

17 December 2014

CTP Green Paper
The Insurance Commission of Western Australia
C/O Kane Blackman
Commission Secretary
GPO Box U1908
PERTH WA 6842

By Email: CTPgreenpaper@icwa.wa.gov.au

Dear Mr Blackman

We thank you for the opportunity to provide feedback on the Government of Western Australia's Green Paper into No-Fault Catastrophic Injury Cover. Insurance Australia Group (IAG) supports the introduction of a no-fault catastrophic Compulsory Third Party (CTP) insurance scheme in Western Australia, in particular 'option two' proposed in the Government of Western Australia's Green Paper. The introduction of such a scheme for all motorists will ensure that the most seriously injured people involved in motor vehicle accidents in Western Australia and their families will have the treatment and support they require for the balance of their lifetime.

Insurance Australia Group

IAG is the parent company of a general insurance group with operations in Australia, New Zealand, Thailand and Vietnam, and general insurance joint ventures in Malaysia, India and China. IAG employs more than 15,000 people and underwrites over \$11 billion in premium per annum under many leading brands. In Australia, IAG's businesses distribute a range of personal and commercial insurance products, both directly to customers and indirectly through a network of intermediaries. Personal Insurance distributes general insurance products directly to customers throughout Australia under the SGIO, NRMA Insurance, SGIC, and RACV in Victoria (via a distribution and underwriting relationship with RACV) brands and indirectly through intermediaries including financial institutions and affinity groups. Commercial Insurance provides insurance to business customers, predominantly under the CGU, Lumley, WFI and Swann brands.

IAG also has a strong focus on motor accident prevention and mitigation with a view to assisting the broader Australian community. Through the IAG Research Centre physical research is undertaken for the purpose of improving car and driver safety and reducing repair costs. NRMA Insurance is also a member of ANCAP, the

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organisation which provides consumers with safety and protection information about vehicles involved in serious motor vehicle collisions.

Experience with No-Fault Catastrophic Insurance Schemes

IAG, through its NRMA Insurance business has considerable experience in CTP schemes and presently manages CTP claims in NSW, ACT and QLD. Of these three States and Territories, NSW and the ACT have no-fault Lifetime Care and Support (LTCS) schemes in place for people catastrophically injured in motor vehicle accidents. Whilst the experience of the ACT is relatively recent, with the scheme only commencing operation on 1 July 2014, the NSW experience is considerably more developed with the scheme having commenced in October 2006 for children and expanded in 2007 to include adults. As at 30 June 2014, the NSW LTCS scheme has a total of 933 active participants in the scheme, comprising of 558 lifetime participants and 375 interim participants.¹

Since the LTCS scheme has been in operation in NSW, a distinct increase in innovation and service development within the serious injury service sector has occurred. Specific examples of this include: the up-grading of sporting facilities to provide modern and safe facilities for wheelchair sports, the provision of purpose-built accommodation for scheme participants who would otherwise have had to reside in nursing homes and increased engagement of scheme participants in paid employment. It is our experience that developments such as these are essential to facilitate inclusion and community participation for people who have been seriously injured in motor vehicle accidents.

Fault Based Compensation Schemes

The CTP scheme in Western Australia is a fault based compensation scheme. The primary benefit of a fault based scheme is that the injured person receives a lump sum compensation payment at the conclusion of their claim and are then at liberty to use the money without restriction. The detracting feature of such a scheme however is that it is adversarial in nature, requires legal representation and incurs extensive delays between the time the claim is lodged to when the compensation is paid in full. In the case of Western Australia, catastrophic CTP claims can take between three to five years to resolve, or in the case of children even longer.

There are a number of social policy issues with pure fault based schemes. Some of these include:

- (i) If the injured person causes the accident, compensation is not payable regardless of the severity of their injuries.
- (ii) Fault based schemes require the injured person to establish that another person's negligence was the cause of their injury. In certain situations, negligence does not exist. This may include collisions with wild life such as kangaroos, or accidents involving a driver who had a heart attack at the wheel before the collision occurred.

¹ Lifetime Care and Support Authority of NSW Annual Report 2013/2014, Page 4 - <https://www.opengov.nsw.gov.au/publications/14722>

Motorists who sustain catastrophic injuries in such circumstances, usually become reliant on Government benefits, medical services and family members, as they are not covered by the CTP scheme. The availability of community based support services is limited, and in the case of people living in small remote communities, are almost non-existent, leaving injured people significantly disadvantaged.

Which 'Option' for Western Australia?

The Green Paper discusses three options for the future of the CTP scheme in Western Australia. These options include:

- (i) no change;
- (ii) cover for all people catastrophically injured in motor vehicle accidents; and
- (iii) cover for catastrophic injuries not covered by the existing scheme.

Historically, many states and territories throughout Australia operated pure fault-based CTP compensation systems. Overtime, hybrid and pure no-fault schemes have emerged providing coverage for either all injured people or for people catastrophically injured in motor vehicle accidents irrespective of who caused the accident. In recent times, State and Territory compensation schemes have either evolved, or agreed in principle to evolve in accordance with the benchmarks of the National Injury Insurance Scheme (NIIS).

The NSW CTP scheme operates a hybrid fault based scheme with no-fault additions. One of the key features of this scheme is the no-fault coverage provided by the Lifetime Care and Support Scheme for all people who are catastrophically injured in motor vehicle accidents. The review in 2014 by the Standing Committee into Law and Justice, assessed the NSW LTCS scheme performance as *"working very well to provide support to people who are catastrophically injured in motor vehicle accidents"*.² IAG, through its brand NRMA Insurance which has approximately 38% market share in the NSW CTP insurance market, agrees with the Law and Justice Committee's assessment of the LTCS scheme. Additionally, it is worthwhile noting that in our experience the LTCS scheme is serving the purpose it was intended for, and has reasonably withstood legal challenges over time with only minor legislative amendments occurring since its introduction.

Utilising our experience in NSW and acknowledging the findings of the independent review of the LTCS scheme, IAG supports 'option two' proposed in the Government of Western Australia's Green Paper. This option will provide support for all motorists catastrophically injured in Western Australia, irrespective of who caused the accident with access to the same level of treatment, rehabilitation and care available to people catastrophically injured in NSW.

² The Standing Committee on Law and Justice Fifth review of the Exercise of the Functions of the Lifetime Care and Support Authority , Page X -

[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/52daf6f87f7374d7ca257d0900812c02/\\$FILE/LTCSA%20-%20Final%20Report%20No%2052.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/52daf6f87f7374d7ca257d0900812c02/$FILE/LTCSA%20-%20Final%20Report%20No%2052.pdf)

Cost to Motorists

A relevant consideration to the introduction of catastrophic injury cover for all motorists in Western Australia is the increase to the cost per policy. The Government of Western Australia estimates that the average household vehicle will incur an increase of \$109 per year to an average cost of approximately \$400. As a percentage of the average weekly earnings (AWE) of Western Australians, the total policy cost represents less than 25% of their average weekly earnings. By comparison, NSW premiums are over \$200 more expensive than those in Western Australia and represent approximately 40% of the average weekly earnings of a NSW resident. Acknowledging that the CTP premium would increase over \$100 in a 12 month period, it would be paramount for the Government of Western Australia consider measures which prevent non-insurance and/or underinsurance in other non-compulsory insurance product lines. Such measures could include public awareness campaigns about the importance of holding the correct insurance policy and making sure that the policy covers a person's individual needs.

IAG supports the introduction of a scheme in Western Australia which provides no-fault care and support to anyone catastrophically injured in a motor vehicle accident. Based upon our experience in NSW and more recently in the ACT, we believe that the benefits of such a scheme to the motorists and the community of Western Australia will outweigh the increase in the cost per policy. IAG encourages the Government of Western Australia to proceed with the introduction of a no fault catastrophic injury insurance scheme for all people involved in a motor vehicle accident in Western Australia.

IAG would welcome the opportunity to discuss any aspect of this submission further. Please feel free to contact Cecilia Warren, Senior Manager CTP Scheme Design, Policy and Injury Prevention on (02) 9292 1742 at any time.

Yours Sincerely



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