

## Resolving a Dispute about a ‘Motor Accident Injury’

### What is a dispute about a motor accident injury?

To be accepted as a participant on the Lifetime Care and Support Scheme, your injury must meet the legal definition of ‘motor accident injury’. That is, both the *motor accident* and the *motor vehicle* involved must meet the definition in section 7 of the Road Transport (Third Party Insurance) Act 2008.

A dispute occurs when you (or another party) disagree with the Commissioners decision about whether an injury is a motor accident injury. A motor accident injury dispute is a *legal* dispute, which means it must be decided by a panel of legal professionals.

### How is it different to a dispute about eligibility?

A dispute about eligibility is about whether the motor accident injury satisfies the injury criteria for eligibility to participate in the Scheme. This is a *medical* dispute, which is assessed by a panel with medical or health backgrounds. For details on eligibility disputes see *Information Sheet P02: Resolving Disputes about Eligibility*.

### Who can lodge a motor accident injury dispute?

This type of dispute can only be referred by an ‘interested person’ who is affected by the Commissioners decision. An interested person could be:

- You (the injured person)
- The insurer of the claim
- The Nominal Defendant

### When can I lodge a dispute?

A dispute can only be lodged after you’ve received the Commissioner’s written decision about eligibility for the Scheme. The written decision needs to outline that you are not eligible for the Scheme because the *motor accident* or *motor injury* does not meet the legal definition.

### How do I lodge a dispute?

A dispute must be in writing – a letter or email to the Commissioner explaining why you (or another ‘interested person’) disagree with the decision. Include why you think you meet, the motor accident injury criteria in the Lifetime Care and Support Guidelines 2014.

Include a copy of your compulsory third party claim form (if you have one) and other supporting material.

To find out more about lodging a dispute, contact the Commissioner on 13 22 81.

## **Who will assess the dispute?**

The dispute will be referred to the Principal Claims Assessor by the ACT LTCS Commissioner (under Part 7.2 of the Lifetime Care and Support (Catastrophic Injuries) Act 2014). The Principal Claims Assessor will then convene a panel of three claims assessors to determine the dispute. Claims Assessors are experienced legal professionals (solicitors or barristers) with expertise in assessing legal disputes.

## **How will the panel make a decision?**

Some disputes can be assessed and a decision made by the panel from the information provided, without needing to talk to you (or other 'interested person' if they lodged the dispute).

In some cases, the panel may need more information about the accident, either in writing or by talking to people involved (such as you, the insurer, the Nominal Defendant or witnesses to the accident). If this happens you'll be told what information is needed.

Anyone involved in the dispute may want to talk or forward information to the panel to be considered when making their decision. If this occurs, the Commissioner will make any arrangements needed to allow this to happen. It is very important that the panel has access to all information relevant to the accident so they can make the right decision.

## **What will the panel be assessing, and how long will it take?**

The panel will make a decision on whether the injury is a 'motor accident injury'. Their decision is final and is legally binding. This will affect whether you are eligible to participate in the Scheme on the basis of your motor accident.

The panel's assessment will also cover whether the LTCS Scheme must pay the injured person's reasonable costs for the legal services they received relating to the dispute.

The dispute may take several months to finalise, and may take longer if all relevant information is not provided with the application.

## **What happens next?**

The panel will certify their decision in writing and will include reasons for the decision. This decision is legally binding and there is no provision in the legislation to appeal. For more information contact The Office of the LTCS Commissioner on 13 22 81.