



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: InjuryComp:DHJl 1443091

26 February 2018

Ms Tina Bidese
Director CTP Claims & Customer Outcomes
State Insurance Regulatory Authority
Level 6, McKell Building
2-24 Rawson Place
Sydney NSW 2000

By e-mail: danila.farrell@sira.nsw.gov.au

Dear Ms Bidese,

Feedback sought for amended Funeral Benefits Claims Form for the NSW CTP Scheme

We write in relation to your letter to Law Society CEO Michael Tidball dated 9 February 2018 seeking feedback on a draft amended 'Application for Funeral Benefits' claim form. In providing feedback, we have consulted members of the Law Society Injury Compensation Committee.

It is our view that the following matters should be considered on an amended claim form:

- a. There should be clarification that funeral expenses are a 'no-fault' benefit, and that other outcomes may be available to claimants, such as in the following circumstances:
 - If the deceased suffered a loss of income in the period between the date of accident and the date of death (no-fault application for personal injury benefits);
 - if dependants wish to claim for loss of support as part of a damages claim (application to compensate relatives); or
 - if the relative has suffered nervous shock (application for personal injury benefits and potentially also an application for damages under common law).

Further, it is the view of the Law Society that the form should be re-considered and drafted in a way that more sensitively considers the circumstances of claimants who will often have had a close connection to the recently deceased person. For example, with regard to the bullet point at the top of page one commencing with 'Applications for Funeral Expenses need to be lodged within three months' – although we note that this is based on section 6.13(1) of the *Motor Accident Injuries Act 2017* requiring claims for statutory benefits to be made within 3 months of the motor accident, the requirement to provide a 'full and satisfactory explanation' to justify a delay could be reconsidered.

We also note that the application requires a significant amount of information from the claimant in relation to the accident. We submit that information such as police event numbers and death certificates could be more appropriately obtained from the NSW Police Force, which would decrease the burden on the claimant.

More generally, it is the position of the Law Society that the form (and corresponding process) should not be framed as being a 'reimbursement', but rather a notification that would in turn allow an insurer to become informed at an earlier stage. It would also be preferable if the claimant was not required to identify an insurer, but rather lodge the claim with SIRA who could then in turn identify an appropriate insurer.

We thank you for the opportunity to provide feedback in relation to this claim form. Should you have any questions or require further information, please contact Jonas Lipsius, Principal Policy Lawyer, on (02) 9926 0218 or email jonas.lipsius@lawsociety.com.au.

Yours sincerely,



Michael Tidball
Chief Executive Officer