



The Association for the Protection of Road Accident Victims

-APRAV is a non-profit & voluntary association –

GENERAL BRIEFING

March 2015



Stakeholders to be involved ...



- Road accident victims and their families.
- The tax payers/public in general.
- The RAF and the proposed RABSA.
- Relevant professional bodies.
- Other interested organisations.
- The legal and medico-legal fraternities (attorneys, experts, actuaries, administrators, etc), and
- The Government of the Republic of South Africa, political parties and associated bodies.

WHAT IS APRAV'S FOCUS?



To resolve the issues !

- Create public and industry awareness & clarity
- Ensure that the public's rights are protected
- Address any practical omissions, to ensure that the public can be assisted with their claims (where needed & requested)
- Ensure clarity on how RABSA will be funded and what benefits the public will receive
- Rectify all misperceptions involved
- Generate medico-legal industry statistics, to assist all stakeholders to be well and accurately informed – also the government decision makers
- Challenge the underlying financial assumptions, to ensure that they are realistic, comprehensive and take account of SA's unique socio-economic circumstances
- Facilitate coordination and alignment between the legislator, the government institutions responsible, the victims of road accidents, the medico-legal industry at large and the public.
- How will the thousands of claims be dealt with, that are already in the process?

THE APRAV OUTCOMES



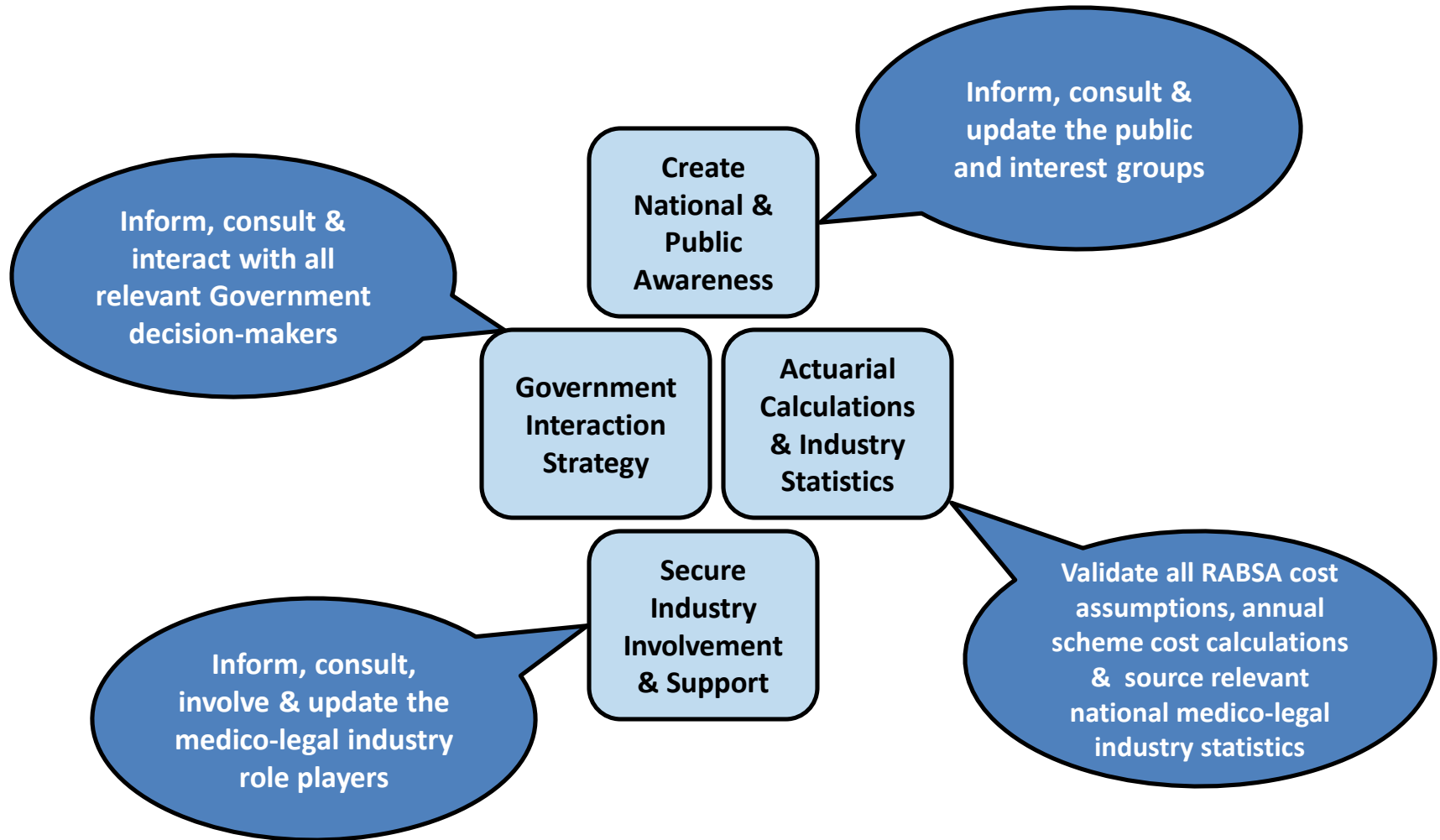
APRAV firmly believes that the RABSA is not fair to the public, practical, affordable or workable - in it's current format.

The primary objective of APRAV is to ensure that RABSA is –

- **reasonable,**
- **equitable,**
- **practical,**
- **effective,**
- **sustainable,**
- **cost-effective and to**

drive & coordinate the required amendments to the RABSA Bill.

The 4 focus area



BACKGROUND to the RABSA Bill



- Initially the system was insurance driven but changed in 1986 to be funded by the current fuel levy (RAF). This was based on the public's common law right and not primarily by statute. In 2008 this right was limited by legislative amendments but was still based on the public's common law right.
- The Department of Transport published a revised version of the Road Accident Benefit Scheme Bill (RABSA) on 9 May 2014.
- The Bill provides for a new no-fault benefit scheme and a new Administrator called the Road Accident Benefit Scheme Administrator (RABSA), which will replace the current RAF and compensation system as administered.
- The key change proposed by the draft legislation is a move away from the insurance based system of compensation, which has by and large been unchanged in South Africa since its inception in 1946, to a system of defined and structured benefits.

IF RABS IS PROMULGATED INTO LAW?



- **No fault will replace general damages (common law limited = unconstitutional)**
- **Actual loss replaced by fixed average national income (unfair)**
- **No legal or other representation allowed (unconstitutional & unfair)**
- **No expert medical experts involved (unlawful)**
- **National Provincial Health system the only basis for treatment & rehabilitation = not ready**
- **RABS ‘judge & jury’**
- **Process unfair & more difficult**

WHAT ARE THE KEY ISSUES!!!



Affordability

- What will RABSA cost?
- How will RABSA be funded?
- What are the funding assumptions for the proposed scheme?
- How will the RAF rectify its current inefficiencies and fruitless expenditure?
- How will national average income be calculated?
- How will the RAF's current balance sheet (\pm Rb 100 debt) be financed?
- How will RABSA's balance sheet be financed?
- What will the impact be on the fuel levy? And how will it be utilised?

WHAT WILL IT COST THE PUBLIC?

Public Rights

- All constitutional rights must be upheld
- The public must be well informed
- Fair recovery of actual damages suffered should be retained
- All have a claim – also children
- No fault does not replace compensation
- The victims' access to proper medical care and the implementation of a lifelong treatment plan (where applicable)
- Victims' practical ability to access the claims process, especially claimants who are illiterate, previously disadvantaged and have limited access to resources, e.g. transport and communication.

WHAT BENEFITS WILL THE PUBLIC RECEIVE?

Practicalities for Claimants

- 'No fault' has many requirements (criteria) with which to comply & is not automatic or guaranteed
- Many of these requirements will make it very difficult for the public to claim
- The public will not be able to claim their actual losses
- The RAF /RABSA has no duty to inform the claimant/public of the outcome of the claim
- The RAF / RABSA will be judge and jury
- How will the RAF cope with the national demands, given that they currently are not coping with a fraction of the direct claims?
- How will the transition be managed?

WHO WILL ASSIST & PROTECT THE CLAIMANTS?

Broader Impact

- Additional pressure on the already ailing health system
- Additional pressure on the social grant system
- An increase in unemployment
- Litigation will simply shift from the RAF to the Department of Health
- Some sections in the RABSA Bill contravenes a number of other laws as well as the constitution – why?
- It will discourage tourism to SA
- It will discourage job creation
- How will it function without a link to the National Health Insurance?
- The exclusion of common law rights will dilute our good international constitutional stance

WHAT ABOUT ALL THE NEGATIVE IMPACTS?

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