


The Actuarial Profession  
making financial sense of the future

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## Government alternatives to handling bodily injury claims

The Victorian and New Zealand  
systems

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## Introduction

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- In the UK Motor Bodily Injury costs are soaring
  - Increasing levels of fraud
  - Increasing numbers of BI claimants
  - High levels of inflation
  - High legal costs
  - Increased number of uninsured drivers
  - Periodical Payment Orders
  - Gender discrimination decision
- So what are alternatives/solutions?
- This presentation focuses on the Victorian & New Zealand government schemes that have been created to manage bodily injury claims.

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- Some Background
- Key Features of all the schemes
- Victoria
- New Zealand
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## Some Background

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## Timeline

- 1966 New Zealand - Royal Commission on workers' compensation
- 1967 New Zealand - Woodhouse Report published
- 1971 Victoria - Limited no-fault cover scheme introduced (RAHAC)
- 1973 Australia - Owen Woodhouse commissioned to produce Australian report
- 1974 New Zealand - Accident Compensation Scheme begins operating
- Australia - Australian Woodhouse Report published
- Victoria - Full motor no-fault scheme introduced (MAB)
- 1975 Australia - Attempts to introduce national legislation fail
- 1985 Victoria - Accident Compensation Act 1985
- 1986 Victoria - Transport Accident Act 1986
- Victoria - Victorian Workcover Authority begins operating
- 1987 Victoria - Transport Accident Commission begins operating

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## History

- The work done by Sir Owen Woodhouse was a key driver of the schemes in both New Zealand and Australia
- New Zealand implemented a comprehensive country wide scheme (1974)
- Although Australia proposed similar legislation at the Federal level, it failed to pass parliament
- Victoria implemented schemes covering transport accidents and accidents at work (1985 & 1986)

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## The Jurisdictions

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- Both Victoria and New Zealand have court systems similar to the UK and have previously used English common law
- There is universal health coverage in Victoria and New Zealand

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## Key Features of the Schemes

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## Insurance Split

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- Private insurers are responsible for property damages claims
- The government schemes act as monopolies with respect to bodily injury
- They all have responsibility for safety improvement in the area they cover

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## Behaviours

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- All three schemes act as insurers and calculate full reserves on an actuarial basis
  - Position on holding a margin varies
- Have historically adopted relatively aggressive investment plans
- Limited rating occurs
- Limited excesses apply
- All do research into claims management, health outcomes, accident prevention and usually make submissions on changes in government policy

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## Coverage

- Insurance cover is “No Fault”
- Some schemes have access to Common Law
- Loss of earnings covered
- Medical costs
- Vehicle and home modifications covered
- Lump sum awards for pain & suffering/permanent impairment

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## Differences to UK Insurance

- When available Common Law only accessible to seriously injured claimants, with restrictions on awards
- Loss of earnings usually <100% of pre-injury earnings, with minimums and maximums
  - Usually around 80% long term
- Lump sums are limited
  - Death benefits, impairment and common law payments only
  - Loss of earnings paid out on a weekly basis
  - Medical, rehabilitation, aids & appliances, home/vehicle modification payments are made on an on-going at need basis
- Impairment awards based on fixed rules based on AMA guidelines
  - Minimum levels of impairment usually 10% or more

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## Differences to UK Insurance

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- Lump sums are usually limited to death benefits and impairment/pain & suffering awards
- Loss of earnings paid out on a weekly basis
- Medical, rehabilitation, aids & appliances, home/vehicle modification payments are made on an on-going at need basis
  - Will increase or reduce with a changing medical prognosis and needs
- Rules for challenge if believe benefits withdrawn unfairly

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## Ongoing Interaction

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- Emphasis on ability to return to normal life
- Emphasis also on meeting the tailored needs of the individual via specific medical regime
- All three schemes have systems in place to evaluate and review on-going need at set check points
  - Cover will be withdrawn if there is no longer a medical basis for receiving it
- Rules for challenge by the claimant if they believe benefits are withdrawn unfairly

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# Victoria



Land Area: 103% of GB

Population: 9% of GB

Vehicles: 12% of GB

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## Transport Accident Commission (TAC)

- The TAC covers transport accidents directly caused by the driving of a car, motorcycle, bus, train or tram.
- From the 2009/2010 Financial Year report:
  - \$7.6 billion of outstanding claims reserves (discounted)
  - 80% Funding Ratio for 2010 (target 110% over five year period)
  - Significant hit to asset position from GFC
  - Reinsurance purchased at catastrophe level
- Small excess of \$564

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## TAC Responsibilities

- Covers:
  - Reduce the cost to the Victorian community of compensation for transport accidents
  - Reduce the incidence of transport accidents
  - Provide, in the most socially and economically appropriate manner, suitable and just compensation in respect of persons injured or who die as a result of transport accidents
  - Determine claims for compensation quickly and efficiently and
  - Provide suitable systems for the effective rehabilitation of persons injured as a result of transport accidents.
- TAC directly manages claimants and premium collection.

Wipe off 5. TAC

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## TAC Charge (premium)

- Rating factors are type/use of the vehicle and post code.
- Linked to indexation (Consumer Price Index)
- Discount for pensioners
- Premium for private cars was \$350 to \$450
  - Approximately £218 to £281



## WorkSafe Victoria aka Victorian WorkCover Authority (VWA)

- The VWA covers accidents occurring in the course of employment.
- From the 2009/2010 Financial Year report:
  - \$8.9 billion of outstanding claims reserves (discounted)
  - 100% Funding Ratio for 2010 (target 110% over five year period)
  - Significant hit to asset position from GFC
  - VWA doesn't pay dividends
- Does allow large companies to self-insure
- Employer's excess for 10 days of LOE and ~\$600 medical costs



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## VWA Responsibilities



Safety updates

- Covers:
  - Help avoid workplace injuries occurring
  - Enforce Victoria's occupational health and safety laws
  - Provide reasonably priced workplace injury insurance for employers
  - Help injured workers back into the workforce
  - Manage the workers' compensation scheme by ensuring the prompt delivery of appropriate services and adopting prudent financial practices.
- Agents are employed to collect premiums, work with companies and to manage claims within VWA guidelines.

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## VWA Premiums

- Limited rating factors by industry classification (by workplace)
- Experience rating applies except for small employers
- Employers can pay extra to have the “excess” of the first 10 days of weekly benefits waived.
- Premium for 2008/09 was 1.38% of wage bill

### SAFETY & PREVENTION

The most important reason is waiting for you to get home

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## New Zealand

Land Area: 117% of GB

Population: 7% of GB

Vehicles: 8% of GB



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## Accident Compensation Corporation (ACC)

- ACC covers accidents occurring anywhere, anytime.
- From the 2009/2010 Financial Year report:
  - \$24.4 billion of outstanding claims reserves (discounted, \$NZ)
  - 58% Funding Ratio for 2010
  - Significant hit to asset position from GFC
- Until 1999 was funded on a pay as you go basis
- Does allow large companies to self-insure
- Claimants have no access to Common Law
- Employers have small excess applied for loss of earnings



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## ACC Responsibilities

- It is run as a set of “accounts” – motor vehicles account, Earner’s account, Treatment Injury account, Work Account and Non-Earners account
- Role is to:
  - prevent injury
  - make sure people can get treatment for injury
  - help people get back to everyday life as soon as possible
- Responsibilities include:
  - Managing the claims
  - Collect levies
  - Work with businesses and in the community to help them become safer, injury-free places



Tips to make  
your home  
safer

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## ACC Charge (premium)

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- Varies by account
  - Motor: Petrol levy plus premiums paid with registration rated vehicle by vehicle category and petrol type
  - EL: Industry rating plus experience rating and NCD
  - Medical: Levy on earnings and central government funds
- EL premium for 2008/09 was 0.9% of wage bill
- Average levy for a passenger vehicle is NZ\$317 (~£166)



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## Market Implications

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## Is it cheaper?

- Limited or no common law access
- Benefits often smaller
- Aggressive investment strategies
- Often limited capital requirements
- Profit margin optional
- **But**
  - Covers at fault participants
  - Questions on government efficiency
  - Political pressure on benefit levels
- Not guaranteed cheaper – but performance is promising

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## Market issues

- Monopolies
  - Allows a different investment strategy
  - Provides economies of scale
  - Does specialization create centre of excellence?
  - Allows longer term planning
- Explicitly prices the cost of accidents back to the driver
  - So each industry pays for all bodily injury claims it incurs
- Does it create moral hazard on safety?

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## Ongoing care and safety obligations

- Responsibility for safety
  - Promote early return to work
  - Promote injury prevention
- Schemes have incentive to invest if it will reduce in lower costs/accidents
  - Promotes research
  - Promotes safety campaigns, checking and targeting
- Return to work and health outcomes better with periodic no-fault systems (PwC study in NSW)
- Can track and compare performance

**howsafeisyourcar**.com.au

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## To distort or not to distort?

- These schemes do allow cross-subsidisation
- Can reduce rates for young/inexperienced drivers
- Can cross-subsidise certain medical disciplines to reduce pressure for hospitals to remove services.
- Rates can be used as a policy tool
  - Reduce rates for some industries
  - Implied distortion to the market

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## Implications for market participants

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### At Fault Claimants and Self-Employed

- Significant improvement as will receive benefits under these schemes
- Self-employed will have to pay levy/premium



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## Not At Fault Claimants



- Limited access to common law, restricted pain and suffering awards
- No arguments/delays over fault
- Loss of earnings recompense less than 100%
  - *But* there are usually minimums as well
- Limited lump sums
  - *But* transfer risks around longevity, inflation, investment, changing care needs over to the scheme
- Protected against uninsured drivers/employers
- A higher proportion of costs goes to claimants under no-fault schemes
- Less Choice

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## Fraudsters

- Certainly still exists
- But scope is mitigated
- To stay on benefit have to keep fraud going



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## Policyholders

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- Drivers
  - Expanded coverage may be offset by restricted benefits
  - Premium rates smoother over life time
- Employers
  - Pressure can be applied to get people back to work
  - Some implications for employers due to experience rating capturing all accidents

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## Lawyers

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- Often the big losers
  - Access to common law for claimants either removed or restricted
  - Common law process usually controlled
  - Benefits often capped
  - Several heads of damage do not form part of the reward as covered under the scheme's benefit regime



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## Insurance Companies

- Overall a loser
- Removes right to underwrite bodily injury business
  - Reduces volatility risk, reserving risk, reduces capital needs, and removes Periodical Payment Orders
  - Reduces reserves over time
  - However, insurers lose the right to price for this risk
- Effectively more insurance becomes shorter-tailed and is property damage based, and the available premiums reduce
- Insurers may be able to play a part in claims management depending on the scheme structure

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## Court System

- Reduction in case load due to:
  - Restricted access to common law
  - Small claims usually are restricted from using the courts
  - Heads of damage covered by the schemes and are not disputed
  - Sometimes penalties for taking cases forward and losing
- Process often fixed, with reliance on conciliation/mediation, medical panels and/or arbitration
  - This usually reduces court appearances as well



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# Thoughts for Government

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## Direct Implications

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- Reduced costs on public health system and safety nets
- Can reduce strain on the courts
- People return to work faster
- Makes the government liable for the schemes and liabilities
- May make business/market issues into political ones
- Links safety programs with bodies responsible for paying claims
- Full scheme reduces community litigation

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## Political Implications

Once established:

- Drivers want reduced premiums from the scheme
- Claimants
  - As for most insurers, you get complaints. These become both the schemes' and government's issues
  - May push for higher benefits/access to common law
- Lawyers/unions push for common law
- Business pushes for reduced benefits and premiums
- Business may campaign against safety regulations
- Media can blame government for any issues

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## Scope for politics to drive decisions

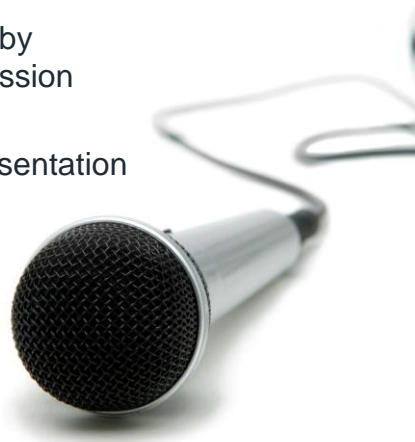
- Pandering to the above groups
- Benefit area or industry – location of offices or industry rates
- Can influence social policy via premiums
- Lots & lots of reserves – so opportunity to raid the coffers
- Short term views versus long term reality?
- Participation of insurance companies?
- Government needs to determine their goal:
  - Premium reduction, benefits, reduce government costs, safety, reduce litigiousness, safety net, investment?

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## Questions or comments?

Expressions of individual views by members of The Actuarial Profession and its staff are encouraged.

The views expressed in this presentation are those of the presenter.



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## Sources of Information

- Transport Accident Commission: [www.tac.vic.gov.au](http://www.tac.vic.gov.au)
- Worksafe Victoria: [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)
- Comparison of Workers' Compensation Arrangements in Australia and New Zealand – Safework Australia: [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)
- Safe work Australia: <http://www.safeworkaustralia.gov.au>
- Wikipedia
- PricewaterhouseCoopers report – Accident Compensation Corporation New Zealand Scheme review March 2008

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## Additional Information

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### Safety Initiatives

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- All three organisations have safety campaigns
- Advertising showing the impacts of speeding, drink driving, insufficient safety regimes are quite common on TV, billboards and in the print media
- TAC advertises stressing on checking the safety of cars before purchasing them
  - [www.howsafeisyourcar.com.au](http://www.howsafeisyourcar.com.au)
  - Famous in Victoria for the slogan “If you drink, then drive, you’re a bloody idiot”, used since 1990



## TAC Coverage

- Medical and rehabilitation costs
- Vehicle and home modifications, home help/assisted care
- Missed work (excluding first 5 days)
  - Linked to impairment levels. Varies between a minimum level and 80% of weekly earnings
  - Benefits linked to inflation
- Pain & suffering benefit based on impairment levels with threshold
  - Benefits are between \$5,000 and \$300,000 for impairment
  - Must be at least 10% impaired or more
  - No coverage if convicted of dangerous driving



## TAC Coverage

- Restricted access to common law
  - Must have a “Serious Injury” or be 30% impaired
  - Maximum common law payout is \$1.5m
- Death entitlements
- Medical excess is \$564
- Weekly loss of earnings payments are assessed after three years and the claimant must pass impairment thresholds to continue receiving payments
- Benefits are linked to either CPI (Consumer Price Index) or Wage inflation



## VWA Coverage **too much? An appendix?**

- Loss of earnings paid out on a weekly basis (inflation linked)
  - Initially 95%, down to 80% on-going
  - Subject to minimum and maximum levels
  - Limited ability to commute
- Medical and rehabilitation costs
- Pain & suffering benefit based on impairment levels
  - Uses AMA Guides to clinically scale impairment from 10% up.
- Death entitlements
- Restricted access to common law and restricted awards.
- Excess of 10 days of LOE and ~\$600 medical costs
  - This is covered by employers



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## ACC Coverage

- Loss of earnings paid out on a weekly basis
  - 80% of pre-injury earnings (with maximums and minimums) and inflation linked
- Medical and rehabilitation costs
- Vehicle and home modifications, home help/assisted care
- Pain & suffering benefit based on impairment levels (10% minimum)
- Death entitlements
- Employer's excess for first week of LOE
- No access to common law
- Widows can have benefits commuted into a lump sum

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