



The next frontier?

By Geraldine Collins

It is a great honour to write this, my first president's page for *Precedent*. I strongly believe that the Australian Lawyers Alliance offers an effective national voice for defending and protecting the rights of the individual, and has an important role to play in holding all Australian governments to account for the treatment of their people.

In the past year, the ALA has strongly advocated and lobbied on a range of issues – the National Disability Insurance Scheme (now DisabilityCare Australia), CTP changes, workers' compensation, Comcare, the rights of asylum seekers, unlawful fishermen, Indigenous rights and for the rights of the victims of crime. Enormous recognition is to be given to our outgoing National President, Tony Kerin, for the investment of his time, energy and expertise in the work undertaken over the past 12 months.

A major success is the preservation of common law rights to sue for lifetime care and support to co-exist alongside DisabilityCare. The significance of this should not be understated, given the Productivity Commission's enthusiastic recommendation that such rights be abolished. We will continue to watch the implementation of the NDIS as it is rolled out across the country with great interest and vigilance.

One of the greatest challenges that the ALA will face in the coming year is the development of the National Injury Insurance Scheme (NIIS).

In December 2012, all state and territory governments signed an Intergovernmental Agreement on the NDIS launch, committing to implement an NIIS as a crucial part of the DisabilityCare reform, within specified timeframes.

The first commitment for the NIIS is to develop and implement 'mirimum benchmarks' for those suffering catastrophic injuries as a consequence of motor vehicle accidents. This has already been rolled out in South Australia, with an upcoming review in Queensland. The existing NSW Lifetime Care and Support and the Victorian transport accident schemes are viewed as already meeting these 'benchmarks'.

Over the past few months, all governments, except Western Australia, have signed the Heads of Agreement on the launch of DisabilityCare. Next on the agenda is workers' compensation. Again, the existing Victorian scheme is considered to already meet the requisite 'minimum benchmarks'.

It is likely the existing Victorian transport accident and Workcover schemes, and the NSW Lifetime Care and

Support scheme, will be seen as templates for other jurisdictions.

NSW appears to be executing the reforms at the fastest pace, having introduced significant changes to compensation for workers and victims of crime. Substantial alterations to its CTP scheme have recently been proposed (and postponed) for further deliberation.

We all agree that individuals who have been injured should have access to apt care and support. However, the ALA believes that the cost of this care and support should continue to be borne, as far as possible, by those who have caused the injury, rather than socialising the cost of their negligence at the taxpayers' expense. We also strongly believe that those individuals who suffer injury or disability outside the tort framework, or are unable to establish negligence against a third party, should have ready access to appropriate support.

The issue of fair compensation will no doubt be highlighted in the year ahead, as the revelations of the Royal Commission into institutional sexual abuse begin to gather pace. We believe that there must be fair compensation available for individuals who have been the victims of such abuse.

Against this background, we will watch with great interest the deliberations and outcome of the Productivity Commission's recently announced inquiry into access to justice.

Of course, the media has a key role to play in highlighting the injustices facing individuals. While the confidential terms on which many cases are settled, and the desire of individuals to conceal their identity must be respected, we also have a responsibility to ensure that the wider community is adequately informed about the kinds of situations our clients face; and how important it is that they can seek and obtain appropriate and adequate redress and compensation.

We must all continue to diligently and proactively defend individual rights whenever they are threatened by excessive government interference in our separate jurisdictions. ■

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