Model Designs
Citizens’ Jury for ACT CTP Scheme

Day 2
25 March 2018
Understanding the Models

Benefits
- Treatment
- Domestic Care
- Income Replacement
- Quality of Life (QoL)
- Death

Processes
- Making a Claim
- Information and Guidance
- Legal Support
- Dispute Resolution
- Legal Costs
## Model B

<table>
<thead>
<tr>
<th>Benefit Type</th>
<th>For all: Defined benefits</th>
<th>Available to not-at-fault: (additional benefits via common law)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment</td>
<td>12 months</td>
<td>Unlimited</td>
</tr>
<tr>
<td>Domestic care</td>
<td>12 months Paid care only</td>
<td>Unlimited Includes gratuitous care on the 6/6 rule</td>
</tr>
<tr>
<td>Income replacement</td>
<td>12 months 95% of pre-injury earnings for first 3 months 80% thereafter Low income adjustment</td>
<td>No time limit First 12 months: as per defined benefits After 12 months: 100% of loss of earning capacity (future earnings) + superannuation</td>
</tr>
<tr>
<td>Quality of life</td>
<td>Nil</td>
<td>Maximum $500,000 Amount based on ISV and guidance scale</td>
</tr>
<tr>
<td>Death</td>
<td>Funeral cost + $50,000 if dependants</td>
<td>Funeral cost + common law for dependants</td>
</tr>
</tbody>
</table>

Defined benefits up to 12 months. QoL based on ISV and a scale results in lower amounts than currently for less serious injuries, resulting in lower premiums.
## Model D

<table>
<thead>
<tr>
<th>Benefit Type</th>
<th>For all: Defined benefits</th>
<th>Available to not-at-fault: (additional benefits via common law)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment</td>
<td>5 years</td>
<td>Limited to 5 years if WPI below 10%</td>
</tr>
<tr>
<td>Domestic care</td>
<td>5 years Paid care only</td>
<td>Limited to 5 years if WPI below 10% Paid care only (no gratuitous care)</td>
</tr>
<tr>
<td>Income replacement</td>
<td>5 years 95% of pre-injury earnings for first 3 months 80% thereafter Low income adjustment</td>
<td>Limited to 5 years if WPI below 10% No time limit if WPI 10% or above First 12 months: as per defined benefits After 12 months: 100% of loss of earning capacity (future earnings) + superannuation</td>
</tr>
<tr>
<td>Quality of life</td>
<td>Maximum $350,000 Benefit based on WPI Threshold: No benefit if WPI below 5%</td>
<td>Maximum $500,000 Amount based on WPI scale Threshold: No benefit if WPI below 10%</td>
</tr>
<tr>
<td>Death</td>
<td>Funeral cost + up to $350,000 if dependants ($190,000 for spouse, $40,000 per child)</td>
<td>Funeral cost + common law for dependants</td>
</tr>
</tbody>
</table>

Defined benefits are up to 5 years. QoL payments are available to all subject to a 5%+ WPI threshold. Common law benefits extending past five years are subject to 10%+ WPI.
Entitlements
Benefit Entitlements

- Treatment (also known as “Medical”)
- Care – domestic and personal services, whether paid or unpaid (“gratuitous”)
- Income replacement
- Quality of life (compensation not linked to financial loss)
- Death
Treatment

Available to all

Model B
1 year
Unlimited

Model D
5 years
Limited to 5 years if WPI below 10%

Not-at-fault

Reasonable and necessary treatment
Reasonable and necessary treatment

Applies Clinical Framework for the Delivery of Health Services (as modified for the ACT) based on five principles:

1. Measure and demonstrate the effectiveness of treatment
2. Adopt a biopsychosocial approach
3. Empower the injured person to manage their injury
4. Implement goals focused on optimising function, participation and return to work
5. Base treatment on the best available research
Domestic Care

Available to all: paid care only

Not-at-fault

Care can be

- Commercial (paid)
- Gratuitous (unpaid)

6/6 rule

- Applies to gratuitous care

Pay rates

Commercial: $40-50 /hr

Model B

- 1 year

Model D

- 5 years

Care needed for at least six hours per week and for at least six months

Paid care only

Limited to 5 years if WPI <10%
# Income Replacement

<table>
<thead>
<tr>
<th>Available to all: Lost earnings</th>
<th>Model B</th>
<th>Model D</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
<td>12 months</td>
<td>5 years</td>
</tr>
</tbody>
</table>
| **% of pre-injury earnings**   | 95% first 3 months, then 80%  
Low income adjustment | 95% first 3 months, then 80%  
Low income adjustment |
| **Max weekly income replaced** | $2,250   | $2,250  |

<table>
<thead>
<tr>
<th>Not-at-fault: Includes loss of future earning capacity</th>
<th>Model B</th>
<th>Model D</th>
</tr>
</thead>
</table>
| **Duration**                                           | No time limit | Defined benefits only if WPI below 10%  
No limit if WPI 10%+ |
| **% of pre-injury earnings**                           | Defined benefits first 12 months (no super), 100% + super thereafter | Defined benefits first 12 months (no super), 100% + super thereafter |
| **Max weekly income replaced**                         | $4,500  | $4,500  |
Income Replacement

- Percentages & Step-Downs
- Time Limits
- Reimbursement of Sick Leave
- Common Law ‘Top-Up’ Payments
- Defining ‘Earnings’
- Maximum Weekly Amount
- Partial Income & Earnings
- Capacity to Work
- Income Tax
- Superannuation
# Quality of Life Compensation

<table>
<thead>
<tr>
<th>Available to all</th>
<th>Model B</th>
<th>Model D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threshold</td>
<td>n/a</td>
<td>WPI 5%</td>
</tr>
<tr>
<td>Maximum</td>
<td>n/a</td>
<td>$350,000</td>
</tr>
<tr>
<td>Calculation of amount</td>
<td>n/a</td>
<td>WPI scale</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Not-at-fault</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Threshold</td>
<td>None</td>
<td>WPI 10%</td>
</tr>
<tr>
<td>Maximum</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Calculation of amount</td>
<td>ISV + guidance</td>
<td>WPI scale</td>
</tr>
</tbody>
</table>

- **Threshold**: None for Not-at-fault, n/a for Available to all
- **Maximum**: $500,000 for Not-at-fault, n/a for Available to all
- **Calculation of amount**: ISV + guidance for Not-at-fault, n/a for Available to all

**Instrument**
- Whole Person Impairment Injury Scale Value

**Threshold**
- 5% WPI
- 10% WPI

**Scales**
- Points to dollars Ranges
Death Benefits

Funeral – reasonable costs to a maximum of $15,000

A lump sum payment if the deceased person has dependants:

- $50,000 in Model B
- Up to $350,000 in Model D
  $190,000 for spouse, $40,000 per child up to 4 children

Any lump sum will be paid to the estate

Common law ‘compensation to relatives’ claims unchanged
Support & Dispute Resolution
Support and Disputes

Information
- Multiple channels

Notifying a Claim
- Paper
- Online
- Telephone
- App

Support
- Insurers
- Lawyers

Dispute Resolution
- Defined benefits
- Common law
- Medical experts
Moving from Defined Benefits to Common Law

Model B

During the 12-month defined benefits period, the injured person can focus on recovery and determine whether someone else was at fault.

If at 6-12 months the outcome in relation to determining fault is:

- **The injured person was at fault:** benefits cease at 12 months
- **The injured person was not at fault:** the person may make a common law claim
- **Disputed** benefits cease at 12 mths and the injured person will go to common law to prove fault
Two gateways for common law, both of which must be crossed:

- **The injured person was not at fault:** can be agreed at any time, or remains in dispute
- **The injured person has 10% WPI or more:** assessed at injury stability

If common law is available, the injured person can initiate the claim process at any time and negotiate/litigate while defined benefits continue.
Other Coverage Issues

- Blameless accidents: deemed at fault
- Minors: no contributory negligence
- Illegal activities: reductions and exclusions
- Contributory negligence: applies only to excess of common law over defined benefits
- Fraud minimisation: incentives and regulator obligation