, it became apparent the scheme was becoming too costly. Yet repeatedly over four decades, the response in New Zealand has been to pilage consolidated revenue to try to keep the scheme solvent, in lockstep with regularly reducing the rights and benefits available to those in need. The end result is that the scheme is perennially insolvent by any accepted commercial criteria. It is the worst of all worlds: miserly benefits, large bureaucracy, poorly funded and regularly needing taxpayer injections of funds.

If looking across the Tasman is not enough, the experience of the South Australia workers’ compensation scheme is also instructive. In 1994 the SA Government abolished the ability to pursue negligent employers, and introduced a pure no-fault scheme. Almost immediately it experienced financial trouble, and ended up being $1.4 billion dollars in the red, with a 70% funding ratio. For over a decade, two further policy responses emerged to deal with the funding problems: benefits for people injured at work were reduced, and premiums paid by employers increased to about double those of comparable jurisdictions.
The incontrovertible facts about pure no-fault, long-tail schemes are that:

1. Such schemes always become financially unsustainable,
2. Those with disabilities suffer because the policy responses involve both a diminution of rights and benefits, and extinguishment of appeal rights,
3. The taxpayer foots the ever-increasing bill.

A SUSTAINABLE COST

The Committee’s criteria for considering the suitable form of the NIIS is appropriately based on key questions of sustainability, cost and affordability.

It is well known that Queensland’s Compulsory Third Party (CTP) Scheme is a policy success. Since inception, it has delivered high levels of coverage efficiently and affordably. This core of the system is the ideal base from which to expand and level-up coverage to offer lifetime care and support for those in no-fault motor vehicle accidents.

Queensland’s CTP Scheme’s financial stability and sustainability is a credit to its construction, and should be maintained.

Unfortunately, the public briefing of the Committee by the Queensland Treasury and the Motor Accident Insurance Commission does not publicly provide neither the clarity nor the confidence that an appropriate costing of a hybrid scheme has occurred despite the Government indicating it was one of only two options for consideration.

While their assertion that there are variations to a hybrid scheme, the hearing transcript does not articulate the assumptions for any costing. If that document has been tendered to the Committee but has not been provided online, it places stakeholders such as ourselves at a disadvantage.

One detailed costing that is in the public domain is the Insurance Commission of Western Australia’s detailed proposal\(^2\) for its own NIIS reform. The independent actuary estimation of the cost of a non-fault catastrophic scheme, which meets the agreed benchmark, is an average of $4m per person for care and support.

The Under-Treasurer did estimate in the recent hearing that there would be approximately 68 people who were without an at fault claim, and the overall costs would be approximately $250m. As such, these are indications that the costs are comparable to Western Australia.

More significantly though, is that the WA hybrid scheme was estimated by independent actuary advice to cost less than the pure no-fault scheme that was proposed as an alternative.\(^3\)
So despite ignorance of Treasury officials to the WA costings, it is a matter of public
record that the Western Australia costings are comparable to Queensland, and their
hybrid scheme was estimated to be cheaper than their pure no-fault scheme.

More generally, the underlying principle of the pure-no fault advocates is that the
taxpayer should be meeting the costs that would otherwise be met by insurers and
indirectly their policy holders. This is neither prudent nor wise.

Until now, where someone is at fault the reasonable community response has
always been that they should bear the consequence.

That consequence has taken the form of restorative justice where compensation is
provided to those people injured by others to attempt to ‘restore the injured person
to a position they would have been in if not for the actions of others’.

Logically, these principles form a significant deterrent and encourage risk mitigation
and behavioural change.

The argument put in the December 2 hearing that common law benefits are merely
transferred is a farce and deeply concerning. The full statement, for the record was:

“In a pure no-fault NIIS common law benefits are taken away, if you like, but
transferred to the NIIS. So nobody actually loses a benefit: it moves into the
NIIS rather than being provided out of the CTP scheme. The CTP scheme
would provide that benefit by way of a lump sum payment on settlement of a
claim.”

The benefit is not transferred but the cost is transferred – from the non-taxpayer to
the taxpayer. This is the purist Productivity Commission model, and it is the model
supported by the Under Treasurer.

Finally, in relation to cost, the presentation of Treasury and the agency on
December 2 advocated both the establishment of a new, significant authority with
an accompanying cost in the vicinity of $450 million (ie 10% of $4.5b) over the ten
year period. If the administration cost is closer to the problematic New South Wales
average (35%) the amount spent on administration could top $1.5b over the next
decade.

The creation of a major bureaucracy to make both the large and small decisions
about the daily lives of people with catastrophic injuries is reminiscent of the recent
problems and failures of the National Disability Insurance Authority (NDIA).

Members of the Committee would be well advised to read the two major capability
studies that have been recently undertaken on the NDIA. The implementation
problems of the NDIS are of a significant magnitude and could potentially worsen
unless there are significant and effective remedial responses.
INDIVIDUAL CHOICE AND CONTROL

One question at the core of the judgments that the Committee will make relate to the ability of those with a catastrophic injury to manage a lump sum payment.

Our members have long experience with people injured in motor vehicle accidents who have received lump sum payments.

The assertion of recipients “squandering” their lump sums is purely and mischievously anecdotal, and there is no empirical data that we are aware of that supports the assertion.

In fact, the recent WA Report stated:

Some disability sector lobbyists have suggested lump sum compensation payments could run out. In over 70 years of the CTP scheme’s existence in WA, the Insurance Commission has not been presented with evidence that this has occurred. This could be possible if people make poor financial choices, their injuries deteriorate or they live considerably longer than expected. In the existing CTP scheme, a trustee is appointed by the court under legislation to manage the lump sum if a person catastrophically injured is below 18 years or is left with an acquired brain injury after a motor vehicle accident. In the 2013-14 financial year, 64 percent of the catastrophic injury claims settled required a trustee.

In Queensland, a significant proportion of those with a catastrophic injury have a trustee. Their settlements are vetted and sanctioned by Courts for those without Trustees, they regularly access Certified Financial Planners and access publicly available financial products such as Superannuation products.

More generally, to describe lump sum payments as “problematic” without referencing existing structures and safeguards such as Queensland’s longstanding financial administration system, involving both public and private trustee companies and expert financial advice, is not helpful to the Committee’s deliberations. The Productivity Commission’s critique of the common law contained within chapter 17 of their report is fundamentally flawed and incorrect, and it would be most unwise for any policy-maker to give credence to that critique.

HOUSING

There is no better example on the importance of common law access than housing.

As indicated at the recent hearing, the Insurance Commissioner rightfully stated that the NIIS benchmarks include home modifications. But this does not benefit those who rent or those living in government housing. The NIIS will not buy these
people a home.

Even if catastrophically injured people already own a home they almost always live in a house or apartment that is inappropriate for someone with a catastrophic injury – for instance, their home may be a flat on the first floor without an elevator or an older house or a multi-story house that cannot satisfactorily be modified.

There is little point in the taxpayer funding ramps, handles and guards if there is no way the wheelchair can fit through the narrow halls or overcome many flights of stairs.

Furthermore, a recent Nielsen study found that Queensland had the highest proportion of renters (37%) of any Australian state. This means that Queensland has more renters at risk of a life of dislocation and insecurity if they suffer a catastrophic injury and cannot access a lump sum. The NIIS benchmarks do not include any allowance for housing.

Our history of work with injured Queenslanders informs us that lump sums enable the purchase of a new property that is appropriate for the new, specific needs of the individual. It provides a sense of security and safety as they commence the long journey of rebuilding their lives or creating a new life. It is always the most important priority of any catastrophically injured person, even more so than ongoing care and support. And this is entirely consistent with the “choice and control” philosophy which ought to underpin such schemes.

SAFEGUARDS

An important question for the Committee is to decide on what the appropriate role of Government is in the lives of people suffering distress and recovering from a catastrophic event.

The great danger is that bureaucracy takes over the lives of those who have already suffered, playing a role in the smallest decisions and removing any sense of power, choice and control from the injured person.

If the Committee does have reservations regarding lump sum payments, there are simple steps that the relevant authority could take to protect the interests of the individual and build on the existing protections.

Firstly, in a hybrid scheme it would mandatory for a person to receive financial advice from a Certified Financial Planner. This advice would need to be provided both in writing and explained in person (as is the law for all personal financial advice in Australia). Many lump sum recipients already access expert financial advice, delivered by CFP-qualified professionals, but a mandate in legislation or regulation would ensure that they are receiving this important advice.
Secondly, for the relatively small cohort of recipients whose level of mental incapacity does not already qualify them for administration under the current law, but who may be at risk due to their personal circumstances (for example if they have a high level of physical only incapacity, a lower-level of mental impairment, a record of substance abuse or their family circumstances make them otherwise vulnerable), an independent panel could be used to recommend that an administrator be appointed or that some other form of management or structure be put in place to assist in the management of their lump sum.

We are aware that in NSW there is shift towards having a suitable family member appointed into a financial management role, and the courts also now allow approved non-trustee companies to play such a role.

BENCHMARKS

The NIIS is intended to provide participants with “lifetime care and support” similar to that provided under the Victorian TAC scheme and the NSW Lifetime Care and Support Scheme.

Reasonable and necessary supports are expected to include:

- attendant care
- medical/hospital treatment and rehabilitation services
- home and vehicle modifications
- aids and appliances
- educational support and vocational and social rehabilitation, and
domestic assistance.

A key concern raised at the December 2 hearing was the potential for a hybrid scheme to not meet the agreed benchmarks.

It is unclear how this is the case, given the WA model is being implemented to meet the benchmarks, whilst Victoria’s existing hybrid scheme was deemed to already meet the benchmarks when they were announced.
CONCLUSION

The ALA commends the principle underlying the establishment of a no-fault scheme to cover the catastrophically injured: the provision of a safety-net to ensure the delivery of lifetime care and support for the most seriously injured.

The implementation of such coverage is something which the ALA hopes will have bipartisan political support, as the former government agreed to the minimum benchmarks.

Queensland’s CTP system has been a well-balanced policy success by both sides of politics and by all key stakeholders including the legal profession. That foundation ought to remain completely intact. The opportunity is now available to affordably level up coverage, without cutting existing rights.

WHO WE ARE

The Australian Lawyers Alliance (“ALA”) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual. We estimate that our 1,500 members represent up to 200,000 people each year in Australia.

We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA started in 1994 as the Australian Plaintiff Lawyers Association, when a small group of personal injury lawyers decided to pool their knowledge and resources to secure better outcomes for their clients – people requiring legal assistance for injuries and illness.

The ALA is represented in every state and territory in Australia.

More information about us is available on our website.
REFERENCES

1 Legislative Standards Act 1992, 

2 Insurance Commission of Western Australia Proposal to Add No-Fault 
Catastrophic Injury Cover to Western Australia’s Compulsory Third Party Insurance 
Scheme, April 2015 page 32 

3 Insurance Commission of Western Australia, Green Paper - Options to add No- 
Fault Catastrophic Injury Cover to Western Australia’s Compulsory Third Party 
Insurance Scheme, 2014, 

4 Transcript of Wednesday, 2 December 2015 Committee Public Briefing, 
Queensland Parliament Communities, Disability Services and Domestic and Family 
Violence Prevention Committee Inquiry into a suitable model for the implementation 
of the National Injury Insurance Scheme, page 3, 
2015/09-Trns-02Dec2015.pdf

5 Insurance Commission of Western Australia Proposal to Add No-Fault 
Catastrophic Injury Cover to Western Australia’s Compulsory Third Party Insurance 
Scheme, April 2015 page 32 

6 ICWA Proposal, April 2015, page 32

7 Berry, Petrina "More Aussies give up home ownership dream" The Australian 22 
up-home-ownership-dream/news-story/ae3a3b2aa390d95fd3171e9da87f1e31
APPENDIX 1: CLIENT TESTIMONIALS IN SUPPORT OF THE BENEFITS OF LUMP SUM COMPENSATION

Barbara Hodson
Townsville, Queensland

The main reason we sought compensation was because our house could not accommodate a wheelchair. We were renting and there were steps throughout the house. We had a bath, not a shower and it was really not suitable.

We tried to find a rental place that was wheelchair friendly but could not. We approached the Queensland Department of Housing but they said that we were not eligible for anything as Brian was still working at that time.

Housing is a big issue.

We could only buy our current home after the settlement, and we were lucky to get this place which is wheelchair friendly, as there are no wheelchair friendly rental places.

Apart from the need for a house we also knew we’d have other ongoing expenses – wheelchairs, medication, etc.

Our lawyer did recommend a financial adviser but we already had one who had done a good job with my husband’s retirement.

We know that the money has to last. Without the settlement we wouldn’t have been able to get this house.

The thing is that the people making the rules don’t know someone with a disability. They don’t realise what it’s like.

I hope that people in the future can get a lump sum. Then you can be in control of organising your life.

There is nothing worse than having to knock on the door and ask. They will tell you that you have to go to this supplier, etc.

It’s only once you get a lump sum that you can get a life.

Before then you are hanging by a thread.

The money gives you flexibility.
Of course the money doesn’t change the injury - if you ask a person with a disability if they want the money or their life – they all want their life back. You lose your independence.

After the settlement though we were also able to get a new vehicle that better suited our needs.

If this was up to a government department they would question ‘why a new vehicle’ or they would say that you can just have a taxi voucher. They don’t know the importance of being able to go where you want when you want.

Too often, people who make these decisions don’t know what it’s like – your whole world changes.

When applying for help from government departments, generally they are not flexible. You get people with tick and flick boxes.

I really feel for people who don’t have someone who can be their advocate.

Name withheld
Rockhampton, Queensland

After I got my compensation payment I stopped getting the government pension.

I am careful with my compensation money. I don’t buy anything unless I need it. I’d advise other people – don’t make a shopping list, wait until you need something.

People want to be independent like me, I gave up the government pension because I’ll look after myself.

I know to only buy what I need, because I know the money is going to have to last.

It would be a scary thing to have to depend on a government department, you would have to trust them with your life.

If you get money yourself you would last longer. I am glad that I got my money, because if you had to ask for money every time then you won’t get anything.