

TAC Panel - 2024

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Mandatory Minimum Information at Lodgement

- Informed at March 2024 Legal Liaison meeting
- Came into effect on **22 January 2024**
- Intention: *“To improve the way that the TAC makes injury liability decisions”*
- Requirement: *“a written proof of minimum mandatory injury information as a requirement for claims lodgement has been established”*
- Objective: *“ensure that the TAC has documented early injury information on the majority of claims which will support quicker decision making for clients”*

Mandatory Minimum Information at Lodgement

- What is “documentation”?
 - Can include:
 - ~ a hospital discharge summary;
 - ~ certificate of capacity;
 - ~ medical certificate or
 - ~ a letter from the doctor or allied health professional with the injuries listed
- It is not required for claims lodged through a hospital lodgement process as these almost always contains early injury information

Mandatory Minimum Information at Lodgement

- In extenuating circumstances, the TAC Lodgements Team can use Ambulance Victoria notes to meet the requirement **OR** can accept a claim without receipt of written evidence. However, the TAC will seek injury information for these individuals, if applicable, early in the life of the claim.
- A 'save and exit' function has also been added to the TAC's online claim form which enables clients to save their progress and return to complete the form within 10 days. *"This enhancement improves the experience for clients submitting their claims online and also aligns with other government agencies that use this feature on their longer online forms"*.

Mandatory Minimum Information at Lodgement

- clients must upload their written proof of injury through the TAC online claim form or email it to the TAC Lodgements Team.
- TAC team members will advise those seeking to lodge by phone to the appropriate method.
- the TAC Lodgements Team has “processes in place” to assist people on the phone who have accessibility needs or technology challenges
- *“this improvement has been supported by clear messaging to clients and providers through the TAC website, phone on hold messaging at lodgements, provider e-newsletters and client brochures”*

Improving TAC Injury Liability decisions

The TAC are improving the way we make, record, and communicate Injury Liability decisions for our clients.



What's happening? From Monday, 22nd January, 2024...



MINIMUM MANDATORY INJURY INFORMATION AT LODGEMENT

When a Client or Client representative lodges a claim, either online or over the phone, they will be required to provide documented evidence of injuries sustained in the transport accident, from their treating health professional.

This could include:

- Certificate of Capacity
- Hospital Discharge Summary
- Medical Certificate with injuries listed
- Letter listing injuries from their treating GP or Allied Health Professional

This requirement does not apply to claims lodged via a hospital claim form, as this route almost always contains early injury information.



In exceptional circumstances, a claim may be accepted by using Ambulance Victoria notes, or without proof of injury. Claims accepted without injury information will be flagged for further client contact later in claims management.



CLEAR CLIENT MESSAGING

Website messaging has been updated under "How to make a claim" to reflect that written details of injuries are required to lodge a claim.

When completing the online claim form, users will now be able to save their progress and exit the form, returning at a later time to complete.

Lodgment phone on hold messaging & TAC Hospital Brochure has been updated to include written details of injury will be required to lodge a claim.



CLEAR PROVIDER MESSAGING

Website messaging has been updated to reflect written details of injuries are required to lodge a claim.

BAU Provider Engagement channels are being used to raise this change with relevant provider groups, including:

- Legal forums
- Provider e- newsletter
- New provider welcome email.

This requirement will:

- Improve our injury liability decision-making by ensuring we have basic early injury information on a majority of claims.
- Shift TAC away from a reliance on self-reported early injuries.
- Create an important lodgement gateway, similar to a police report number, in line with our legislative requirements.

What does this mean for our clients?



Clients are now required to:

1. Upload their written proof of injury via the TAC online claim form or,
2. Email it to the TAC Lodgements Team via a dedicated email. Team members will direct those seeking to lodge by phone to the appropriate method.

Lodgement metrics, including client experience, are being closely monitored after implementation to ensure we are supporting potential and accepted clients through the claim lodgement process.

Mandatory Minimum Information at Lodgement

Instead of:

“Regrets, I’ve had a few”

It’s:

“Concerns, we have a few”



Mandatory Minimum Information at Lodgement

- the new process could be a barrier to lodgement or having a claim accepted;
- the lack of clarity on what 'lodgement' means, given that it is not defined in the *Transport Accident Act 1986* (Vic);
- supports for culturally and linguistically diverse clients, elderly clients, technology illiterate clients and regional clients;
- how injuries that arise later are captured;
- whether there is a reasonable mechanism in place for clients who do not have the minimum information at hand and are lodging a claim on the eve of the limitation period.

Mandatory Minimum Information at Lodgement

Response:

- The requirement to seek treatment following a transport accident in order to lodge a claim with the TAC is not a new one. A claim lodgement gateway question has always been “Have you sought treatment for your accident injuries?”. The new requirement of evidence of injury asks for a document to be obtained at this treatment consultation;
- Provision of this early injury information will provide clarity around the injuries sustained in the accident, facilitating earlier injury liability decisions and providing clarity for the client. Having injury liability decisions made on a claim improves the timeliness of subsequent treatment and service and benefit decisions;

Mandatory Minimum Information at Lodgement

- Written evidence of injury is accepted from any appropriately registered medical or allied health professional (who provides a service payable under S 60) of the *Transport Accident Act 1986*) thus broadening options for rural/regional clients;
- TAC website messaging on “How to make a claim” has been updated to explicitly and clearly indicate that only one injury evidence option is required. This reflects the TAC’s internal work practice.

Mandatory Minimum Information at Lodgement

Accessibility:

- Lodgement team's approach is to be client centric, flexible and empathetic;
- If a client with different needs is identified over the phone, it may be accepted under the extenuating circumstances process and the information sought at a later date;
- Ambulance Victoria notes can be used for clients having difficulty accessing the information;
- Phone lodgement for clients without email can use alternative methods (authorised representative, phone call with client / treater / TAC with treater being requested to send the information);
- Other methods already used such as interpreter services, TAC's website information being available via webReader & client representatives

Mandatory Minimum Information at Lodgement

Injuries Not Listed or Manifest Later

- *The TAC understands that sometimes accident related injuries can present at a time after the accident. The TAC will consider any accident related injuries not listed on the initial injury information provided at the time of claim lodgement and will seek further information from the client and their treating health professional(s) to understand the details of these injuries in order to pay for requested treatment. There is no change to this process.*

Mandatory Minimum Information at Lodgement

Lodgement:

- Making a Claim for Compensation Policy:
 - ~ lodgement for hospital claim forms occurs when the person signs the form;
 - ~ lodge a claim via telephone (client or authorised person);
 - ~ online claim forms, a claim is lodged when the submit button is clicked and an auto confirmation email is received
- a client seeking to lodge a claim close to the 3 year time limit will need to submit an online form or speak with the TAC's Lodgements Team on the phone before the time limit expires.
- If the injury information is not available at the time of the phone call or when the online form is submitted, the TAC's internal process will record the attempt to lodge, then send an individualised screen out letter to the person advising what information is required to complete a claim lodgement. The purpose of capturing and confirming the screen out is to support later lodgement and the time limitations

Mandatory Minimum Information at Lodgement

Online Lodgement

- Addition of a “save and exit” function – re-access via email & password
- 10 days to complete and submit the claim form
- If it is not submitted within 10 days the content will be deleted with no record of this form retained by the TAC.
- Messaging:
 - ~ At the start of the online form process, it is clearly stated that the “form must be fully completed and submitted to be considered as a TAC claim” and there is reference to time limits;
 - ~ onscreen message and email content that the client receives when the ‘Save and Exit’ function is used: “Please note, this form must be completed and submitted before the TAC can start the claim lodgement process”. An auto reminder (with this messaging) is also sent 3 days after a person uses the ‘Save and Exit’ function.

Mandatory Minimum Information at Lodgement

Monitoring:

- To balance a client focused approach with the TAC's needs for information;
- Tracking lodgement metrics;
- February 2024 – 1,449 claims lodged with 6% screened out due to “insufficient information” with approximately half re-lodged in “subsequent months”;
- Volumes of complaints being monitored;
- Real time feedback being sought from clients who have lodged particularly those who were screened out to help identify unintended potential barriers to lodgement and “inform future lodgement process improvements” and
- The quality of the injury evidence will be evaluated in an internal audit in second half of 2024 to “help inform any future process changes required”.

Protocols Optimisation 2024-25

- 2025 is the 20 year anniversary of the Protocols
- Significant re-write in 2013 – 2016 to incorporate JMEs into the Protocols and enhance the original 2005 Protocols
- No intention to significantly alter the Protocols
- Survey to members – thank you
- PWG commenced process in May 2024
- Confidential
- Broad agreement of intention and scope and brain storming of ideas;
- Use of subject matter experts and engagement with relevant external bodies at the appropriate times and
- Continued collaboration and development

JMEs

1. Costs
2. Time Frames
3. Quality Assurance
4. Joint Letters

TAC Surgery charter: *Website information available for TAC clients*

Key commitment:

We will contact you within 10 business days to let you know we have received a request for your surgery.

Then, we will follow the steps below to make a decision about whether we can pay for your surgery.

If we have all the information we need to make a decision, we will review the information and let you and your surgeon know our decision within 20 business days of receiving the surgery request.

If we need more information to make a decision:

1. We will contact you within 20 business days of receiving the surgery request to explain:

- what further information we need,
- what we are doing to get that information,
- if we have questions about the information already provided

2. Sometimes we need to ask for recommendations from a member of the TAC Clinical Panel, or an [Independent Medical Examiner](#). This helps us make a decision in line with the Transport Accident Act. It ensures that the surgery request is reasonable and related to your transport accident. If we need to do this, we will contact you within 20 business days of receiving the request to give you:

- an estimate of how long we think it will take to get information from the Clinical Panel. This can take up to 8 weeks.
- the details of any appointments made with an Independent Medical Examiner. These appointments can have a wait time of up to 6 months.
- In these cases, if you have a lawyer, or someone else helping you with your claim, we will also contact them to explain what we are doing. They might be able to help us get the information we need, as soon as possible.

3. We will make a decision about whether we can pay for your surgery within 20 business days of receiving the information and recommendations we need. We will write to you and your surgeon to let you know our decision.

The journey | key milestones

- June 2023: TAC Surgery charter implemented and publicized on the TAC website supported by the ALA and LIV.
- June 2023: TAC claims teams implemented a 'Streamlined Surgery decision making process' with supportive resources to expedite particular low risk, low complex surgery decisions.
- August 2023: Implementation of internal data to track and monitor Surgery decisions across all Claims teams for visibility of wait times for our clients.
- September 2023: Implementation of a specialized surgery team for low complex claims to streamline decision making.
- January 2024: Post TAC internal organization redesign, review of data and progress towards Surgery Charter.
- May/June 2024: In progress- commencement of a model and process review in conjunction with data insights to understand performance against commitments.



HIGH LEVEL ACHIEVEMENTS

TAC have been steadily increasing surgery decisions within 20 days:

- 23% increase since January 2024
- Streamlined decision-making for low complexity claims and low complexity surgery requests has been successful to influence this result

Further work is underway to understand and address the timeline to acknowledge surgery requests in 10 days:

- Identify reasons for delays
- Set targets for improvement

Serious Injury Fast Track Applications

Update

Serious Injury Applications Through The Protocols

Update



Extension of Time Case Scenarios

Gera is a sommelier, at a large winery and restaurant in the Mornington Peninsula. Whilst Gera is at work, she needs to go for a walk across the vineyard, to meet with a supplier, who wishes to see this season's grape produce. Gera leaves the restaurant and starts the short walk across the restaurant's driveway. As she is walking, Nick who has just left the restaurant and is backing out his car, fails to see Gera and strikes her with his vehicle. He runs over Gera's left foot. Gera fractures her foot requiring surgery. She lodges a WC claim which is accepted. Her medical expenses are covered by the WC insurer. 5 years and 11 months pass, when Gera decides she should finally see a lawyer about the accident she was involved in. She attends her local personal injury solicitor.

What should Gera's solicitor now do, once they take instructions, given there are only four weeks until the six year limitation period expires?

Extension of Time Case Scenarios

Jason is a full-time carpenter working on a construction site in Middle Park. Jason is employed by the building company, undertaking the construction job. Jason is sawing some wood, when a JCB telehandler, all-terrain vehicle strikes him, as the driver, Jeremy mishandles the steering. Jason falls, injuring his right knee. He requires multiple surgeries. The telehandler is registered and is used regularly on public roads. Jason lodges a WC claim, which is accepted.

5 years and 9 months down the track, after speaking to a union representative, Jason decides to speak to the Union's personal injury lawyers, if he has any further legal rights. He has never received any lump sum compensation – just coverage of his medical expenses and wages. He is likely to need a total knee replacement. What should Jason's lawyer now do, once they take instructions?

Extension of Time Case Scenarios

Lauren is the Chief Operating Officer for the Queen Victoria Market. She is at work, doing a site visit around the fruit and vegetable stalls. As Lauren is standing at one of the stalls, a forklift, driven by an employee at the Queen Vic Market, backs into her, knocking her to the ground. The forklift was moving pellets of vegetables and failed to see Lauren. Lauren fractures her left arm, requiring surgery, and is left with a nasty scar. Lauren has an accepted WC claim. We do not know if the forklift is registered or if it is used on public roads.

After 5 years and 8 months of multiple surgeries, scar revision surgery, physical treatment, Lauren decides it is the right time to see a solicitor about compensation. She has never received any lump sum compensation for the accident.

Extension of Time Case Law

1. *WCB v Roman Catholic Trusts Corp [2020] VSC* – Keogh J “a fair trial not a perfect trial”
2. *Tsiadis v Paterson (2001)* – Buchanan J must synthesis all relevant matters, including those contained in section 23A – a synthesis, not a weighing against exercise
3. *Brisbane South Regional Health Authority v Taylor* – HC what is forgotten can rarely be recalled. Purpose of limitation periods is to maintain the quality of justice. McHugh J, informs the rationale of limitation periods – likely deterioration of justice with the passage of time
4. *Repcor Corporation v Scardamaglia* – Plaintiffs should not have visited on them the sins of the solicitors. If the sol has missed the limitation period – need to take into account any prof neg against the soli
5. *Griffiths v Nillumbik Shire Council [2022]* – A limitation period is not just some easily moveable line in the sand. P lost. Saw solis in time and chose to do nothing. Then saw another firm and still chose to do nothing. He was “on” the clock. Case about delay
6. *Basile v Pugh (Ruling) [2024] VCC 39* – Purcell J, a limitation period is not just some easily moveable line in the sand – key witness dies. If client comes to you out of time, need to collate evidence ASAP [ON APPEAL]
7. *TAC v Murdoch [2020] VSCA 98* - Accepts advice in time, then deteriorates post SLE
8. *Swannell v Farmer* – cannot issue a Writ, without completing OM/SI
9. *Stone v Transport Accident Commission [2023] VCC 656* – Bourke J - Do you need a SI before section 23A – contravenes some Clayton J rulings



Thanks!

Any questions?