Introduction

- 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.
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

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)
The Jurisdictions

- 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

Key Features of the Schemes
Insurance Split

- 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

Behaviours

- 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
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

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
Differences to UK Insurance

- 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

Ongoing Interaction

- 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
**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
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.

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

**VWA Responsibilities**

- 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.
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

New Zealand

Land Area: 117% of GB
Population: 7% of GB
Vehicles: 8% of GB
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

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
ACC Charge (premium)

- 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)

Market Implications
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

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?
**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

**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
Implications for market participants

At Fault Claimants and Self-Employed

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

- 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

Lawyers

- 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
**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

**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
Thoughts for Government

Direct Implications

- 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
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

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?
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.

Sources of Information

- Transport Accident Commission: www.tac.vic.gov.au
- Worksafe Victoria: www.worksafe.vic.gov.au
- Comparison of Workers’ Compensation Arrangements in Australia and New Zealand – Safework Australia: www.safeworkaustralia.gov.au
- Safe work Australia: http://www.safeworkaustralia.gov.au
- Wikipedia
- PricewaterhouseCoopers report – Accident Compensation Corporation New Zealand Scheme review March 2008
Additional Information

Safety Initiatives

- 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
  - 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

**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