Australian Capital Territory

# Motor Accident Injuries (Quality of Life Benefit) Guidelines 2025

**Disallowable instrument DI2025-308**

made under the

**Motor Accident Injuries Act 2019, section 487 (MAI guidelines)**

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## 1 Name of instrument

This instrument is the *Motor Accident Injuries (Quality of Life Benefit) Guidelines 2025.*

## 2 Commencement

This instrument commences on 27 January 2026.

## 3 Guidelines

I make the guidelines attached to this instrument.

## 4 Effect on quality of life applications

These guidelines apply to any quality of life benefit application received by an MAI insurer on or after the commencement date, with the *Motor Accident Injuries (Quality of Life Benefit) Guidelines 2023 (DI2023-311)* to continue to apply to applications received prior to the commencement date.

## 5 Revocation

The *Motor Accident Injuries (Quality of Life Benefit) Guidelines 2023* (DI2023-311) is revoked.

Nicola Clark
MAI Commissioner
MAI Commission

1 December 2025

# Contents

# Quality of Life Benefit Guidelines

## 1. INTRODUCTION

The Quality of Life Benefit guidelines (guidelines) are part of the MAI guidelines made under section 487 of the *Motor Accident Injuries Act 2019* (MAI Act). The Guidelines detail the insurers' obligations in providing information and support to potential applicants for quality of life benefits, procedures for arranging Whole Person Impairment (WPI) assessments and making offers for quality of life defined benefit amounts. They also detail the process for an injured person to obtain a valid second WPI report.

**The process associated with obtaining the Quality of Life Benefit**

The quality of life (QOL) benefit is a recognition payment for a person's permanent injuries caused by the accident and may be offered following a WPI assessment carried out in accordance with the *Motor Accident Injuries (WPI Assessment) Guidelines 2019* (WPI Assessment Guidelines).

An application for the benefit may be made no earlier than 26 weeks after the motor accident. The injuries sustained in the accident need to have stabilised sufficiently for an assessment. The benefit is payable for WPI assessments of 5 per cent or more, with the benefit amount set out in legislation and based on the WPI figure (a whole number). A person with a WPI assessment of 10 per cent or more may choose to make a motor accident claim (common law) if they were not at fault.

The first WPI assessment is made on referral by an insurer to an authorised IME provider. The IME provider appoints qualified and experienced independent medical examiners (IMEs) to carry out WPI assessments. The authorisation is provided by the MAI Commission to the IME provider to arrange the first WPI assessment in line with the MAI Act. The IME providers have a national network and can select IMEs from around the country.

On referral by the insurer, the IME provider will select the independent medical examiner (IME) relevant for the permanent injuries needing to be assessed. This process is to ensure that an IME conducting an assessment is neutral, and has not been appointed by either an insurer, the individual applicant or a legal representative. There is no process of selecting from different IMEs for an assessment.

If an injured person is unhappy with the first assessment and wants another assessment, they can engage and pay for a private medical examiner (PME) to conduct a second WPI assessment and provide a report. There is no requirement to approach the authorised IME provider for a PME assessment. It is important, though, that the PME chosen by the injured person is qualified and experienced in carrying out ACT WPI assessments, that is has familiarity with the requirements under the legsislation. The second WPI report is to

meet the same reporting conditions as the first WPI report (see section 8 of these guidelines).

## 2. STATUTORY FRAMEWORK

Division 2.6.2 of the MAI Act makes provision for an injured person to make a quality of life benefits application. A precondition for the application is that the injured person has received a receipt notice or late receipt notice under section 60 of the MAI Act. An injured person cannot make a quality of life benefit application earlier than 26 weeks after a motor accident and not later than 4 years and six months after an accident.

The legislative framework for quality of life benefits includes:

a. the MAI Act;
b. the Motor Accident Injuries Regulation 2019 (the Regulation); and
c. these Guidelines made under the MAI Act.

Also, the WPI Assessment Guidelines apply to any WPI assessment undertaken for the purposes of the MAI Act.

## 3. INFORMATION AND SUPPORT FOR APPLICANTS FOR QUALITY OF LIFE BENEFITS

**3.1** These guidelines make provision for the information and support an insurer is to give a person about making an application for quality of life benefits for the purposes of paragraph 52(2)(e) of the MAI Act. The information pack is intended to assist an injured person in making an informed decision about requesting a WPI assessment.

**3.2** An insurer must provide an information pack about the quality of life benefit to an applicant for defined benefits (other than persons mentioned in paragraph 3.7) prior to the injured person first becoming eligible to make a quality of life application. The pack is to be provided no earlier than 24 weeks after the date of an accident. Where the period of 26 weeks after the date of the accident has passed, for example a late application is made and accepted, the insurer should provide the information pack after the insurer has accepted liability for the application. An insurer may provide general information about the benefit, noting the need for treatment to have occurred and stability of injuries that are of a permanent nature.

**3.3** The information pack is required to be provided about:

- the eligibility requirements for a quality of life defined benefit or to make a motor accident claim;
- how to apply for a quality of life benefit, and the time frame for making an application;
- the need for a person's injuries to be stable for a permanent impairment to be assessed;
- conditions for requesting a WPI assessment for primary/secondary psychological injuries;

- requirements for requesting a WPI assessment for a primary psychological injury, including the definition of a primary psychological injury, the requirement to have a diagnosis and undergone treatment for the injury and to provide a notice under subsection 150(3) of the MAI Act and paragraphs 4.2 and 4.3 of these guidelines;
- the definition of a secondary psychological injury including diagnosis and treatment and the requirements for a secondary psychological injury to be taken into account as part of a physical assessment;
- how an insurer will arrange for an assessment with the independent medical examiner provider, expected waiting times for an assessment and the person's obligations if they request an assessment;
- how a WPI assessment is carried out and where a person can access the MAI guidelines about permanent impairment assessments; and
- arrangements for paying for a WPI assessment, including the circumstances when a person will be required to pay an excess for an assessment and the circumstances in which an excess can be returned.

**3.4** To assist an injured person who may need to request an assessment for a primary psychological injury the insurer may include a template for a notice under subsection 150(3) of the MAI Act when providing the information pack. For the requirements of a notice, refer to section 6.1.8 of these guidelines.

**3.5** An insurer must consider their duty to act in good faith when determining the timing of the issue of an information pack. This includes the insurer's duty in paragraph 20(4)(a) of the MAI Act to disclose, as soon as practicable, all information that an applicant may need to understand the process for applying for defined benefits.

**3.6** The information pack must also be provided on request by any other person who has made a defined benefits application. Information packs may be sent electronically or by post.

**3.7** An insurer does not need to provide an information pack when a person:

- is/was charged with a serious driving offence or one or more driving offences;
- is a foreign national and has permanently departed Australia;

**or if** -

- the insurer has denied liability for the person's defined benefits application;
- the person returned to work at full capacity or their usual activities within 28 days after the motor accident;
- the insurer reasonably believes that the person's physical or any psychological injuries are not stable; or
- the insurer reasonably believes that the person's injuries are stable but they are not likely to have a permanent impairment from injuries as a result of the motor accident.

## 4. QUALITY OF LIFE BENEFITS APPLICATION

**4.1** For the purposes of paragraph 137(3)(b) of the MAI Act a quality of life benefits application must include the following details:

- name of the injured person;
- the individual claim identifier provided by the insurer;
- the types of injuries for which an assessment is being sought being physical and/or primary psychological in the applicant's own words;
- an acknowledgement they have received sufficient treatment to inform the insurer of the stability of their injuries;
- details of the person's availability on weekdays for an assessment in the next three months and an acknowledgement an assessment may not occur in that time;
- details of any special needs of the person in attending an assessment – such as accessibility, cultural or language needs;
- whether the person requires an accompanying person to be present at the assessment together with the name, relationship and role of this person; and
- information about any offence the person has been charged with, or convicted or found guilty of, in relation to the accident.

**4.2** For the purposes of paragraph 137(3)(c) of the MAI Act, a quality of life benefit application for a person requesting a primary psychological assessment must be accompanied by a written notice in accordance with clause 4.3 from a psychiatrist, or clinical psychologist in accordance with subsection 150(3) of the MAI Act and these guidelines. A psychiatrist is a medical practitioner with specialist registration with the Australian Medical Board in the field of psychiatry. Similarly, a clinical psychologist is a registered psychologist that has been endorsed by the Psychological Board of Australia to practise as a clinical psychologist. Registration is required with the Australian Health Practitioners Registration Authority.

**4.3** The notice from the psychiatrist or clinical psychologist must include:

- a diagnosis of the primary psychological injury resulting from the accident based on a recognised diagnostic system and specify the diagnostic criteria upon which the diagnosis is based;

- a list of the type and frequency of treatment, providing comment on the effectiveness of any treatment the person has received for the primary psychological injury resulting from the accident;

- an opinion from the psychiatrist or clinical psychologist as to whether they consider the injury is well stabilised and unlikely to change substantially, with or without mental health treatment intervention, in the next year; and

- a statement from the psychiatrist or clinical psychologist that they reasonably believe the person is likely to have a permanent psychological injury resulting from the accident.

**4.4** The following information may also accompany a quality of life benefits application but is not a mandatory requirement to complete the application:

- any medical reports about the status of the person's injuries that have not been provided directly to an insurer by a treating health practitioner of the injured person. This could include any reports about whether a person's injuries are stable or whether a person is likely to have a permanent impairment.

If under section 6.1 of these guidelines, the insurer has inconclusive information about the status of a person's injuries, the above information may also be subsequently requested by an insurer.

**4.5** A quality of life benefits application may be made using a prescribed form made available on the MAI Commission's website or provided by an insurer. The application is to be made in writing and may be given to the insurer by electronic means, by personal delivery or by post.

## 5. APPLICATION FOR A WPI ASSESSMENT FOR A PERSON THAT HAS MADE A SUCCESSFUL WORKERS COMPENSATION CLAIM

**5.1** Under Part 5.3 of the MAI Act, a person may apply to an insurer for the motor accident claim for an assessment of their WPI if:

- they have made a successful application for workers compensation benefits; and
- they have given a notice of claim under the *Civil Law (Wrongs) Act 2002*.

**5.2** The application should include information about the WPI assessments the injured person is seeking. The application should also be accompanied by an authority to disclose personal health information that covers the exchange of personal health information between:

- the motor accident insurer;
- the injured person's stated workers compensation insurer (if applicable);
- treating health service providers or a treating team;
- an authorised IME provider; and
- an independent medical examiner who conducts a WPI assessment.

**5.3** For the purposes of subsection 241(2) of the MAI Act, an insurer must give an acknowledgement notice to the injured person within 5 business days of receiving the application for a WPI assessment.

**5.4** Note, under section 240 of the MAI Act, an application for an assessment is not required if the person has had an assessment conducted by a PME in accordance with the WPI assessment guidelines. The insurer may consider whether the assessment complies with the WPI Assessment Guidelines (including the ACT modifications to AMA5). The report should include a clear assessment of the percentage of WPI, the rationale and reference all medical information used. The PME should be advised of the requirements of a valid report per section 7.2 of these guidelines.

## 6. PROCEDURE FOR ARRANGING A WPI ASSESSMENT

This section, and those in section 7, make provision for the procedures for arranging a WPI assessment under section 147 of the MAI Act.

### 6.1 Status of a person's injuries

**6.1.1** An insurer has 20 business days to consider a quality of life benefits application, to allow for information gathering and to assess the injuries of the applicant. This period will not commence for a quality of life benefit application that includes a request for a primary psychological assessment until the insurer is satisfied that the requirements of subsection 150(3) of the MAI Act are satisfied.

**6.1.2** When assessing the injuries, the insurer may rely on the medical information available to them or seek an independent opinion on whether the injured person's injuries have stabilised. If an insurer seeks an independent opinion (including an examination) they should ensure the injured person is aware:

- it is a medical assessment for only this purpose (e.g. an assessment of their injuries' stabilisation); and
- it is not the WPI assessment arranged by the authorised IME provider.

**6.1.3** An insurer must refer an injured person to an authorised IME provider for a WPI assessment if an insurer "reasonably believes":

- the person's injuries have stabilised; and
- the person is likely to have a permanent impairment as a result of the injuries.

**6.1.4** An insurer must refer an injured person to an authorised IME provider for a WPI assessment if:

- the insurer "reasonably believes":
    - a person's injuries are stabilised;
    - the person is not likely to have a permanent impairment as a result of the injuries; and
- the injured person pays an excess amount for the assessment to the insurer.

An insurer is to give a written notice consistent with subsection 139(2) of the MAI Act.

**6.1.5** An insurer must recommend to an injured person that the WPI assessment be delayed if:

- an insurer "reasonably believes" a person's injuries have not stabilised; and
- it is less than 4 years and 6 months after the date of the motor accident.

An insurer is to give a written notice consistent with subsection 140(2) of the MAI Act.
An injured person may still request that an insurer makes an immediate referral for a WPI assessment, but if the assessment confirms the person's injuries are not stable an insurer is not obliged to pay for a second assessment.

**6.1.6** For the purposes of these guidelines, to assess stability an insurer may consider the treatment the injured person has, whether there has been a substantial change in the requested treatment (for example, fewer sessions occurring) and how their condition has settled. The insurer may also consider whether further medical treatment would have a substantive effect on their condition at the time of the application.

**6.1.7** An insurer's reasonable belief about the stability of a person's injuries, and the likelihood of a permanent impairment should be based on information the insurer has in their possession about the person's injuries, treatment and recovery following receipt of the application. If this information is inconclusive the insurer should make reasonable inquiries with the person's treating health practitioners. If, after this step, there is still insufficient information to make a decision, the insurer is to inform the injured person it may be necessary to obtain an independent medical review to establish stability of their physical injuries.

**6.1.8** An insurer may consider the evidence they have on record to form a reasonable belief about the stability of a person's injuries and whether the person is likely to have a permanent primary psychological impairment. The insurer must rely on a notice that meets the requirement of this guideline and given by a psychiatrist or clinical psychologist under subsection 150(3) of the MAI Act. The notice is to reference the treatment the injured person has received (which may be from one or more practitioners for the mental health treatment required for the injured person's injury). It is a requirement of the Act that the person has received a course of mental health treatment under section 150(3) before an injured person may request a WPI assessment. Such treatment may be outlined in the Recovery Plan put in place by agreement between the injured person, the treating professional, and the MAI insurer. Generally, a course of treatment is to include a number of sessions over a period suitable for the diagnosis.

**6.1.9** If an injured person has requested both a physical and a primary psychological assessment, an insurer will not be required to make a referral to an authorised IME provider until requirements in Division 2.6.2 of the MAI Act for making a referral are satisfied for both kinds of injuries or the injured person otherwise makes an informed decision to proceed with a separate referral for one kind of injury only. If a separate referral is made for one kind of injury, then the time frames for making the WPI report available and any quality of life benefit offer under sections 154 to 157 of the MAI Act are to apply as if there is only one WPI report. The injured person should be made aware that if they proceed with the single assessment, then:

- any quality of life benefit offer from the assessment will not take into account the other kind of injury, and
- they will not be entitled to seek a further WPI assessment for the other kind of injury at a later stage, and
- depending on the outcome of the assessment may also result in the early finalisation of their quality of life benefit application.

**6.1.10** If the person has physical injuries to multiple body systems an insurer should also reasonably believe that injuries to all physical body systems and any secondary psychological injuries have stabilised before making a WPI assessment referral.

**6.1.11** An insurer must separately assess all physical injuries for a given body system to determine whether any of these injuries are likely to result in a permanent impairment. An insurer must not include physical injuries in a referral without first undertaking this assessment and the injured person must not be required to undergo unnecessary WPI assessment appointments.

**6.1.12** If an injured person requests a physical injury be included in a referral, and the insurer reasonably believes the injured person is unlikely to have any permanent injuries for the given body system for that injury, then consistent with section 139 of the MAI Act an excess must be requested and paid before the referral is made. That is, if the injured person has physical injuries to multiple body systems, then a section 139(2) assessment is to be applied for each body system, rather than for the WPI assessment as a whole. However, only one excess under section 139(5) is payable. The excess is to be refunded if permanent injuries are subsequently identified in at least one disputed body part.

**6.2 The time within which a WPI assessment must be arranged**

**6.2.1** When an insurer is required to refer an injured person to an authorised IME provider for a WPI assessment they must:

- provide the injured person with a written notification in accordance with section 6.2.2; and
- send a written referral for the injured person to an authorised IME provider for a WPI assessment in accordance with section 6.2.3

**6.2.2** The insurer must provide the injured person with written notification of:

- the injuries and body systems which will be covered by the assessment;
- the person's medical history to be set out in the referral; and
- a list of the medical and health information in their possession which they will be providing to the authorised IME provider for the assessment.

The insurer may give the injured person a completed draft of the IME provider's referral form (without the file attachments that will be given to the IME provider) for these purposes.

This written notice must occur no later than 5 business days after the injured person:

- is eligible for an assessment under section 138 of the MAI Act; or
- confirms and pays an excess for a WPI assessment under subsection 139(3) of the MAI Act; or
- the person requests a WPI assessment under subsection 140(3) of the MAI Act; or
- the person notifies the insurer that their injuries have stabilised in accordance with subparagraph 141(5)(c)(ii) of the MAI Act.

The purpose of notification is for the injured person to be informed of the scope of the assessment and also provide an opportunity for the injured person to provide the insurer and the IME provider with any additional information they may have in their possession which may be relevant to the assessment.

**6.2.3** An insurer must then send a written referral for the injured person to an authorised IME provider for a WPI assessment, for all injuries for which a person is likely to have a permanent impairment. This written referral must occur no later than 10 business days after the injured person:

- is eligible for an assessment under section 138 of the MAI Act; or
- confirms and pays an excess for a WPI assessment under subsection 139(3) of the MAI Act; or
- the person requests a WPI assessment under subsection 140(3) of the MAI Act; or
- the person notifies the insurer that their injuries have stabilised in accordance with subparagraph 141(5)(c)(ii) of the MAI Act.

If the injured person indicates additional information is to be provided, the insurer may defer making the written referral. After receipt of the information, the insurer has an additional 5 business days before making the referral. This is to allow the insurer time to consider the relevance of the additional information to the referral and make any necessary inquiries.

**6.2.4** An injured person's application for quality of life benefits is suspended for the period a person has outstanding charges in relation to the motor accident for one or more driving offences, or a serious driving offence. A referral to an IME provider should not be made during the suspension period, and the insurer should inform the applicant about the suspension of the application, and circumstances that the application may be revived, in writing.

**6.3 Insurer selecting an IME provider if more than one authorised IME provider**

**6.3.1** If the MAI Commission has authorised more than one IME provider to arrange WPI assessments, an insurer must put procedures in place to ensure that all authorised IME providers are allocated referrals from an insurer on an equal and sequential basis. For example, if there are two authorised IME providers an insurer should alternate referrals for any given injured person, between providers, based on the time and date of a referral. The only exception to this rule should be if:

- the allocated provider is unable to provide an assessment for all body systems for the injured person within a reasonable time due to specialist availability;
- an injured person has previously received a physical or primary psychological assessment from the other or another authorised IME provider; or
- an authorised IME provider operates in an interstate or overseas location closer to where the injured person resides or works and is able to arrange the assessment.

An insurer must keep a register of all referrals to authorised IME providers.

**6.4 Arranging appointments with an independent medical examiner by the authorised IME provider**

**6.4.1** An insurer must prepare a written referral to the authorised IME provider. The referral is to be made using a form made available by the MAI Commission. The referral is to detail the injuries and body systems to be covered by the WPI assessment report and whether the insurer has received either a notice or information for a diagnosis of a psychological or psychiatric disorder.

**6.4.2** The referral must indicate when a person is likely to be available for medical examinations and include details of any special needs, such as an interpreter services, that need to be accommodated for at an appointment.

**6.4.3** The IME provider is responsible for arranging one or more independent medical examiners to carry out a WPI assessment of the injured person.

**6.4.4** An insurer must also give the authorised IME provider all medical and allied health information, including results of clinical investigations in their possession relevant to the assessment, at least 10 calendar days before an appointment with an examiner. Information should include information about the onset of injury, subsequent treatment, diagnostic imaging and tests, and functional assessments of the person claiming the impairment. All documents should be appropriately indexed and organised in a manner to minimise file review times by the examiner.

**6.4.5** If the injured person has requested that an accompanying person be present at the assessment the referral should include the name, relationship to the injured person, and role of this person.

**6.4.6** The insurer may arrange for the authorised IME provider to communicate directly with the injured person about appointment bookings. In doing so, the authorised IME provider must inform the insurer of all appointment arrangements including any cancellation, non-attendance or rescheduling of appointments by either the applicant or the authorised IME provider.

**6.4.7** An injured person must be given at least 10 business days written notice of any appointment with an independent medical examiner. The insurer is responsible for ensuring the appointment notice is given to the injured person and may make arrangements for the notice to be sent out by the IME provider on their behalf. The notice period may only be reduced or waived on agreement from the injured person and provided the insurer has already given the IME provider all information necessary to undertake an assessment. If a person has complex injuries a single notice may cover multiple appointments. The notice must include the following information about a given appointment:

- the name, specialty, and qualifications of the independent medical examiner;
- the injuries and body system/s covered by the referral noting the appointment is for the purposes of assessing impairment and not for medical treatment;

- the date, time, and location of the appointment, contact details for the examiner's offices and appropriate travel directions or arrangements;
- the likely duration of the appointment;
- how to cancel the appointment;
- the consequences of a late cancellation or a non-attendance for an appointment;
- information the injured person should bring to the appointment (such as X-rays not in electronic form) or give to the examiner prior to the appointment;
- arrangements for an accompanying person to be present during an appointment, noting that the person is not to participate in the assessment, other than to assist the examiner in communicating with the person, and any accompanying person may be asked to leave the assessment room if requested by an examiner. Where the injured person is a child or a person with an intellectual disability, the examiner may request the support person remain in the room but not communicate with the injured person if there is a concern they are interfering with the assessment;
- arrangements for paying travel expenses; and
- how complaints can be made and how they will be handled.

A notice of an appointment may be sent to an injured person by post or electronically.

**6.5 Payment for WPI assessment**

**6.5.1** An insurer will be responsible for directly paying an IME provider for a WPI assessment report and related costs requested on referral by an insurer. The IME provider will invoice in accordance with the fee schedule agreed by the MAI Commission. An IME provider must be paid within 10 business days of the insurer receiving a properly completed WPI report and invoice.

**6.5.2** An insurer is not required to arrange for a referral for an assessment, or make an appointment with an IME provider, if the insurer has not received a payment or contribution for the cost of an assessment from an injured person in the following listed circumstances:

- the insurer believes a person's injuries are stable and the person is not likely to have a permanent impairment (Section 139 of the MAI Act);
- a second assessment is required for a person, because an assessment requested by the person under subsection 140(3) of the MAI Act confirmed the person's injuries had not stabilised; or
- a second assessment is required under subparagraph 141(5)(c)(ii) of the MAI Act because a person who has received an estimated WPI has applied to stay common law proceedings until their injuries have stabilised.

**6.5.3** If an excess is paid by a person in accordance with subsection 139(5) of the MAI Act and the WPI assessment report confirms the person's WPI is greater than 0%, the insurer must reimburse the excess to the person within 10 business days of receiving the WPI assessment report.

**6.5.4** If the IME provider is required to arrange a further appointment because a person did not attend an earlier appointment and did not give the insurer a reasonable excuse for their non-attendance, the person must pay any cancellation fee charged by the IME provider as a result of the missed appointment.

**6.5.5** An insurer must also pay the reasonable and necessary travel expenses for a person to attend a WPI assessment on referral from an insurer, with the exception of a referral for a second assessment required because an assessment requested by the person under subsection 140(3) of the MAI Act confirmed the person's injuries had not stabilised.

**6.5.6** If an injured person arranges for a private medical examiner to carry out a second WPI assessment the person will be responsible for paying for the WPI assessment report and for any travel expenses incurred in attending the WPI assessment.

## 7. VALIDATING A WPI ASSESSMENT REPORT

**7.1** Before giving an injured person a copy of a WPI report and any offer of quality of life benefits with a WPI number under sections 154 to 157 of the MAI Act an insurer must first be satisfied that the WPI report reflects an assessment carried out in accordance with the WPI Assessment Guidelines. An insurer must have its own quality assurance process in place to confirm the validity of WPI reports, noting quality assurance is also undertaken by the authorised IME provider.

**7.2** A WPI report may not be valid if it does not:

- address whether an injury or condition has reached maximum medical improvement as required by clause 1.15, and the basis for this determination as required by clause 1.46 of the WPI Assessment Guidelines;
- provide a history and findings from the examination;
- provide opinion as to whether the applicant has suffered a permanent impairment from injuries caused by or resulting from the accident;
- provide details and make a deduction from the final level of impairment for any known pre-existing injuries or conditions, or for other assessed injuries not caused by the motor accident;
- exclude any secondary psychological injury from an assessment of primary psychological injuries;
- determine the degree of impairment using the tables, graphs, and the methodology in the WPI Assessment Guidelines and the American Medical Association Edition 5 (referred to as AMA 5) where applicable, and provide a clear calculation of the percentage as a whole number;
- include a statement and certification from the assessor to the effect that:
    - the assessor has completed training in AMA 5 and their specialisation

- evaluated the person's permanent injuries as a result of a motor accident and that the WPI assessment has been conducted in accordance with the *Motor Accident Injuries (WPI Assessment) Guidelines 2019.*

**7.3** An insurer may seek corrections or compliance clarifications on receipt of a WPI assessment report through requesting a superseding report from the authorised IME provider. In this circumstance, the time frame for giving a notice under sections 154 to 157 of the MAI Act will not commence until the insurer receives a superseding report from the authorised IME provider. The body of the superseding report must include a statement that explains that it supersedes the previous WPI report. The superseding report process is not to be used by an insurer to seek/ask additional questions that were not present in the initial referral, or to provide any additional information not made available to the assessor at the time of the assessment.

## 8. REQUIREMENTS FOR SECOND WPI REPORTS

**8.1** These guidelines make provision for an injured person's responsibilities in relation to obtaining a second WPI report and providing a valid report. Under the MAI Act, a private medical examiner (PME), trained in the WPI Assessment Guidelines, undertakes this assessment.

**8.2** An injured person does not have to obtain a second WPI report. The injured person is to notify the insurer that they will be seeking their own WPI report because they disagree with the first WPI report and provide it to the insurer within the time specified in clause 8.3. This has the effect of pausing the benefit. An insurer must have processes in place to give to an injured person seeking a second WPI report, any relevant medical reports and documents not already in the injured person's possession, which the insurer provided for the first WPI assessment.

**8.3** The second WPI report must be provided to the insurer within 26 weeks after the date of the notice given under sections 154 to 156. If a notice is given under section 157, a longer due date for providing the second WPI report may apply. The costs of a second WPI report are for the injured person to pay. If the outcome of the assessment is for a higher WPI percentage because the first WPI report is less than 10 per cent, the insurer may reimburse the cost of the report if there is a motor accident claim (per section 158(6), MAI Act).

**8.4** To obtain a second WPI report, the injured person must ensure that the PME is informed they are to conduct the assessment in accordance with these guidelines, including section 7.2, the WPI Assessment Guidelines, and the MAI Act. A report not prepared accordingly may be invalid and may require a further report to have a valid report. A second WPI report cannot be obtained before, or at the same time, as the first WPI report

**8.5** The second WPI report should be based on the same supporting documents as the first WPI report. However, if the original reports were updated or additional reports were obtained by the injured person after the first WPI report was completed, but before the

PME undertakes their assessment, the updating or additional reports are to be provided to the insurer with the second WPI report for context.

**8.4** To facilitate a second WPI report being comparable to a first WPI report paid for by an insurer, the content of a second WPI report should contain the following (to be consistent with clauses 7.2 and 9.5 of these guidelines):

- confirm that the assessor is a private medical examiner providing a report for the purposes of section 158 of the *Motor Accident Injuries Act 2019*
- confirm the date the applicant attended for assessment
- include a history
- include findings on examination and provide confirmation of the diagnosis
- reference relevant medical reports and documents the assessor had in their possession for the assessment, including those referred to in the first WPI report (note, this may be more than one if multiple body systems are involved)
- provide opinion as to whether the applicant has suffered a permanent impairment from injuries caused or resulting from the accident
- provide details of any relevant pre-existing injuries or conditions, the status of these injuries at the time of the accident, and any aggravating events/injuries post the motor accident
- provide opinion as to whether the applicant's presentation is consistent with the medical information and the first assessor's observations
- provide a clear explanation of any calculation of whole person impairment from the injuries in the motor accident including deductions where relevant, and state a whole number
- contain a statement that the assessor has completed training in AMA5 and their specialisation and they have conducted the assessment in line with the modifications contained in the *Motor Accident Injuries (WPI Assessment) Guidelines 2019*.

**8.5** A second WPI report is to be prepared only for the purpose of assessing permanent impairment. It should not include an Expert Witness Statement.

**8.6** A second WPI report should be concerned with the injuries or conditions raised in the first WPI report, noting that these were agreed to by the injured person on their application for the first WPI report. An injured person should alert the provider to the requirements of section 8 of these guidelines when arranging the report. In some instances, comment on treatment or therapy may be appropriate by the PME. For example, where an injury is permanent and stable but requires ongoing exercise to maintain function. This could be reflected in the report.

## 9. FINAL OFFER WPI

**9.1** These guidelines make provision for an insurer's responsibilities in relation to second WPI reports including matters an insurer can consider in making a *final offer WPI* under subsection 160(2) of the MAI Act and for giving reasons for a final offer WPI decision.

**9.2** Section 160 of the MAI Act applies if the relevant insurer receives a second WPI report from the injured person, and the injured person has not made a complying common law claim or is unable to establish someone else is at fault. If section 160 applies, the insurer must decide the final offer WPI. The insurer's final offer must not be less than the WPI in the original report (first WPI report) if it has not been reviewed by the Independent Medical Examiner (IME) under section 159 of the MAI Act, or if reviewed, must not be less than the IME's notice affirming or increasing the WPI for the first WPI report.

**9.3** An insurer must rely on the level of whole person impairment determined by the IME or PME from an assessment that was carried out in accordance with the *Motor Accident Injuries (WPI Assessment) Guidelines 2019* (WPI Guidelines). An insurer is not required to independently evaluate the level of impairment in a WPI report based on medical evidence they may have in their possession.

**9.4** An insurer may make a final WPI offer number, for a WPI between the WPI for the first WPI report and the second WPI report, as a whole number. This could include circumstances where there was inconsistency in clinical judgments made by the one or both IME/PME in applying the evaluation methodology or inconsistent presentations by the injured person of their injuries/condition at assessment.

**9.5** In making a final WPI offer decision an insurer may disregard a second WPI report, in whole or part, if the insurer is not satisfied that the assessment was carried out in accordance with the WPI Guidelines. An insurer may form its belief about the validity of a report based on reasons given by the PME with a written notice under section 159 of the MAI Act. An insurer may also consider whether the principles of, and administrative processes for, an assessment in Chapter 1 of the WPI Guidelines have been followed in preparing the second WPI report, including by considering matters in section 7.2 of these guidelines. An insurer may also disregard a second WPI report if the insurer is not satisfied that the PME considered relevant information made available to the IME or if the second assessment includes injuries or conditions not evaluated in the first assessment. This could be evidenced by the second WPI report:

- not referencing that the PME had in their possession relevant medical reports and documents which were referred to in the first WPI report; or
- including, in the final level of impairment, injuries or conditions not identified in the first WPI report as being caused or resulting from the motor accident.

**9.6** In making a final offer WPI an insurer is to give reasons in writing as the insurer must decide a WPI number to determine the final offer. The reasons need only record the relevant facts and reference evidence such as the assessment and section 159 reports

relied upon by the insurer for the determination. If an insurer disregards a second WPI report, in whole or part, the insurer is to state their reasons for doing so. If a second WPI report is disregarded in part, an insurer must not make any adjustments to the assessed degree of impairment in the second WPI report requiring a clinical judgement including for the attribution of any injuries to the motor accident.

## 10. INFORMATION AND SUPPORT – WPI TAKEN TO BE 10% IN CERTAIN CIRCUMSTANCES

**10.1** These guidelines make provision for information and support an insurer is obliged to give a person under paragraph 52(2)(f) of the MAI Act who is taken under section 133 of the MAI Act to have a WPI of 10 per cent. A person who was a child at the time of an accident and at four years and six months after the motor accident is either receiving treatment and care meeting the requirements of the regulation, or a participant in the LTCS scheme, will be taken to have a WPI of 10 per cent.

**10.2** An insurer must identify any injured person that is taken to have a WPI of 10 per cent under section 133 of the MAI Act, and contact the person in writing (or a parent/guardian in the case of a minor), one month prior to reaching 4 years and six months from the date of the motor accident. The insurer does not need to contact a person that has received a written notice under subsection 157(2) or 164(2) of the MAI Act and has lodged a notice of claim within the time frames permitted for the notice. An insurer must include information about the person's eligibility to make a common law claim, the time frames for the person to lodge a notice of claim and that the person may wish to seek legal advice as to whether to make a claim for damages.

## 11. INFORMATION AND SUPPORT – WPI OFFERS

**11.1** These guidelines make provision for the information and support an insurer is obliged to give a person that receives a WPI offer about making a motor accident claim for the purposes of paragraph 52(2)(g) of the MAI Act.

**11.2** An insurer must include with a written notice given to an injured person under subsection 157(2) or 164(2) of the MAI Act statements about the time frame for the person to lodge a notice of claim, and the insurer is unable to provide legal advice as to whether to make a claim for damages, and may include the contact details of the ACT Law Society for referral to a legal service provider.