



Minister for Finance, Services and Property
The Hon Victor Dominello MP

Our ref: 17/114

Hon Shayne Mallard MLC
Committee Chair
Legislative Council Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Mallard

Shayne

I am writing in relation to First Review of the Compulsory Third Party (CTP) Insurance Scheme by the Legislative Council Standing Committee on Law and Justice, released on 19 August 2016.

I am pleased to enclose the Government Response to the Standing Committee's recommendations.

Any enquiries about the Government Response may be directed to Andrew Nicholls, Executive Director, Motor Accidents Insurance Regulation, State Insurance Regulatory Authority on telephone: (02) 8267 1929.

Yours sincerely

The Hon Victor Dominello MP
Minister for Finance, Services and Property

16-2-17

*Received at 11:50 am
Tuesday 21 February 2017*

NSW GOVERNMENT RESPONSE TO THE FIRST REVIEW OF THE COMPULSORY THIRD PARTY (CTP) INSURANCE SCHEME

Recommendation 1:

That the State Insurance Regulatory Authority include the data solely for CTP scheme efficiency and the data for combined CTP and Lifetime Care and Support scheme efficiency in its annual reports.

Response:

This recommendation has been considered extensively by the actuaries for the CTP and Lifetime Care and Support schemes. Both actuaries recommended against using a combined efficiency ratios since the two schemes are fundamentally different and a combined measure would be potentially misleading.

Specifically, the CTP and Lifetime Care and Support schemes are vastly different in their design, delivery and the expenses they pay. The Lifetime Care and Support scheme is run by a public entity and pays benefits as it goes, while the CTP scheme is operated by private companies that operate in a settlement based modified common law environment. This difference is demonstrated through the average claim payment durations of the two schemes - 25 years in the Lifetime Care and Support scheme, as opposed to 4.5 years for the CTP scheme. Creating a combined efficiency figure would be artificially contrived and as a result would be meaningless and potentially misleading.

Premiums in the two schemes are set on very different bases and the schemes are accounted under different accounting standards. As a result, the efficiency measures for the two schemes use different valuation bases and assumptions. It would not be appropriate to simply average the two figures to calculate a combined efficiency measure.

This advice was included in the 2014 CTP Scheme Performance Report, which was provided to the Committee in 2015.

Recommendation 2:

That the State Insurance Regulatory Authority finalise the new forms for requesting allied health services and case manager or rehabilitation provider services, as soon as practicable.

Response:

SIRA has finalised the revised forms and guidance material for use by allied health professionals providing treatment services to CTP claimants. These are now available for use and being accepted by insurers.

Recommendation 3:

That the NSW Government amend Division 1A of the *Motor Accidents Compensation Act 1999*, including through the removal of section 89A, to address concerns with the settlement conference process.

Response:

The Government is currently considering reforms to the CTP scheme and this recommendation will be considered in that context.

The decision to change the CTP scheme is ultimately a matter for the Parliament.

Recommendation 4:

That the NSW Government amend the late claims process under section 73 of the *Motor Accidents Compensation Act 1999* by extending the period in which a claim can be made without explanation from six to 12 months.

Response:

The Government is currently considering reforms to the CTP scheme and this recommendation will be considered in that context.

The decision to change the CTP scheme is ultimately a matter for the Parliament.

Recommendation 5:

That the NSW Government urgently reform the costs regulation to deter exaggerated and fraudulent claims, especially in regards to low severity injuries to both minors and adults.

Response:

The *Motor Accidents Compensation Regulation 2015* was amended on 1 November 2016 to provide for the following:

- Prohibiting contracting out of maximum legal costs currently permitted for solicitor-client costs for claims where the settlement amount or award is less than \$50,000.
- Where the claimant's settlement or award is more than \$50,000, solicitor-client costs are not recoverable for the first \$50,000 of the settlement or award.
- Maximum legal costs of \$5,000 for claims made by children under 18 years of age where the settlement or award amount is not more than \$25,000 or if the same legal practice is bringing a claim on behalf of another occupant of the same vehicle.
- Maximum legal costs of \$10,000 for claims made by children under 18 years of age where the settlement or award amount is between \$25,000 and \$50,000.

The amendments apply to any claim made on or after 1 November 2016, including those claims where a fee agreement has already been entered into between a claimant and lawyer.

The changes implement a joint proposal of the NSW Bar Association, Law Society of NSW and Australian Lawyers Alliance to address the unusual and significant increase in legally represented small claims in recent years.

Recommendation 6:

That the NSW Government consider how journey claims are treated under any CTP scheme.

Response:

The Government is currently considering reforms to the CTP scheme and this recommendation will be considered in that context.

The decision to change the CTP scheme is ultimately a matter for the Parliament.

Recommendation 7:

That the State Insurance Regulatory Authority consult with the Motorcycle Council of NSW to consider consolidating the current five classifications of motorcycles in NSW into the following two classes – Learner Approved Motorcycle Scheme (LAMS) and non-LAMS

Response:

SIRA is currently consulting with Roads and Maritime Services (RMS) regarding the release of motorcycle classifications in the DRIVES database to CTP insurers. This would enable SIRA to reclassify motorcycles from five classifications to two classes – Learner Approved Motorcycle Scheme (LAMS) and non-LAMS.

Once this process is complete, SIRA will consult further with motorcycle representative groups. It is noted that previous consultation could not result in agreement with motor cycle groups as this proposal will result in price increases for some motorists.

Recommendation 8:

That the NSW Government establish a fair and equitable CTP premium for all vehicles used in commercial and ride share operations.

Response:

The NSW Government has announced that it will introduce a dynamic new CTP pricing system for point-to-point vehicles. Under the new premium arrangements, point-to-point vehicle owners will pay a base CTP premium, plus an additional variable component based on their vehicle usage, which will be collected through in-vehicle technologies such as telematics. The changes will mean ride-sharing vehicles will pay premiums more reflective of their risk and usage.

The reforms follow a review undertaken earlier this year to ensure that the CTP insurance framework provides greater fairness in the sector and supports ride-sharing services on a level playing field alongside traditional forms of point-to-point transport such as taxis and hire cars. While usage-based premium pricing will be optional for taxi and hire cars, it is noted that the changes cannot commence until the necessary legislative changes have been approved by the Parliament. It is anticipated that legislation giving effect to the new premium arrangements will be included in the package of reforms to the broader CTP scheme.