T R A N S C R I P T

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Claims Made through the Transport Accident Commission (TAC)

Melbourne – Wednesday 10 June 2026

MEMBERS

Joe McCracken – Chair
Michael Galea – Deputy Chair
Ryan Batchelor
Anasina Gray-Barberio
Renee Heath
Ann-Marie Hermans
Rachel Payne
Lee Tarlamis

WITNESSES

Jeremy King, Chair, Transport Accident Committee, and

Geraldine Collins, Deputy Chair, Transport Accident Committee, Law Institute of Victoria; and

Susan Accary, State President, and

Megan Caines, Australian Lawyers Alliance.

The CHAIR: Welcome back to the next session of the Legal and Social Issues Committee inquiry into the TAC. I am Joe McCracken, Chair of the inquiry. We will go through and introduce our committee members. I will go left, right, online.

David LIMBRICK: David Limbrick, Member for South-Eastern Metropolitan Region.

Sheena WATT: Hello. I am Sheena Watt, Member for Northern Metropolitan Region.

Michael GALEA: Good morning. Michael Galea, Deputy Chair and Member for South-Eastern Metropolitan Region.

Renee HEATH: My name is Renee Heath, and I am a Member for Eastern Victoria Region.

Lee TARLAMIS: Lee Tarlamis, Member for South-Eastern Metropolitan Region.

Rachel PAYNE: Rachel Payne, Member for South-Eastern Metropolitan Region. I think we have got the full suite of south-easters here today.

Michael GALEA: We do.

Ann-Marie HERMANS: Ann-Marie Hermans, Member for South-Eastern Metropolitan Region.

Anasina GRAY-BARBERIO: Good morning. Anasina Gray-Barberio, Northern Metro Region.

The CHAIR: All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information that you provide during this hearing is protected by law. You are protected against any action for what you say during the hearing, but if you go elsewhere and say the same things, you may not necessarily be protected by that same privilege.

Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. All evidence is being recorded. You will be provided with a proof version of the transcript that will ultimately be made public, and it will be put on the committee's website.

For the Hansard record – and I will go from my left to right – can you just say your name and the organisation you are appearing on behalf of, please. Geraldine, I will go to you first.

Geraldine COLLINS: Geraldine Collins, on behalf of the Law Institute of Victoria.

Jeremy KING: Jeremy King, on behalf of the Law Institute of Victoria.

Susan ACCARY: Susan Accary, on behalf of the Australian Lawyers Alliance.

Megan CAINES: Megan Caines, on behalf of the Australian Lawyers Alliance.

The CHAIR: Perfect. Thanks so much, and welcome to you here today. We appreciate the time that you have taken out of your busy schedules to be here. We have got about 5 minutes for an opening statement. Does anyone want to go first?

Jeremy KING: I will go first.

The CHAIR: All right. I will hand it over to the law institute then. You guys can go first. Welcome.

Jeremy KING: Thank you. I want to first say thank you for the opportunity to appear today and for considering the Law Institute of Victoria's submission. My name is Jeremy King, and I am a principal lawyer at Robinson Gill Lawyers and the current chair of the Law Institute of Victoria Transport Accident Committee. The TAC scheme is a cornerstone of Victoria's protective compensation framework for transport-related accidents. It exists to ensure that people injured on our roads receive timely support, fair treatment and access to their legal entitlements. At its core this inquiry is about whether those promises are being delivered in practice, and the Law Institute of Victoria supports the work of the committee in this regard.

Our evidence today is guided by a simple proposition: that a compensation scheme is only as effective as a person's ability to access and exercise their rights within it. The TAC scheme is inherently complex. This is because the processes governing legitimate and disputed claims are legally and medically intricate. The challenge of addressing fraudulent conduct requires careful, calibrated and proportionate responses. Questions around costs and provider fees involve contested judgements about necessity and reasonableness, and increasingly, the interaction between the TAC and other systems, particularly the NDIS and federal reforms, create additional layers of complexity for claimants. It is in this context that the role of lawyers must be properly understood. Lawyers are not peripheral to the TAC system. We are integral to how it operates fairly and effectively. We assist claimants to understand their entitlements, ensure claims are properly framed and supported by appropriate evidence, resolve disputes efficiently and at an early stage and provide an essential safeguard against error, inconsistency and unlawful decision-making. In doing so, lawyers do not undermine the system; we support its integrity, efficiency and legitimacy.

What is equally critical, and what must be thoroughly considered in this inquiry, is the role of the TAC protocols. The TAC protocols are a world-leading joint agreement between the Law Institute of Victoria, the TAC and the Australian Lawyers Alliance as a form of alternative dispute resolution to promote efficient and fair outcomes that are co-designed. The protocols operate as a complementary mechanism that promotes early engagement, clarifies the issues at the outset and facilitates the timely resolution of claims without unnecessary escalation to litigation. In doing so, they not only improve access to justice for claimants but also play a vital role in protecting the scheme's integrity by reducing the opportunity for unmeritorious or fraudulent claims to take hold.

The TAC's enforcement powers, which my colleague Geraldine will briefly speak to, are not competing but complementary processes. The enforcement powers provide an essential backstop where misuse arises, but it is the TAC protocols that operate as the frontline mechanism promoting early engagement, clarifying issues and resolving matters before they escalate. Importantly, these formal processes are supported by an established and constructive relationship between the TAC and the legal profession, including both formal and informal channels of engagement that enable ongoing dialogue, issue identification and system improvement. We have the legal liaison group, we have the legislative subgroup, and senior lawyers at the TAC are actually members of the LIV's Transport Accident Committee. Together, this layered approach, combining preventative frameworks, enforcement capability and collaborative practice, underpins a system that is not only fair and efficient but is also adaptive, agile and sustainable. I will now hand over to Geraldine.

Geraldine COLLINS: Thank you. To reiterate part of what Jeremy said, thank you for the opportunity. I am a principal lawyer at Maurice Blackburn Lawyers, and I have been working in this area for 30 years. I want to address the issue of the potential for fraud within the system. I think we would all acknowledge that there is some level of fraud, but in our experience it is minimal and it can simply be a mischaracterisation. A lot of the time something that could be initially thought of as being fraud can actually just be that inherently the system is quite complex. If individuals are trying to navigate the scheme by themselves, they might be providing incorrect or incomplete information, which could be potentially perceived as being an attempt to be deliberately misleading, when in actual fact it is not that at all; it is simply a lack of knowledge of how to navigate through the system properly and what information is required to be provided. We are very mindful that section 127A of the *Transport Accident Act* has a very strong power for the commission to obtain information. In effect it has got stronger powers than Vic Police. It has the power to go into any organisation and seek to inspect documents and to take copies of them without question, so there is no need for a warrant or anything at all. It is a very, very strong safeguard that exists within the system already.

We feel also the interaction of lawyers within that – generally in the very, very, very vast majority of cases in this jurisdiction the plaintiff legal profession are acting on a no-win, no-fee basis, so there is no incentive for the profession to be trying to undertake a claim that does not have merit, because it is going to be a waste of everybody's time. Fundamentally, we are not going to get paid for a case that does not have merit. We also are bound by the requirements of the *Civil Procedure Act*, which require us to sign on any type of litigation this document saying that I am satisfied that this case has merit. I am required by legislation to only bring a claim that has merit. The two of those factors together with the incorporation with the protocols ensure that really claims that are pursued are only ones that do have merit and that are worth bringing on behalf of the injured person. The law institute very much supports any sorts of strong measures to ensure that there are not fraudulent claims, but there has to be a balance between ensuring the sustainability of the scheme and ensuring that there is fairness and integrity and efficiency within the scheme to ensure that the injured person is not presumed to be bringing a fraudulent claim when all they are trying to do is seek to enforce their rights.

The CHAIR: Thank you. I will now hand over to our friends at ALA. Over to you.

Susan ACCARY: Thank you, Chair. Thank you, Chair and the committee, for inviting Megan and me to be here today. Firstly, I wish to endorse the LIV's opening statement. By way of background, the Australian Lawyers Alliance is a national association, and we are committed to promoting access to justice, human rights and equality before the law. Our members act for Australians at some of the most vulnerable points in their lives. In Victoria many of our members represent people who have been injured in a transport accident and families whose lives have been profoundly changed in an instant.

Before turning to our concerns, I do wish to acknowledge the TAC as one of Victoria's most important public institutions. For decades it has provided life-changing support to Victorians injured on the roads, helping people access treatment, rehabilitation, income support and care when they need it the most. The TAC reflects a fundamental community value, that people injured through transport accidents should not face the consequences alone. It is a strong and successful scheme that has transformed countless lives and remains a vital part of Victoria's social safety net. The ALA also, much like the LIV, recognises the value of the collaborative protocols that exist between the TAC, the ALA and the LIV. These arrangements often allow disputes to be resolved efficiently, reduce unnecessary litigation and assist injured people to access benefits without the delay and cost of formal court proceedings.

Our recommendations raised in our submissions are intended to build on the strengths of the TAC by addressing the practical issues that affect claimants' day-to-day experiences of the scheme. The Victorians we represent have suffered serious injury, trauma, loss of income, loss of independence and, in many cases, uncertainty about what the future holds. They come to the TAC seeking support at one of the most difficult periods in their lives. However, our clients do experience delay, inadequate communication and lack of transparency in decision-making. Many injured people are told that further information is required but are not informed what information is missing. They have not been told who it is going to be provided to or when they can expect a decision. For someone waiting for treatment, rehabilitation, income support or care, these delays are not merely administrative. They can affect recovery, financial stability, mental health and family wellbeing.

We are also concerned about growing barriers to accessing treatment where TAC funding rates do not reflect the real cost of services, particularly in regional Victoria or specialist areas of care. Injured people can find themselves facing fee gaps, treatment delays or difficult disputes about funding. A compensation scheme should not inadvertently create financial obstacles to the very treatment that supports recovery and independence.

Lastly, we are also concerned about the experience of seriously injured people who require long-term care and support. No person recovering from a catastrophic injury should be left in limbo while agencies debate funding responsibilities. The interaction between the TAC and the NDIS should be better coordinated so that support follows the needs of the person, rather than the person being forced to navigate complex bureaucratic boundaries.

Ultimately, this inquiry represents an opportunity to strengthen a scheme that is already fundamentally sound. The recommendations put forward by the ALA are directed towards ensuring that the TAC operates in a way that is timely, transparent, accountable and, most importantly, centred on the people it serves. At its heart, this is a question of fairness. As I have said, a transport accident can change a life in a moment. When that happens,

injured Victorians should be able to trust the system designed to support them and that it will respond with clarity, compassion and dignity. Thank you for the opportunity today. Megan and I welcome the committee's questions.

The CHAIR: Thanks very much. I will fire off for a start. My question is to the ALA actually, and it is about the interface between NDIS and TAC. I know you have said that the committee should consider that protocols should be in place about how they interact, but I would go a step further with things like charge rates for fees and that sort of thing. I mean, we have heard testimony that some people have been part of the TAC, and they have said, 'Oh no, you should effectively be handballed over to NDIS because it's easier, the rates are better' and that sort of thing. That just sounds completely like abdicating responsibility, really. Thoughts?

Susan ACCARY: Agree, Chair, from what you have told me. Our position is in respect to the fact that the TAC funds, technically, lifelong treatment, so without getting into the nitty-gritty of the law, the TAC is liable to fund reasonable and related medical expenses to a claimant. That is wide intentionally so it creates some agility for claimants to be able to understand what might fall in those areas. However, where something is so broad as that, it can then create complexity when you have an additional scheme that may have overlapping services. Our position is, as a simple start, that if there were protocols in place to ensure that the TAC scheme entitlements are exhausted on their merits pursuant to the law and if there are gaps that technically do not fall within that legal system, then of course a claimant should look to a backup.

The CHAIR: NDIS fills –

Susan ACCARY: Correct.

The CHAIR: Okay. Fair enough. That makes sense.

Susan ACCARY: That would be our position.

The CHAIR: I did not even put my timer on. Sorry. I will go to you guys. The question about complexity and navigating the system is one that you have talked about. You have also said that – where was it? – legal assistance is critical to help claimants navigate the systems and the claim process and that sort of thing. I guess there are two ways you can handle it: either make the system easier to navigate or provide more support to navigate it. Thoughts?

Jeremy KING: Are you talking about self-represented or not self-represented claimants, Chair?

The CHAIR: Either one really, because people go into the system and half of them – like, they are not lawyers, they are not well-educated people – do not necessarily have all the skills and the know-how to navigate the system. Sometimes some go through lawyers, but some do not. So I guess if they do not have an avenue to get a legal advocate like yourself, do you think that it is even a good thing for the system for them to get some sort of advocate? It may not necessarily even be a legal one, but just someone to help them navigate a complex system. Or, what I am saying is, should the system be made simpler?

Geraldine COLLINS: I think there are quite a reasonable number of people who are in – the problem probably arises through what the level of complexity of the injury is. If it is somebody with a relatively minor injury – so somebody, say, is in an accident, their arm is broken, they are off work for two months and they need some physio afterwards – they would be able to go through the system very easily without any need for any assistance pretty much from anybody, perhaps unless they needed an interpreter or something like that. The structures set up within TAC to look after those sorts of injuries are pretty good, and it is pretty rare that you would have – we see the people who have got a problem. They will come to us because something has happened. Either the treatment has been denied, their conditions have got worse, they are off work for far longer and their need for medical treatment is far more complex than what it first was.

The CHAIR: I accept that, but we have heard so much testimony about the system being ridiculously rigid and the fact that it does not offer flexibility for people that might have different conditions or that might have different needs that might arise. It almost seems like a tick-a-box system.

Jeremy KING: I am not sure if I necessarily agree that it is a tick-a-box system, but I would endorse what Geraldine said. There is no doubt that if you have a serious injury, for want of a better word, or a catastrophic

injury, you are going to have a smoother ride with the TAC. I will tell every client that comes to me who is unfortunately in that situation. In more complex cases – chronic pain or people who have what we would call mental health only injuries, so people who have lost a loved one in an accident – are going to have a rougher ride.

Geraldine COLLINS: Or psych overlay.

Jeremy KING: Or there is psych overlay; exactly. They are going to have a more difficult time. I accept what you say, Chair, that in those situations the system is not always as agile as it could be in terms of being able to assist those people. And then if you add on that English might be their second language, or if there are psychosocial factors on top of that, then yes, I would agree that the TAC system, like probably any compensation scheme system, is not particularly well equipped to be able to deal with that.

The CHAIR: Thank you. My time is up, so I am going to hand over to Mr Galea.

Michael GALEA: Thank you, Chair. Thanks, all, for joining us and for your submissions and presentations. I might start with you, Mr King and Ms Collins. You have talked about the TAC protocols a bit, and you have described the impact it can have on people who are legally represented in the system. I am wondering if you could talk to that but also specifically the comparison between those who do go through the protocols process and those who do not. Are there any lessons that we can take for those clients who are not legally represented and how we might be able to support their experience through the scheme as well?

Jeremy KING: I might let Geraldine deal with the more difficult one about self-representation. In terms of the protocols, there is no doubt that the protocols work very, very well, and the statistics support that. I would call on this committee to actually ask TAC for all of the statistics about the protocols – how many cases resolve under the protocols, the certainty in terms of benefits paid, the certainty in terms of legal costs paid and how that helps with scheme sustainability but also the benefit to clients. I can think of many examples where I have resolved someone's common-law claim for a very serious injury and then I have had someone from TAC come out and shake their hand. Doing all of that without putting them through court, without retraumatising them through going through more medical appointments, is a huge win for that person, and it is also a huge win for the TAC because they have also saved money through not having to fight it through litigation and fight it through the courts. The protocols work. The data shows they work. So I would say this committee should go and get that data from the TAC, because they hold vast amounts of data, which we see from time to time. Does that answer your question?

Michael GALEA: It does a bit, yes. Ms Collins.

Geraldine COLLINS: I think also, just to add on to that, not only does it create a better system for the injured person under the protocols regime, it frees up court time drastically. When you look at the amount of litigation in this jurisdiction that is within VCAT and/or the County Court and/or the Supreme Court compared to other personal injury jurisdictions, it is absolutely minimal. The protocols not only benefit the injured person but they benefit the legal system overall. I think in terms of –

Michael GALEA: Sorry, if I could just dig a little bit deeper on that – and perhaps, with your national experience, ALA might want to jump in on this too – what sort of difference do you see, if you can quantify that a bit more, with the TAC scheme versus what is the case in other jurisdictions?

Jeremy KING: Other jurisdictions do not have the protocols. WorkSafe do not have the protocols. Nowhere else in the world that I am aware of has co-designed protocols like we do in Victoria that really make for a much better client experience and reduce things like retraumatisation through not putting people through litigation.

Susan ACCARY: Deputy Chair, a simple but complex example: a victim-survivor of institutional abuse will need to initiate court proceedings and endure significant barriers with interlocutory applications nationwide. They do not have the privilege of something like the protocols, which mean ongoing benefits but also a much safer ground for informal discussions and earlier resolution of claims.

Michael GALEA: So does that mean for an equivalent accident in – pick your state – any other state of Australia there is a higher cost on their equivalent of the TAC, there is a higher burden on the legal system and more likely a more difficult journey for the client. Is that what you are saying?

Susan ACCARY: Without a doubt.

Geraldine COLLINS: Yes.

Jeremy KING: Without a doubt.

Michael GALEA: Thank you very much.

Geraldine COLLINS: One of the other benefits, also, that I feel is important to point out with respect to the protocols is that is a co-designed non-legislative process, which I feel is a very important point because it gives us flexibility to quickly change something within the framework if it is not working.

Michael GALEA: So it is not rigid, bureaucratic –

Geraldine COLLINS: Correct.

Jeremy KING: I can give you an example of that. TAC and ALA and LIV recognised that the current protocols perhaps were not dealing adequately enough with someone who might have had their loss-of-earnings support cut off. Obviously that puts a huge impact on someone – you know, they are trying to pay their mortgage. What we did was together we came up with a way of having a fast track through the dispute resolution protocols, so if your income has been cut off you can put in a fast-track dispute application and you can get that dealt with expeditiously by the TAC. That agility is actually fundamental to be able to serve the Victorian community.

Michael GALEA: Very interesting. Thank you very much.

The CHAIR: I will now hand over to Mr Limbrick.

David LIMBRICK: Thank you, Chair. And thank you, all, for appearing today. My first question is for maybe Mr King and Ms Collins around what the TAC can do to reduce legal costs. I appreciate that in many cases it is very necessary to have representation, but we heard examples yesterday like $12,000 in legal fees for a $100 dental claim. We heard another witness give evidence that they had nine cases against the TAC and won all of them, all seemingly totally unnecessary. What can be done to improve the system so that litigation is not necessary in the first place, because I am not sure of the prevalence of it, but certainly it does appear that there are some very minor things that very large legal fees are being expended on.

Geraldine COLLINS: I would initially say, again going back into the protocols, there is a dispute resolution protocol which is for the no-fault decision, so that is covering medical and like expenses. There are legal fees payable for that that are a set cap. If, prior to the protocols, it was all litigated at VCAT and the legal costs were paid on court scale, that is where you really do have a matter that could have been a $500 medical dispute that ended up costing $20,000 or $30,000 in legal fees, which is ludicrous. That was part of the genesis as to why the protocols were created in the first place. Now, if the legal firm is operating within the protocols, that sort of thing simply will not happen because there is a cap on the fees, and we agree to do the work for that cap. The client then is not charged anything further. It might be the context of that particular example or how old that example was or the context as to whether the firm actually uses the protocols – the vast majority of firms in Victoria do. So it kind of swings into the concept of scheme sustainability. It gives certainty for the TAC to be projecting what they feel future legal costs will be, because there are a relatively stable number of appeals per year. There are a relatively stable number of common-law claims per year. They know what the fees are within that, so it makes it a much easier process to be able to project with a greater deal of certainty as to what the future liability for legal fees will be.

Jeremy KING: I think it is very important that the vast, vast majority of issues like you are talking about are dealt with under the protocols. There are very, very few matters that now proceed to VCAT where you could get costs like what you are talking about. I would accept, though, that there are matters occasionally that are not fit for a dispute application. If something is $50 or $100, people can exercise their rights under an informal review process with the TAC. I would say that informal review process could be improved and could be a bit

more robust and a bit more rigid, but generally, when people are lodging dispute applications, they are getting dealt with in a timely manner, and the costs that are paid to lawyers who have lodged those dispute applications are capped and fixed. Sometimes you do more work and sometimes you do less work, so it operates on a swings-and-roundabouts principle.

David LIMBRICK: Thank you. Very quickly, I have one last question. A very specific problem was raised by one of the witnesses yesterday. They saw, during their legal case, medical records that they believed were either incorrect or inappropriate or they were wrong. Because that was privileged information, they could not use that to put in a complaint to AHPRA about that medical professional that they thought was not doing their job properly. I do not know –

Jeremy KING: Were they their own medical records?

David LIMBRICK: Apparently. I do not know the exact details, but they said that they got it through a discovery process, and they could not use it.

Jeremy KING: If they have got something through discovery, so through litigation or through a subpoena, that is a compulsive court process. We have this thing called the Harman principle, which means you cannot use it for an ulterior purpose. But if they are their own medical records, then they have obviously other rights to be able to access those records and could get those records separately under the *Privacy Act* or under FOI, and then they can use them however they want. In a court process, if you get documents, you cannot use them for an ulterior process.

David LIMBRICK: Right.

The CHAIR: Thanks. I will now hand over to Dr Heath.

Renee HEATH: Thank you so much. And thanks for coming and speaking to us today. Just following on from Mr Limbrick's question: shouldn't you have a right to access your own documents? The fact that a lot of people are going through the frustrating and time-consuming process of an FOI process – is that unlawful to withhold somebody's documents? Why is it only happening with some, not with others?

Jeremy KING: You go, Megan. You have not spoken.

Megan CAINES: As to whether or not it is unlawful, I think what we see the majority of the time and what happens in most cases is that the client, or the client's representative, requests their medical records directly from the practitioners, and they are provided. So that happens sort of day in, day out as a more common outcome to those types of requests. On occasion, where the doctors or the medical practitioners seek to withhold it, we certainly seek a copy, relying on the *Health Records Act*, and then resort to freedom-of-information requests.

Susan ACCARY: If I may, Dr Heath, it interplays with Mr Limbrick's question about disputes earlier on. A key focus for statutory benefits, so medical and like expenses, rehab, loss of income – what we are observing with our clients is inconsistent processes and human error in respect to decision-making and judgement error. The focus of some of these questions in fact is not legal, it is simply that the system has not kept up with shifting client expectations and also the shifting medical landscape. On one hand it may in fact simply a process issue that, if applied consistently, would stop a lot of these poor claimant experiences.

Renee HEATH: I understand the balance as well between – we are living in an interesting age where, as a practitioner, you would not want the records misused or to undermine your, I guess, integrity as a practitioner. But what I am sort of wondering is, and you said 'inconsistent processes': is there potentially a need for there to be stronger guidelines and stronger training for medical practitioners to document things in a way that is going to actually be able to overlay and be useful in court? Do you understand what I mean? Because the legal profession and the medical profession are two completely different things – you are coming from two different angles – and it seems maybe that the burden then becomes on somebody to prove something that has not been recorded properly. Do you understand what I am saying, and is there a need to upgrade and to strengthen training in those areas? And I just heard my bell, but go for it.

Jeremy KING: I think there is. I think you have hit on a really good point, Dr Heath. I think all plaintiff lawyers would have had experiences where something has not been recorded properly in the notes, or has been recorded incorrectly in the notes, and then you are in court and you have to try and undo that. That can be a real problem. Likewise, trying to get doctors to write reports for clients can be very difficult as well. I have some sympathy for the doctors – I do not want to turn this into a doctor-bashing session. I have sympathy for doctors. They are very busy, they have got lots going on, but their reports are crucial bits of evidence and their opinions are crucial bits of evidence. And so I think if there was more support for doctors and allied health to be able to write reports and to be able to record notes properly, then that would be of enormous benefit to the community.

Renee HEATH: Would that be a recommendation that you would make?

Jeremy KING: That would be a recommendation that I would make, absolutely.

The CHAIR: Thank you.

Susan ACCARY: And I think to add to that, Dr Heath, to state what would be an obvious point: legal problems really arrive alone. As we move into 2026 and beyond, the life problems that also arise make claims complex, and where the medical profession is aligned with what the claimant requires and the legal profession needs, that would only create harmony.

Renee HEATH: Thank you.

The CHAIR: I will hand it over now to Ms Watt.

Sheena WATT: Thank you so very much. I have got a question particularly to the ALA, which is to your submission where you recommend a formal TAC–NDIS sort of protocol for dual-funded clients. Given you have spoken so highly about the protocol already, I am keen to understand where could some barriers be, in your view, about getting this over the line and a reality? Is it a legislative problem, is it a policy problem or is it coordination between the two agencies? This clearly is something that you have spoken about with such passion about the existing protocols, and I am keen to understand, given what we are hearing about NDIS being a scheme that often intersects with TAC clients.

Megan CAINES: It is about keeping the claimant at the centre of what the two agencies are doing. Whatever the protocol is that allows them to work cooperatively should centre the injured person and then deal with the administrative issues without that slowing down their access to necessary treatment. Ideally that would be achieved through cooperation. I do not know whether legislative change creates too much rigidity, but it may need to be considered. Certainly cooperation and an understanding between the two needs to be first and foremost.

Sheena WATT: Do you have any similar coordination efforts between a state and federal scheme that you can kind of point us to to see how it may have been done well elsewhere? I mean, this is a kind of significant recommendation that you are making. Is this another first-of that you are suggesting, or is there somewhere else that you can point us to?

Jeremy KING: There are memoranda of understanding between, say, WorkSafe and TAC, which are obviously two Victorian schemes that sit side by side.

Sheena WATT: Yes. It is just the complexity of this being a federal –

Jeremy KING: I understand there may be other memoranda of understanding between TAC and Comcare, as an example, but I do think that what the ALA is proposing is an excellent recommendation. The challenge is always going to be that at the moment we just have to deal with TAC. If you have to deal with TAC and the NDIS, I imagine that is going to be a little trickier because there are going to be more voices in the room.

Sheena WATT: Yes. All right. That is one worth considering.

Geraldine COLLINS: At the risk of making it sound too simple, it really is a scenario of having an understanding and an agreement between the two agencies. It is kind of one of them accepts liability for whatever it is, so the person is then receiving the benefit, and in the back room between themselves, they work

out the liability and whoever ends up accepting the liability for it then pays back the other one or continues to make payment. It is actually not that complicated.

Sheena WATT: It is not necessarily a legislative challenge. It is more coordination efforts between the between the bodies.

Geraldine COLLINS: It does not need legislation, in my view.

Sheena WATT: Yes. I understand.

Megan CAINES: I think that there is a similar example sometimes – sorry to go over time – when there is a question of whether or not a serious injury arises out of a transport accident or a workplace incident. The person claiming damages needs to obtain a serious injury certificate, and there can be debate about whether it is covered by the TAC scheme or the workers compensation scheme. And what we –

Sheena WATT: Can you give us an example of that?

Megan CAINES: If you are using a registered forklift at work and you suffer injury, there can be debate about whether that is a transport accident or a workplace incident and which legislation applies. Regardless, the person needs to get through the serious injury gateway. What we see in practice is there can sometimes be delay, but more often than not, there is an acceptance between the TAC and WorkSafe that the person will meet the threshold, and they deal with who is the appropriate granting body after to try and avoid the slow down and the unnecessary delays while we fight about who is responsible for it.

Sheena WATT: That is very helpful. I will return to the Chair but thank you very much for your answer.

The CHAIR: I am going to hand over to Mrs Hermans, who is online.

Ann-Marie HERMANS: Thank you so much for what you have been sharing. I have been listening a lot and thinking through the TAC and the NDIS and obviously WorkCover. I want to pick up the issue of fraud detection, because I do not think there has been a lot of conversation about that in your presence, and certainly I do not think we have actually had a lot of conversation about it at all through the time that we have been doing this hearing. There is this need for strong accountability and safeguards in fraud detection. Obviously from a legal perspective your job is to step in and to support your client, and we understand that and it is not about right or wrong but whether the law will support what you are actually going in to try to get as a benefit for your client.

One of the reasons I think the TAC has been able to be so successful financially is because there has been perhaps not such an overt transparency in their protocol process for everybody to be able to unravel it – I could be wrong – in a way that allows everyone to know how they access all this money, and that is not what we want it to be about. We want it to be about people needing it, the finance that they need because they have had the accident, and it is a great scheme to allow people to hopefully return to work. In some cases, as you well know, people do not get to return to work; they are not going to. The injuries are so severe that they are now going to be disabled in a whole lot of capacities. I think that we are going to need to think through whether there is a moment where we say this may be a TAC – I know you have mentioned it is lifelong, so does it remain lifelong? Now we have an NDIS system, because before we did not, do we get to a point now where we say after a certain point this no longer is a lifelong issue of TAC? It is not like the person will get both, but now they have to be transferred into this system and we have a moment where that comes in. We may need to look at how that is navigated, whether it is through protocols or through legislation. First of all, what would your thoughts be on that?

The second thing is: we have not talked at all about fraud detection and safeguards and accountability and transparency in terms of surveillance. What are your thoughts on that? Those are my two things I want to leave you with, and I do not know who wants to tackle them.

Susan ACCARY: I am going to use a corporate term: segmentation. I do not necessarily agree that TAC claimants should be shifted off a scheme. My position and the ALA's position is that we should be focused in on segmentation of injuries to better understand what clients actually need. For TAC's most catastrophically

injured claimants TAC have a specialist team that should be able to coordinate those needs, and they are in a curated system that looks at transport accident needs lifelong.

Geraldine COLLINS: I think also there is a distinguishing factor between the TAC having lifelong care and support in terms of medical and like expenses and it does not have lifelong income support, so there are two different questions there. The TAC provides up to three years worth of income support to somebody, unless they are in a catastrophic injury classification, and then it is provided up until age 65. The very vast majority of people, who could well be people who are never going to be going back to work, will simply have their income support from TAC cut off at three years post accident. That is just the legislation; it is not through the commission doing anything untoward. The people there that really get squashed through falling through the system is that, if they are at fault and they do not then have an entitlement for a common-law claim, they are then forced onto Commonwealth social security. It is a cost-shifting exercise that has been in existence since the legislation was brought in in 1986. But the TAC scheme for lifelong care and support of medical and like expenses, particularly for catastrophically injured people, in my view is very good and operates overall very, very well and gives very good levels of support to people.

Jeremy KING: I am going to add to that very quickly to support that and say TAC have now had 40 years of dealing with catastrophic clients, and they have got very specialist expertise in being able to do that. There are also abilities in the Act, for example, to have an individualised funding agreement where someone can have an agreement that TAC is going to give them a certain amount of money which is given to them every year. Then they can use it for what services they need, so it has that agility, which I understand does not necessarily exist with the NDIS. I would have grave reservations about shifting people off TAC and onto the NDIS.

The CHAIR: I will now hand over to Mr Tarlamis. Lee, over to you.

Lee TARLAMIS: No worries. Thank you, Chair. Your submission acknowledges that the TAC was paid $1.87 billion to support clients in the 2024–25 period. In that context and based on your knowledge, how would you characterise TAC's overall performance as a statutory insurer relevant to equivalent schemes in other jurisdictions?

Geraldine COLLINS: In my view, overall they operate extremely well. The benefits certainly are not perfect by any stretch and things go wrong, without a doubt. But if you were going to be a road accident victim in Victoria or a road accident victim in New South Wales or the Northern Territory, I know what place I would rather be in, or South Australia. You would much rather be a road accident victim in Victoria in terms of the benefits overall that flow through to an injured person.

Jeremy KING: I think one of the reasons why that is the case is because – and I do not want to particularly pump the TAC's tyres up all the time because they do not necessarily get everything right – one thing they have done over the last 20 years is they have actually listened. Plaintiff lawyers ultimately represent clients, which is the community, and there are a variety of forums at which we represent injured clients and which we can raise issues with TAC, which they can listen to. And then we can change the system in order to try and meet those needs or, if there is a deficit, to try and address that deficit. That collaborative dialogue that exists between lawyers and between the TAC does not really exist, as far as I am aware, in any other scheme around Australia. So that the fact that they will listen and adapt is something they should get a tick on. Do they get everything right? No. But they are willing to listen and engage.

Lee TARLAMIS: Thank you. I do not have any further questions, Chair.

The CHAIR: Okay. Thanks, Lee. I will now hand over to Ms Gray-Barberio.

Anasina GRAY-BARBERIO: Thank you, Chair, and thank you all for being with us today. I want to start with the fact that you are all signatories to the TAC protocol. You spoke earlier about co-design, and you have got the TAC protocols working group. Are there any lived-experience representatives on that group?

Geraldine COLLINS: We all sit on it.

Anasina GRAY-BARBERIO: That was not my question. My question was: are there any lived-experience representatives in that working group?

Geraldine COLLINS: I beg your pardon. Sorry.

Susan ACCARY: No, there are not.

Anasina GRAY-BARBERIO: Why not?

Jeremy KING: Because they are actually the TAC, ALA and LIV protocols. They are not just the TAC protocols. We call them the TAC protocols. They are protocols that have been designed for a legal purpose, to deal with legal issues and to deal with legal disputes that have occurred. But the client is always very much at the centre of all of those processes, and when they were optimised recently –

Anasina GRAY-BARBERIO: How can you say the client is at the centre of those processes –

Jeremy KING: Yes, the client is always at the centre of it.

Anasina GRAY-BARBERIO: when they are not around the table when you are speaking about them from a legal perspective?

Jeremy KING: Hold on. If you would let me finish –

Anasina GRAY-BARBERIO: No. You can answer my question, Mr King. Just in regard to person-centred – I think one of your colleagues said that earlier in their presentation – how can you claim to understand claimant and client experiences if you are not asking the question about their lived experiences? You are basically talking about them without them.

Jeremy KING: No. What our role is, as their advocate and as their legal representative, is to represent their voice at those legal forums. We always make sure that everything that we are doing is client-centric and if there is an issue that has been raised by a client or an individual that it is raised and escalated those forums. I can think of dozens and dozens and dozens of occasions where an issue and a voice of a client have been utilised or raised by a legal professional at one of the many, many forums. That is why they engage a lawyer. We are there to be their voice, and we are there to advocate for them. That is what we do every day of the week and twice on Sundays.

Anasina GRAY-BARBERIO: Can I also ask you about, just following on from what Mr Tarlamis spoke about, performance. You said in your answer you do not want to pump their tyres too much, but I actually have been listening, and you have been pumping their tyres quite a bit. The data, the performance: it is very difficult to find public data on the performance of TAC. What kind of advocacy are you progressing on behalf of your clients to ensure that there is transparency and accountability on behalf of your clients?

Jeremy KING: It is difficult to say what context and what data you are talking about, but I can assure you that the Australian Lawyers Alliance and the Law Institute of Victoria advocate at every forum for there to be data shared about what is going on at TAC – what are their surgery decision rates, as an example – and then we do our best –

Anasina GRAY-BARBERIO: But that is not publicly available, Mr King. It is not publicly available.

Jeremy KING: And then we do our best to make that as publicly available as possible. I would agree with you. I think TAC could do better at making more data publicly available. That is something that we have strongly pushed them on now for many years, and we will continue to do that.

The CHAIR: Okay. I am going to move on to Ms Payne now.

Anasina GRAY-BARBERIO: Thank you very much for answering my questions. I appreciate it.

The CHAIR: Thanks, Anasina.

Rachel PAYNE: Thanks, Chair. And thank you, all, for appearing before us today and for your submissions. I am going to go to some of the feedback that I have received around delay and lack of communication from the TAC when it comes to treatment approvals and your representation of your clients. Claimants are often left waiting without clear timeframes in relation to treatment approval, especially when the treatment may be a little

bit more complex. In my instance, as a Legalise Cannabis MP I get a lot of people who are seeking treatments around medicinal cannabis, so it might be a bit more specific to that. What we are hearing is that there is no transparency or clarity around the type of medical information required for claimants to progress their application. What measures can be put in place to improve accountability in ensuring that injured people can access treatment without unnecessary delays?

Susan ACCARY: We are all deciding who is taking your question, Ms Payne.

Rachel PAYNE: That is okay. I have got one specifically for the ALA coming up next, so if you would prefer to open that up, I am happy to –

Jeremy KING: I would say that it is a really good question that you raise. During the pandemic one issue that came up was that there were a lot of delays in approving surgery, so what the LIV and ALA did was advocate very strongly for the TAC to bring in a surgery charter which very clearly sets out for clients how long a decision is going to take and what the process is when a surgery request has been put in. That has been pretty successful, and they have had some data on that. I would encourage this committee to obtain the data in respect to that surgery charter. But I completely agree with you that that should be rolled out to other areas, so for people who are seeking inpatient psychiatric treatment, as an example, or for people who are seeking medicinal cannabis, as another example. It is something we are acutely aware of and we have been working on very hard with the TAC, but I completely agree with you: it could be rolled out on a much broader basis.

Geraldine COLLINS: I think there also is difficulty – and perhaps it is also coming back to the point made before about the medical profession perhaps not being fully integrated. If there is a request for treatment that has come in, it can be that there is a need for clarification about the basis upon which the need for that treatment relates to the transport accident injury, which again flows into scheme sustainability and so on. But it can be that there is a need for further material to be obtained, particularly from a treating practitioner, and if that practitioner is slow in responding, that causes the whole thing to grind to a halt. Really my point there is it can be multifaceted. I feel the surgery charter has been completely successful – very, very good. Absolutely it can be rolled out into other areas, but I just make the point that it is multifaceted. It is not just one easy thing.

Rachel PAYNE: Thank you. As you indicated, we will follow up with questions around some of that data. That would be really good to reflect upon. Chair, have I got time for one more question?

The CHAIR: No, sorry.

Rachel PAYNE: I might submit this one on notice then, just in relation to the independent medical opinions panel.

The CHAIR: Sorry, Rachel.

Rachel PAYNE: That is okay. Thanks, Chair.

The CHAIR: Thank you. That does bring an end to our time today. Thanks so much for your appearance today. As was said, there might be some questions on notice that we will submit to you as well. We appreciate your time very much. Again, we will get the proof version of the transcript for you before it goes up online so you can have a look at it.

Witnesses withdrew.