



# Insights to working with the TAC

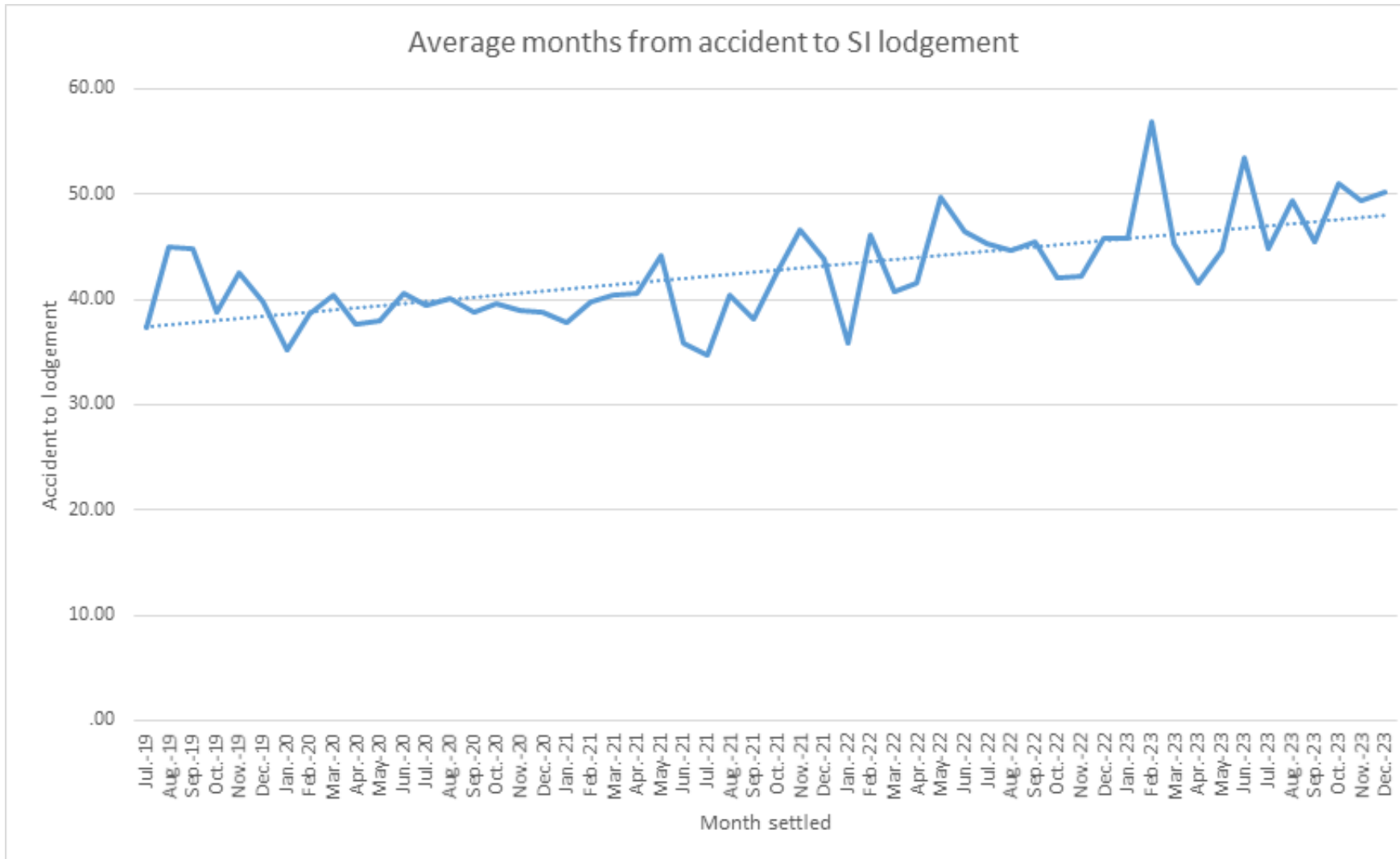
## Common Law Protocols

Jason Williams, Manager Victorian Common Law



“All cards on the table, face up.....”

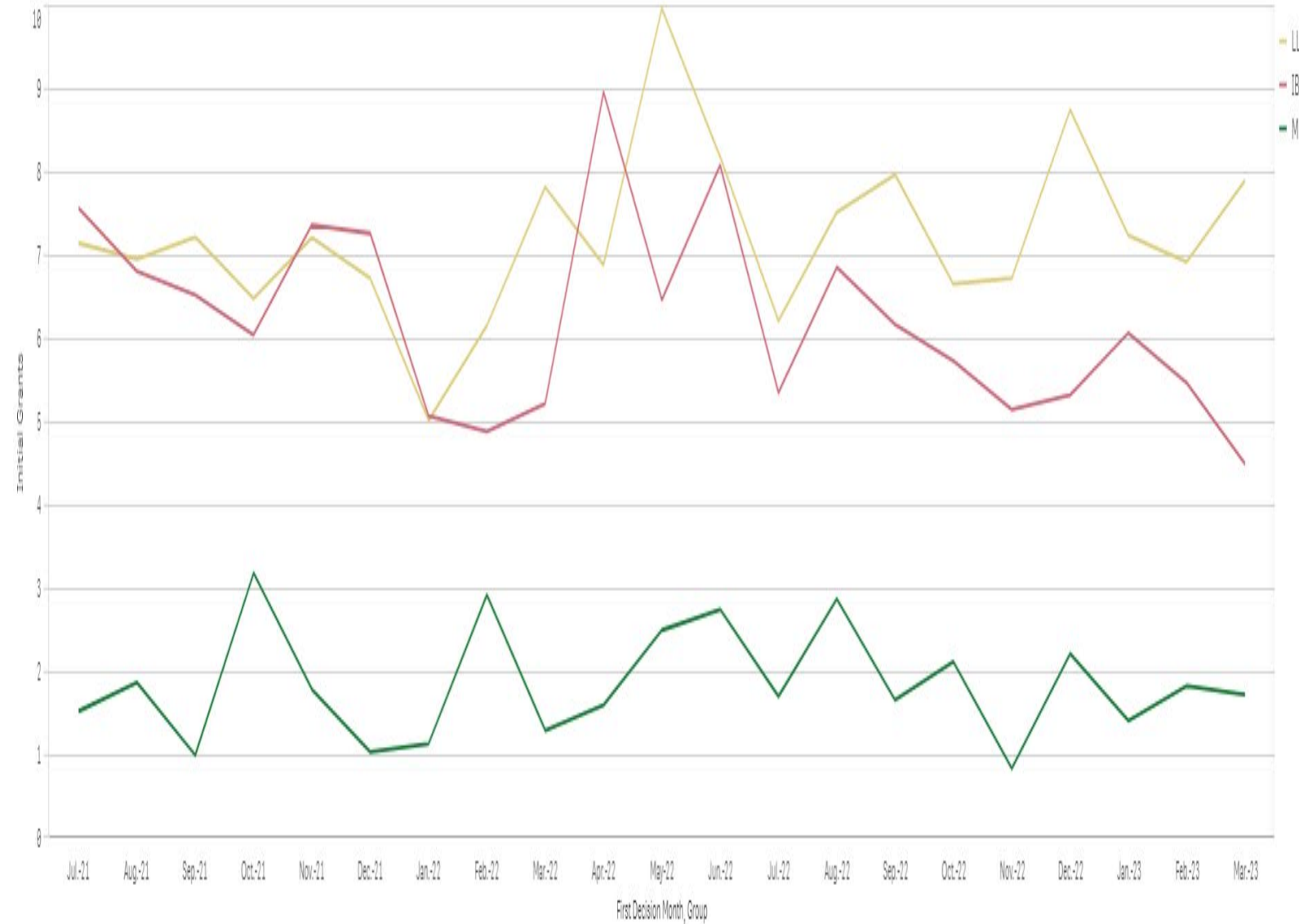
# Delays in Lodging Serious Injury Applications



Between 2019 – 2024 the time has increased by 12 months on average from Date of Accident to Serious Injury Application

That is a 12 month delay in the average client even starting the process which contributes to delays in receiving their common law settlement.

Average SI Lodge to Initial Decision



## LODGEMENT TO DECISION

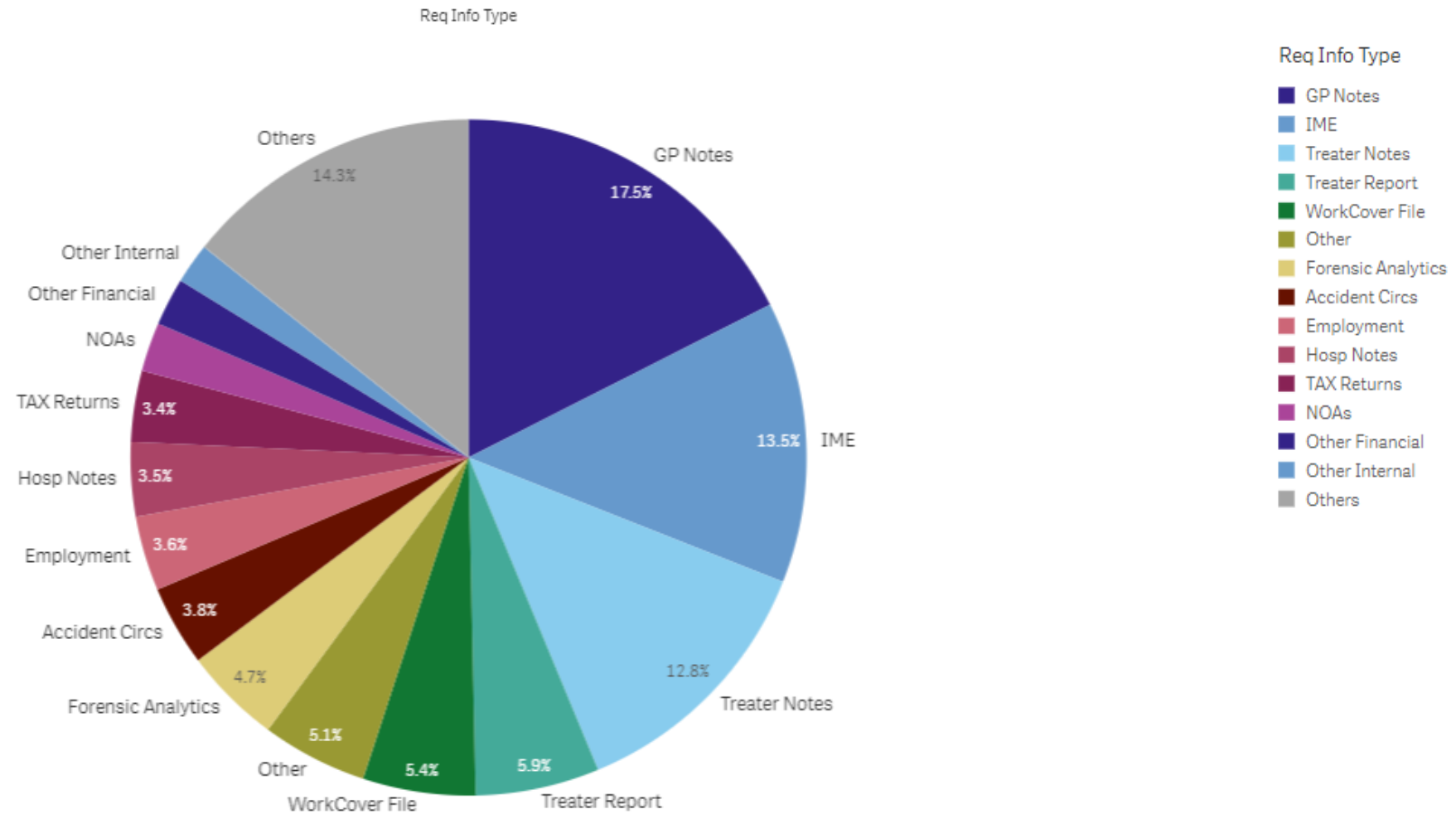
Less serious 7.9 Months

Inbetween 4.5 months

More serious 1.9 months

# What are we requesting after a serious injury application?

Request For Info By Type



# Recommended supporting material to provide with Serious Injury Applications

## **STI/Chronic pain**

- Complete clinical history (GP notes) incl pre accident records up to current date\*
- FOI confirming acute injury & treatment (ambulance, hospital incl radiology)
- Report from any relevant specialist treater client has attended
- JME/IME report with complete clinical history provided and analyzed

## **Pre-existing/aggravation/unrelated conditions:**

- Complete clinical history (GP notes) dating back to onset of prior injury (within reason) including any prior capacity assessments, medical certificates etc and up to current date\*
- Copies of any prior compensation claims relevant to TA injuries or functional capacity
- Copy of any treating reports or certificates relating to Centrelink DSP Complete report and/or clinical notes from any prior specialist who treated prior injury
- JME/IME report with complete and accurate history provided and analyzed

## **Mental injury claim**

- Complete clinical history (GP notes) incl pre accident records up to current date\*
- Reports from any treating psychologist and/or psychiatrist (incl any previous treater)
- FOI from any hospital admission
- Documentation supporting any prescribed medication
- JME/IME report with complete clinical history provided and analyzed

# Fast Track - Serious Injury Applications

## 2023 (Full Year)

We granted **91** fast-track applications at an acceptance rate of approximately **59%**

## 2024 (January –April)

We have already granted **37** fast-track applications at an acceptance rate of **76%**



# Client compensation pathway



THE TAC  
APPROACH  
PRIOR TO  
FEBRUARY 2024

## “One size fits all”

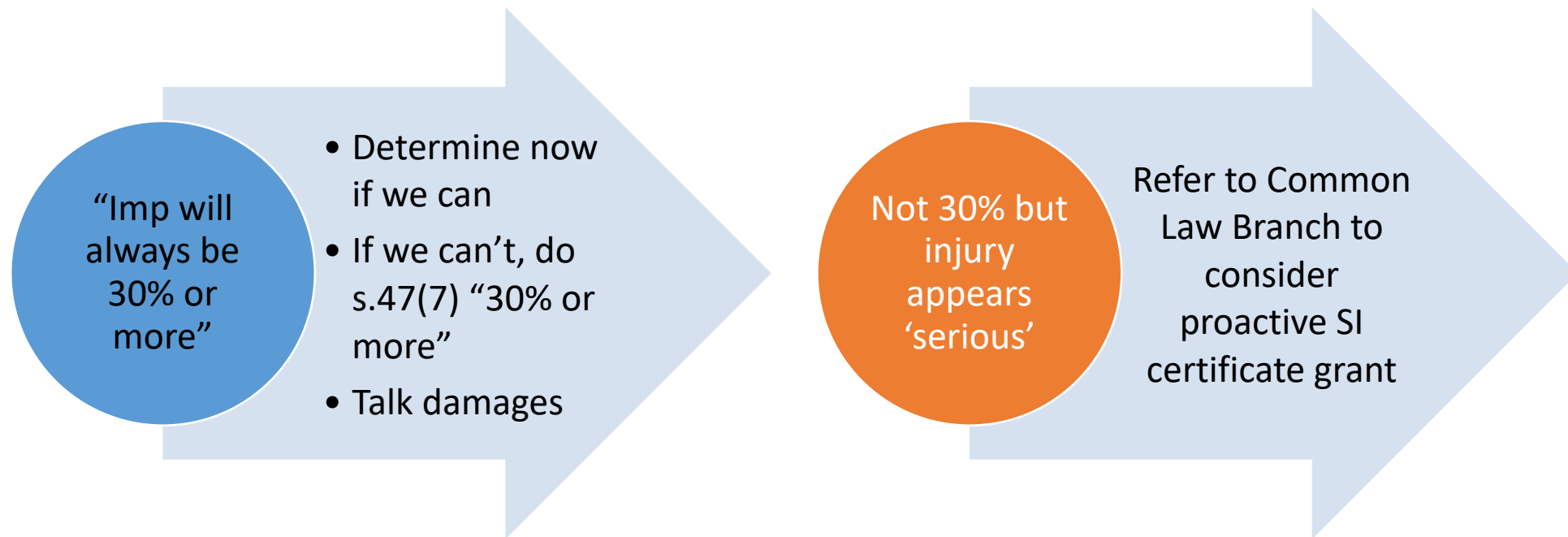
- Check exclusions
- Check injuries T/A related
- Check examiner’s scores
- Check stability
- Request info where necessary
- Calculate impairment score
- Send proposal
- Impairment determination





# Client compensation pathway

## Impairment – TAC approach from 1 Feb 2024



\*internal pathways apply if client not at fault

# Bypassing Impairment – A New Opportunity

If you would like to take up this new client focused opportunity please email the [settlements\\_payment@tac.vic.gov.au](mailto:settlements_payment@tac.vic.gov.au) inbox with the claim details and headline

“Seeking TAC view on liability to advise client on impairment bypass”.



# Proactively Granted Serious Injury

**2023 (Full Year)**

95 Proactively Granted

**2024 (Jan-April)**

76 Proactively Granted

# Supplementary Common Law Protocols

## WHEN AN ELIGIBLE CLIENT SUBSEQUENTLY ENGAGES A LAWYER

4.5 A lawyer engaged by a client who has become eligible to pursue common law damages via a process described in Chapter 4 of the Supplementary Common Law Protocols **should within 14 days of receiving instructions contact the Manager, Common Law, Transport Accident Commission**, confirming they act on behalf of the client and seek the details of the TAC person responsible for the conduct of the common law protocols claim.

AND

6.1 Within 28 days of receipt of the TAC's correspondence in Clauses 4.2, 4.6 or 5.6 of the Supplementary Common Law Protocols, **a client's lawyer must contact the TAC** person responsible for the common law protocols claim to discuss future progress of the claim based on the client's individual circumstances.

## DISCUSSION TOPICS (Not exhaustive):

- 6.2.1 Whether it is appropriate to schedule a common law conference and the timing of a conference;
- 6.2.2 Confirmation that the impairment process will be bypassed or suspended;
- 6.2.3 The need for additional treating practitioner material;
- 6.2.4 The need for any Joint Medical Examinations or Independent Medical Examinations to assist with the assessment of common law damages;
- 6.2.5 Whether the client's claim is limited to pain and suffering damages only or whether a pecuniary loss claim will be pursued. If a pecuniary loss claim will be pursued, the financial documentation required in support;
- 6.2.6 Whether affidavits (from the client and/or lay affidavits) would assist the parties;
- 6.2.7 Whether an Interim Common Law Payment or a Partial Common Law Settlement is appropriate in the client's circumstances;

# Compare the Pair



## Following “usual” process

### “Dorothy” – 65 year old pedestrian

#### **Accident – 18 November 2019**

*Injuries: # tibial plateau, soft tissue back*

*SIC proactively granted June 2021*

*Firm comes on board December 2021 but made no contact with common law team*

*Seeks ROI from TAC and arranges 5 x impairment JME's throughout 2022/2023*

*Impairment was determined in mid 2023 at 15%*

*Arranged a common law conference in December 2023.*

**Settled for \$175,000 Pain and Suffering less the impairment keep of \$15,000 = \$160,000.**

“I could have paid the \$175,000 in December 2021....” – J Williams



## Working towards settlement

### “Mohamed” – 72 year old passenger

#### **Accident – 18 November 2022**

*# clavicle, Pelvic ring # with ORIF, # ribs with ORIF, Mild TBI*

*SIC Proactively Granted 7 August 2023*

*Legal firm comes on record 4 October 2023*

*Firm gets in contact with me and we discuss options (interim not needed)*

*Upon receipt of clinical records had further conversation with firm about appropriate course*

*Firm needed to obtain 2 x JME to properly advise – which I approved.*

*Conference arranged for February 2024*

**Settled for \$300,000 Pain and Suffering.**

“They settled my claim with TAC in in a record time and at a most satisfactory amount” – Client (on social media)

# Financial documents guide – Serious Injury applications

Financial documents guide –  
Serious Injury applications

## About this guide

The purpose of this guide is to help your client provide a complete and relevant serious injury application to the TAC.

If your client is claiming economic consequences as a result of a transport accident, supplying the documents listed in this guide will help ensure the TAC can assess your client's application as quickly as possible.

## Financial documents typically provided with a Serious Injury application

### Employee

- / Individual Income Tax Return(s)
- / Notice of Assessment(s)
- / PAYG Payment Summary from employer(s)

### Self-employed person

- / Individual Income Tax Return(s)
- / Notice of Assessment(s)
- / PAYG Payment Summary from employer(s)
- / Documents supporting payment of any substitute labour post-accident
- / Financial Statements for the Business, including:
  - Profit and loss statement, balance sheet, and notes to the financial accounts.
- / Business Taxation Material (for a Company, Trust, or Partnership) including:
  - Business Income Tax Return
  - Business Activity Statements

## Other financial materials which may be readily available (depending on the circumstances)

- / Pay slips (if PAYG payment summaries unavailable)
- / Business source records to support revenue and expenses of a business, such as:
  - Accounting general ledger records, payroll reports, sales invoices, expense records, bank statements.

Consider what JME's  
are actually needed

Clause 6.3.9 - Where available, full and complete financial information for a period not less than 3 years prior to the accident up until the time of the application should be provided.

Use the pre conference discussion to work out what is full and complete – it depends on the case

Pick up the  
phone

Think about  
the pathway



Questions?