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14 April 2026

Legal and Social Issues Committee  
TAC Claims Inquiry  
Parliament House, Spring St  
EAST MELBOURNE VIC 3002

Dear Committee Members

## About the submitter

I am pleased to make this personal submission to the Inquiry. It is made in the public interest on a voluntary basis by an experienced industry professional.

I am an actuary by profession, and I recently retired from my full-time job (after 41 years!) at Finity Consulting. I care deeply about the sustainability of the institutions in the sector in which I have worked. With my newly found brainspace I write commentaries on some of the relevant issues.

## Sustainability

Much of my previous work has had an emphasis on sustainability. In this context I define 'sustainable' as 'meeting the reasonable expectations of the stakeholders over a long period of time without needing government intervention for a financial or other crisis'. From my reading in Hansard this seems to align well with the approach of committee members.

## The impossible balancing act

The most difficult challenge in managing a sustainable scheme is to find and maintain a suitable balance between the support available to claimants and the stability and level of premium rates. There is no right answer to this challenge, and there is variation across schemes and over time. It is often referred to as a 'pendulum' swinging between rigorous management on the one hand and kindness to claimants on the other.

I would emphasise the words 'reasonable expectations' in the working definition above. It is important to avoid over-promising on what the scheme can deliver.

Nonetheless, no accident compensation scheme can meet the desires and wishes of all the claimants. Some people will always want more than the scheme parameters allow, and some are assertive enough to raise complaints and disputes. Colloquially 'you can't please all the people all the time'.

## **ToR 1: Claim processing and disputes**

Committee members accept that the TAC must assess the validity of claims and cannot just 'take all comers'. This can require collection of a significant amount of information and sometimes various investigations. Strong communications with police, ambulance and hospitals is highly desirable. Processes are able to be improved by 'triaging' claims into various groups with the degree of process complexity varying with the needs and risks.

While initial acceptance of a claim is important, it must be recognised that assessments, sometimes difficult ones, are required throughout the entire lifetime of a claim (and sometimes afterward given entitlement are theoretically for life). I would expect that the people who have raised their complaints to government have probably been with the TAC for some considerable time and whose grievances relate to ongoing benefits and services.

To an extent, the intrusiveness and stresses of these assessments is a necessary evil for a sustainable scheme.

It would be worthwhile to benchmark various metrics for the TAC against other schemes. Relevant benchmarks include claim acceptance rates and times, complaint numbers, dispute outcomes and the like. This would require co-operation with other schemes.

## **ToR 2: Fraudulent claims**

From the Hansard, most committee members acknowledge the importance of eliminating (or at least minimising) fraud, and recognise that it occurs from both claimants and providers, as well as other potential sources.

I am not familiar with the methods used by TAC and their effectiveness. Personally I am optimistic about the future of this activity because of the technological developments with data analysis, matching and machine learning. While care is always needed, more can be done with less resources and less intrusion into the lives of honest stakeholders.

Victoria has recently seen a major increase in vehicle-related crime. TAC should be aware of this and take steps to identify whether these criminal activities extend to TAC claims in any way.

A related topic is that of 'claim farming' which has been endemic in several other states but not in Victoria. It is complex and I will not go into details here, but if committee members are interested I can explain what has happened and why.

### **ToR 3: Provider fees**

This is another topic affecting all compensation schemes in one way or another. TAC is unusual in paying only schedule rates based on Medicare. Most other schemes pay charged rates, sometimes up to the AMA suggested rates.

This arrangement is very favourable financially for the TAC, but to the extent that providers charge their patients higher fees, this is clearly a problem for the clients.

I think it is desirable that all medical professionals provide services to patients without 'out of pocket' charges. I do not know how feasible this is based on legal and regulatory considerations.

It is arguable that the Medicare rates limit the availability of treatment because they are too low, and if anything this issue is getting worse. If the fee rates significantly limit the availability of treatment the TAC could consider paying a loading of say 10% or 20%.

### **ToR 4(a): Interactions with NDIS**

Whenever two systems of benefits are potentially available there will be inevitable frictions as the individual, the schemes and the providers each try to optimise their outcomes.

In the case of the NDIS two situations need to be considered:

- The disability(ies) that qualify for NDIS participation are caused wholly or mainly by the transport accident
- The client was an NDIS participant before the accident or would qualify regardless of the transport accident.

Is it practical for an individual to be covered by one or the other scheme but not both? Income replacement immediately raises its head, because it is provided by TAC but not by NDIS. There are undoubtedly other complexities.

In my view this clarity of coverage should be the goal. It would likely require some legislative change, and would need protocols for each scheme and for information sharing.

The situation where the client or the provider can 'pick and choose' should be avoided.

## ToR 4(b): Privacy and data sharing

This is a growing issue as digital technology improves. It can improve convenience and service quality for the clients and enable more efficient and effective scheme management. I think it is important that we keep making steps forward in this area.

Some thoughts to begin with:

- a) The Information Commissioner issues guidelines for data sharing agreements between different agencies and institutions
- b) There is a series of bilateral agreements governing the data sharing arrangements and the responsibilities of each party
- c) The client has the opportunity to opt out of the relevant data sharing knowing that it will increase the burden on them in providing information from either source to the other.

## Some topics outside the terms of reference

It is worth noting some of the major topics with the TAC that are not mentioned in the ToR. I am not suggesting that the committee tackle any of these, but the committee is likely to hear about them.

1. The scheme is a dual no fault and common law system. Common law is available for serious injuries (as defined) caused by the negligence of another. It is a highly legal process, sometimes quite adversarial, and for some people crosses over the journey of their no fault claim.
2. The TAC has always provided lifetime benefits for 'catastrophic injuries' and has long been a leader in this complex area. While there will always be boundary questions about whether a client has a 'catastrophic' injury, it is appropriate that there be different claims management systems and pathways for these people. The committee always needs to be clear about whether a topic relates to catastrophic claims or not.
3. The Victorian government has long benefited from various funding by the TAC, going back to the rescue of customers of the Pyramid Building Society in 1990. The appropriateness of these various funding elements is not for me to say, but they certainly make up a non-trivial portion of the premium.

The TAC is different from other motor accident schemes in Australia in that it makes a much bigger contribution to road safety funding and also provides various other funding sources to government.

## Concluding remarks

I am pleased to see efforts being made to achieve incremental and continuous improvement in the scheme. It has a fascinating and unique history.

I would also be pleased to respond to requests from the committee or the secretariat for further objective information and views, including comparisons with other schemes.

Yours sincerely

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