

May 15, 2023

To: Honourable Mike Farnworth, Minister of Public Safety and Solicitor General

Cc:

Honourable David Eby, Premier  
Honourable Niki Sharma, Attorney General  
Kim Horn, Executive Lead, Crown Agencies Secretariat  
Vito Albanese, Vice President of Claims Injury and Legal Services, ICBC  
John Beesley, Director, Claims Program & Strategy (Recovery), Claims Injury & Legal Services, ICBC  
Daniela Re, Senior Manager Quality Assurance and Claims, ICBC  
Kate Berniaz, Manager, Transportation Programs, Ministry of Transportation and Infrastructure

**Re: Recommendations to improve ICBC's handling of vulnerable road users' claims within Enhanced Care.**

HUB Cycling has been working with the Ministry of Public Safety and Solicitor General and ICBC staff teams for a number of years to improve road safety, accountability and insurance coverage options for people cycling and other vulnerable road users. As advocates for safe and accessible cycle infrastructure, we are grateful for the incremental improvements that have been made in that time, including the recent May 1 implementation to the first phases of ICBC's four-phase plan to better serve vulnerable road users.

In recent conversations, we were happy to hear there is a willingness to improve ICBC policies further to be more fair and equitable and to help achieve the BC Government's broader goals including CleanBC targets, health, access and affordability that come with encouraging more active transportation trips. There remains progress to be made, some of which requires the BC Government's decision and direction.

ICBC's most recent mandate letter includes foundational principles that include:

- Putting people first
- A better future through fighting climate change

These principles are assisted by encouraging and enabling more people to walk and cycle instead of driving motor vehicles. Fewer people driving means fewer and less costly claims<sup>1</sup>, less injury and death, and the above broad societal benefits. Currently, ICBC's mandate is limited to serve motor vehicle drivers and only other road users that they cause damage to.

By including all road users under ICBC's mandate, it would improve equity across British Columbians, put people before vehicles, and encourage more active transportation trips. This will help create a significant reduction in congestion and vehicle kilometres traveled (VKT), a key goal for the provincial government in order to reach their CleanBC targets of reducing GHG emissions to 40% by 2030, 60% by 2040 and 80% by 2050. Transportation is BC's top contributor to GHG emissions.

Here we have consolidated our past recommendations and added some recent updates and supporting stories to address the needs specific to people cycling and other vulnerable road users so that they are better supported within Enhanced Care.

HUB Cycling recommends that vulnerable road users have the same access to coverage and additional coverage as motor vehicle owners and that catastrophically injured people be better supported. In order to achieve this, we ask that the BC Government mandate that ICBC:

- (a) Ensure that active transportation users, including children/minors/dependents and people with mobility devices such as manual and power wheelchairs, are eligible for equitable coverage in the event that they are involved in a motor vehicle-related collision that does not involve making contact with a motor vehicle, or in the event of inadequate witnesses, remove the burden of proof barrier, especially when vulnerable road users are more likely to sustain injuries that do not allow them to collect information at the scene or remember details.
  - For example, a rule-abiding vulnerable road user may be forced into a situation with a motor vehicle without being hit by them but that required evasive action to avoid a collision which then resulted in the vulnerable road user colliding with another object.
  - Supporting story: Alecia Sharp was hit by a car she claims ran a red light in Vancouver. "I waited until I had the pedestrian walk sign," she said. "But because I left on a stretcher, unfortunately, I wasn't able to get any information from the scene. So I don't know about the car that hit me and I wasn't able to get any witness information, either."
- (b) Provide equitable coverage in active transportation collisions that don't involve a motor vehicle at all, like two people colliding while cycling, or losing control and running into a stationary object, etc. These types of collisions are currently covered for a motor vehicle driver but not an active transportation user, despite the Government of BC's goals to

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<sup>1</sup>[The cost of road traffic injuries to society is an estimated 2% of a country's gross domestic product.](#)

shift people from motor vehicles to sustainable transportation modes to meet their climate targets (along with health and road safety benefits). ICBC requires Government of BC direction to expand their mandate beyond just providing Basic and Optional vehicle insurance for B.C. motorists. HUB Cycling recommends the Province of BC mandate ICBC to offer equitable coverage as an insurance *option* for active transportation users, including children/minors/dependents.

- (c) In addition to equitable coverage for users of active transportation as per points a and b (the preferred outcome), ICBC must also ensure that vulnerable road users are provided with information about the rehabilitation/medical, and property damage coverage limits under the standard Enhanced Care system, any available income loss coverage products from ICBC, and other avenues for acquiring insurance where ICBC does not offer any suitable products. Partner with cycling and active transportation organizations to communicate to a broader audience. Ensure ICBC staff understand income tax implications for calculating the income replacement benefit in a timely, accurate way that aligns with regulations. ICBC adjusters have repeatedly provided incorrect information to victims on several topics. This disproportionately impacts Indigenous, low-income, newcomers and other marginalized groups who tend to have more limited resources and less ability to research and advocate for themselves.
- [Supporting story: Tashia Wong](#) alleges ICBC has denied necessary medical, prescription and counseling claims and has significantly under-calculated the income replacement support she should be getting. “It’s a full-time job just dealing with them. And I just need the money now ... I’ve been incredibly conscientious and meticulous about everything.”
- (d) Ensure damages to bicycles and other micro-mobility devices involved in any type of collision are awarded the same relative coverage as motor vehicles to allow the victim to repair or replace their mode of transportation in a timely manner. Many people rely on their bicycles or mobility devices to get to work, school and other necessary destinations.
- Work with bike repair shops/rental shops to provide loaned bikes to people while their bikes are being repaired.
  - Consider reducing requirements for 2-3 quotes on bicycle repair in areas where that is an undue hardship, such as rural areas where the next closest bike shop is hundreds of kilometres away.
  - HUB supports the concept of having a special vulnerable road user (VRU) or cycling upskilled unit that has trained adjusters to more accurately estimate the replacement value of bicycles, and that replacement or repair of bicycles happens in a timely manner, with expenses paid directly to bike shops as they are done with auto body shops for motor vehicles, rather than requiring the vulnerable road user to pay out of pocket and wait to be reimbursed. Some people will not be able to afford fronting the costs.
  - Supporting story: Ben Bollinger: "They are treating my bike as if it's an uninsured vehicle... — there is really no or very little recourse for cyclists."

- (e) HUB Cycling recommends improved accountability for people suffering major injuries by following the injury cap system in place in Alberta, Nova Scotia, New Brunswick, Newfoundland: if your injury is deemed minor, then your pain and suffering damages are limited to whatever cap has been set by legislation (similar to BC's current Enhanced Care system). But if it is a major injury, individuals have a right to recover damages and have access to courts so that their recovery and medical costs are adequately covered and do not necessarily require frequent and ongoing approval processes.

- Supporting story: Tim Schober: "Under the old system, I would have received a settlement and I would have had autonomy to make my own decisions about care and about therapy and equipment and so forth. But now, each item goes to ICBC and ICBC responds at its discretion, in its sweet time, which is usually not very quick."

Tim directly reported, "ICBC apparently has no policy for what financial assistance it will provide an injured person who wants to change residences. That is inappropriate for a transparent organization and has left me out of pocket for more than \$138,000 since March [2022], with no sign of an end in sight."

- (f) Review the current limited rehabilitation coverage which is adjudicated at the discretion of a non-medically trained ICBC adjuster, and process which requires the victim to continually submit documentation for health treatment expense recovery. These expenses can continue to be required for years or decades, creating onerous ongoing bureaucracy for the victim. Coverage must include full rehabilitation and home/vehicle accessibility retrofits or change of residences where applicable.

HUB Cycling recommends:

- that medical professionals inform the adjudication of claims
- rehabilitation approval time duration is extended to a minimum of one year for major injuries
- recommendations/prescriptions from a single applicable health practitioner be adequate for coverage rather than requiring additional health practitioner approval
- ICBC payments be made within one month of submission, to allow victims to pay off their credit cards without incurring interest.
- Supporting story: [Tim Schober](#): "[ICBC's current model] does not provide an adequate amount of money for my caregiver's pay." Tim's care requires 30-40% more coverage than is provided.

“My adjuster frequently refuses to approve reimbursement for equipment recommended by my physiotherapist and insists that either my occupational therapist supports the recommendation, or the adjuster requires that I obtain a prescription from my family doctor. Neither requirement makes sense for things that are within the physiotherapist’s scope of practice. They just add another layer of effort into obtaining reimbursement (while generating their own cost, as both the occupational therapist and the family doctor need to be paid for their time).

I am a quadriplegic. I will be one for life. I will need physiotherapy, massage, and other treatments for life. I may improve but I am not going to recover. But the adjuster requires reports and treatment plans from my therapists several times a year. ”

- (g) HUB Cycling recommends ICBC advance injured people funds to cover travel for treatments, treatments themselves, and medical supplies and equipment, as many victims do not have the financial means to cover these costs up front. This is particularly hard for equity-deserving and marginalized people.
  - Supporting story: Tim Schober: “If [an impacted individual] wishes to hire caregivers directly, rather than through an agency (doing so can result in more consistent care at a slightly lower cost) they must be able to lay out about a minimum of a month’s care and then wait for reimbursement. For the level of care that I should have, that cost is more than \$12,000. I’ve carried more than 2 months of that expense at a time. I don’t think many injured people can do that.”
- (h) Income replacement benefits don’t start until 8 days of non-employment after injury - permanently missing 8 days of wages is an issue for lower income earners - consider removing the waiting period for lower income earners, or reimbursing them for it quickly, within two weeks, so those individuals living pay cheque to pay cheque can meet their basic needs without penalty. When income replacement is activated, it is 90% of what you were earning before - this is another hit to lower income earners who may have already been on the poverty line and are now below it - consider replacing 100% of income for those below a certain income threshold.
- (i) HUB recommends ICBC automatically subrogate to third party extended health benefit providers (like Sunlife, Pacific Blue Cross and others) and ICBC cover reasonable expenses up front and then collect from benefit providers later. If an expense has already been rejected by a third party extended health insurance provider once, ICBC need not require the injured person to have to resubmit that same type of expense to the third party extended health insurance provider each time before ICBC provides coverage.

- (j) ICBC's government-set rates for various categories of therapists are so low they don't cover actual costs, and the reporting requirements for practitioners so onerous that many of them are not interested in treating ICBC patients. The Government of BC must provide an adequate rate and reasonable reporting requirements so that patients can access the care they need from a high quality local provider.
- (k) We understand the ICBC has the intention to introduce an advocate or improved systems for injured people so that they don't have to spend their limited energy meeting ICBC's many bureaucratic requirements. This applies in particular to those with brain injuries. This might be an expanded role for ICBC's Fairness Officer. We support ICBC's efforts to improve in this area.
- (l) Extend the online claim reporting process to non-vehicle owners/lessees/drivers. Currently, motor vehicle drivers can submit a claim online but vulnerable road users must call ICBC to report a claim, thereby creating additional obstacles to accessing benefits. Some impacted people can more accurately and effectively make a claim in writing than verbally by phone. In writing, they have more flexibility to have someone else assist them, and it allows them more time to collect their experiences, where important information may be forgotten in the moment, especially for those with brain injuries or other cognitive/focus impacts from their injuries.
- (m) Coordinate with other insurance companies for motor vehicle coverage (e.g. out-of-province drivers hitting a BC resident), reducing the pressure on an individual suffering from the consequences of a crash. This could include coordination with homeowner or renter's policy issuers that provide coverage for people cycling to provide them with the lowest barrier care and recovery options.
- (n) To reduce collisions preventively, improve continuing education for drivers, at licence renewal, for example. People who received their licenses 10, 20, 30, 40 years ago have not learned about the impacts of new transportation infrastructure, technology, more vulnerable road users and how to drive safely in those contexts. Examples of better continuing education could be digital or paper brochures, links included with driver license renewal notices, ads, or videos on ICBC drivers license renewal office digital screens to view while clients are waiting.

#### Supporting stories

1. [Ben Bollinger - spring 2022](#)
2. [Tim Schober - summer 2021](#)
3. [Matt Scott August 29 2021](#)
4. [Chris Sison July 2021](#)
5. [Alecia Sharp](#)
6. [Tashia Wong](#)

Once the BC Government and ICBC have implemented our suggested improvements to provide more fairness and support to vulnerable road users, HUB Cycling will provide expanded outreach and public education about the opportunities for people cycling and other vulnerable road users to improve their coverage under the new system.

Thank you for considering the recommendations above. We are hopeful that the Enhanced Care system will be updated to better meet ICBC's foundational principles of putting people first and shaping a better future through fighting climate change, as well as meeting the BC Government climate, equity, health, and public safety goals by providing fairer and more inclusive coverage of vulnerable road users.

Sincerely,

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