

# 2018 review of the Compulsory Third Party insurance scheme

## SIRA Pre-Hearing Questions – 2 October 2018

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### Q.1. How much of the premium dollars received from 1 December 2017 to date were:

- a. Paid to claimants
- b. Paid to Medical and Allied Health
- c. Paid to Lawyers
- d. Paid to insurers in terms of acquisition and profit

Of the approximately \$1.5bn<sup>1</sup> received in premium as at 9<sup>th</sup> September, the table below shows payments made to 31 August 2018 for claims arising from policies purchased and premiums collected between 1 December 2017 and 31 August 2018, of approximately \$40.1mil. This is then compared to the quantity expected to be paid over the life of these claims, demonstrating the long-tail nature of the scheme.

As noted below, SIRA is actively directing premium pricing under the strong transitional provisions in the 2017 Act. Insurers are limited to filing an acquisition and handling expenses to a maximum of \$43.60 per policy (on average across the policies written by an insurer) and a filed profit margin to a maximum of 8% of gross premium (before levies and GST). At the current average premium in the industry, this equates to an average of approximately \$28 per policy.

SIRA has commissioned a review of the current premium parameters by independent actuaries to determine if premiums set at the appropriate level to cover future claim costs or should reduce further to avoid excess profit. The terms of reference for this review are attached at Tab A. The review is now expected to include a discussion with the SIRA CTP Premium Committee by the end of September 2018 and a draft report in October 2018. The membership of the CTP Premium Committee established under the 2017 Act is at Tab B.

	<b>Amount Paid (as at 31 August 2018)</b>	<b>Estimated amount expected to be paid over the life of the claims made against policies sold to date (over the next 5 plus years)</b>
Payments to claimants	\$21m  (which includes weekly payments and funeral benefits)	\$604m  (which includes weekly payments, economic loss, non-economic loss and funeral benefits)
Payments for Medical and Allied Health services	\$19m  (through treatment, rehabilitation and care)	\$219m <sup>2</sup>
Payments for legal services	\$0.01m  (through plaintiff and defendant legal costs, excluding investigation)	\$260m

	<b>Amount Paid (as at 31 August 2018)</b>	<b>Estimated amount expected to be paid over the life of the claims made against policies sold to date (over the next 5 plus years)</b>
Insurer acquisition expenses and profit	<p>Insurers are required to follow APRA and normal accounting practices to manage and report cashflows and profit, including annual reporting requirements.</p> <p>SIRA is directing premium pricing under the strong transitional provisions in the 2017 Act. Insurers are limited to filing an acquisition and handling expenses to a maximum of \$43.60 per policy (on average across the policies written by an insurer) and a filed profit margin to a maximum of 8% of gross premium (before levies and GST). At the current average premium in the industry, this equates to an average of approximately \$28 per policy.</p>	\$300m

<sup>1</sup> premium sourced from individual policy data supplied by insurers, and has been approximated to exclude GST and levies. There may be a submission lag of up to 3 weeks from when insurers collect the premium and when it is reported to SIRA, due to the requirement that the policies require validation by RMS and the policy data submission process is still being refined with insurers.

<sup>2</sup> This amount excludes bulk billing payments by SIRA from the Medical Care and Injury Services Levy to NSW Health for services provided direct to injured road users by public hospitals and the Ambulance Service of NSW

**Q.2. From 1 December 2016 to 30 November 2017 how much was paid from the scheme for medical treatment including rehabilitation expenses?**

While the data available to SIRA under the 2017 scheme is more timely as a result of the 2017 reforms, for the 1999 scheme, payment data for the 1999 scheme is only available on a quarterly basis. For this reason, we have supplied information for the period 1 October 2016 to 30 September 2017 in response to this question, as this is the most recent period of 4 quarters of data (12-month period) where only the 1999 scheme was in operation.

During the period 1 October 2016 to 30 September 2017, \$179m was paid in relation to medical treatment including rehabilitation expenses. Of this amount \$154m was in relation to accidents that occurred during 1996 to 2016, and the remaining \$24.3m was in relation to accidents during the period 1 October 2016 to 30 September 2017. This latter amount provides a more like-for-like comparison with the 2017 scheme as it currently stands.

**Q.3. Of the disputes thus far lodged with DRS, what are the type(s) of disputes which have been referred?**

The response to this question is being finalised with data to 31 August and will be sent through to the committee as soon as possible.

**Q.4. What is the cost of operating the new CTP Dispute Resolution Service and how can this be compared to the cost of operating the dispute resolution system under the 1999 Act?**

SIRA provides dispute resolution services for both the 1999 and 2017 CTP schemes, as well as providing dispute resolution services in the Lifetime Care and Support Schemes (NSW & ACT). In 2017/18 the DRS received 9,860 disputes across these schemes. It finalised 9,821 disputes. In relation to the 2017 scheme, it received 73 disputes in 2017/18 (representing 0.7% of all lodgements to the service) and had finalised 13. The average cost of operating the CTP Dispute Resolution Service for the last three financial years (2015-16 to 2017-18) was \$33.5M. Given the low number of disputes relating to the 2017 scheme it is too early to compare the cost of operating the new 2017 scheme to that of the 1999 scheme.

**Q.5. How does the cost of operating the new CTP Dispute Resolution Service compare to the cost of other similar tribunals operating in New South Wales or elsewhere?**

The average cost of operating the CTP Dispute Resolution service for the last three financial years was \$33.5M. Over that period an average of 9,749 disputes were lodged per year. The most obvious comparisons are with similar specialist personal injury tribunals. For example, the NSW Workers Compensation Commission had an average operating cost over the last three financial years of \$23.7M with an average of 7,153 applications registered per year. Whilst not a specialist personal injury tribunal, The NSW Civil and Administrative Tribunal (NCAT) in its published Annual Report for 2016/17 received a total of 66,837 disputes lodged with a total operating budget of \$85.6M. The Victorian Civil and Administrative Tribunal (VCAT), which reviews decisions made by the Victorian TAC, in its published Annual Report for 2016/17 received a total of 86,461 disputes with a total operating budget of \$98.7M. Both the NCAT and the VCAT charge applicants' lodgement fees which, depending of the nature of the dispute, can range in value from \$26 to upwards of \$2k. Both the WCC and DRS do not charge lodgement fees and are free for applicants to lodge.

**Q.6. What is the average cost per dispute in the 2017 CTP system and how does this compare to other tribunals operating in New South Wales or in other jurisdictions?**

Over the last three financial years the CTP Dispute resolution received an average of 9,749 disputes across these schemes. The average cost per dispute was \$3,437. This was compared to the Workers Compensation Commission which, based on the information available to SIRA, had an average cost per dispute of \$3,318 over the last three financial years.

**Q.7. What is the efficiency of the 2017 Dispute Resolution Service, particularly with regard to staff to disputes ratios?**

As per the response to question 4, given the low number of disputes lodged relating to the 2017 scheme it is too early to provide meaningful staff to dispute ratios for the new 2017 scheme. Based on the average of the last three financial years for the entire Dispute Resolution Service the ratio of Full Time Equivalent Staff (not including assessors) to disputes lodged was 82:10,255 this represents 125 disputes lodged per FTE on average per year.

DRS also monitors its timeliness on all dispute types and sets benchmarks for the resolution of each dispute type. DRS timeliness figures for 2017/18 show;

- 1999 scheme CARS General Assessment of Damages (CARS 2A) Av 157 working Days (KPI <180 working Days)
- 1999 scheme MAS permanent impairment dispute (MAS 2A) Av 110 working days (KPI <100 working days)
- 2017 scheme DRS Merit Review Av 41 working days (KPI <28 working Days)
- 2017 scheme DRS Medical Assessment Av 48 working days (KPI <100 working days)
- Merit Review (WCC scheme) Av 28 working days (KPI <30 working days)

**Q.8. Has the new Dispute Resolution Service been measured in accordance with the standards set out in the latest tribunal excellence framework published by the Council of Australasian Tribunals? If so, what were the results of these measurements?**

SIRA has not yet undertaken an independent assessment of the new Dispute Resolution Service established under the 2017 Act in accordance with the standards for tribunal excellence.

SIRA's Dispute Resolution Services Division has previously undertaken two assessments to benchmark its services under the 1999 Act against the Tribunal Excellence Framework published by COAT. The first assessment was conducted in 2013 by Diacher Consulting. The second assessment was conducted internally by the DRS in November 2017.

The 2013 assessment was applied to the Medical Assessment Service and the Claims Assessment Service. Both MAS and CARS were assessed as meeting criteria of Level 5, based on scores of 304 and 319 respectively (total 618). Level 5, as defined by the Framework provides the following insight:

- A proven and well-defined strategic approach with evidence of refinement through learning and improvement which is well integrated with organisational needs.
- The tribunal's strategic direction has been implemented in all key areas of the organisation and is practiced consistently by all levels.
- Current performance levels are good to excellent in most key indicators and/or improvement trends are sustained in most areas; or there are favourable comparisons or benchmarks in most areas; or results are reported for all key indicators.

The second 'self-assessment' of the Dispute Resolution Services using the Framework was undertaken by two senior staff. The outcome of the survey was a total score of 735/1000 which again placed DRS in Band 5. The main reason cited for the improvement in scores was the greater ability provided for by the 2017 legislation to publish decisions.

**Q.9. How many claims relating to "no-fault" accidents have there been from 1 December 2017 to date?**

As at 31 August, there have been 797 at-fault claims, 3251 not-at-fault claims and another 2856 claims where fault status is not yet determined.

**Q.10 How many work related motor accident claims have been lodged from 1 December 2017 to date?**

While data on the individual’s reason for travel is not collected as it is not required to make a CTP claim and is not available, SIRA does have data about claims where a person is injured in the course of work and also makes a Workers Compensation claim.

There are six Workers Compensation claims within the CTP scheme from 1 December 2017 to 30 June 2018. These are claims where a Workers Compensation provider seeks recovery of benefits paid to a worker injured in a motor accident during the course of their employment (not including journeys to and from work).

**Q.11. Of the 25,985 customers who have received assistance from CTP Assist, what categorisation exists to break down the content of these enquiries/requests?**

Table 1 below shows the categorisation of inbound contact channels used by customers.

**Table 1**

<b>Inbound Contacts</b>	
<b>Phone (Inbound)</b>	<b>56.61%</b>
Motor Accident Injuries Act 2017	27.2%
Motor Accident Compensation Act 1999	15.1%
Other Enquiries	13.2%
SNSW Transfers	1.0%
<b>Online (Web and Email)</b>	<b>32.07%</b>
CTP Greenslip Calculator	3.9%
Emails	20.7%
Online Claims Submission	5.0%
Nominal Defendant	2.4%
<b>Feedback (All Channels)</b>	<b>11.32%</b>

Table 2 below shows the percentage breakdown of outbound calls and activity.

**Table 2.**

<b>Outbound call activity</b>	<b>% breakdown</b>
Follow-up	93%
General	7%

Table 3 below provides a more detailed breakdown of the inbound contacts.

**Table 3.**

Feedback Type	Feedback Sub-Type		Internal Category
Enquiries	59.51%	Claims Disputes	Decision
			Lodgement
			Process
			Other
		CTP Green Slips	Calculator Feedback
			Coverage
			Green Slips Refunds
			Price
			Rating Factor
			Short Term Rego
		Motor Accident Injury Claims	Other
			Entitlement
			Lodgement
			Process
			Police
		The CTP Scheme	Minor Injuries
Police			
CTP Reform			
Feedback (includes general comments and suggestions)	6.88%	About an Insurer	Case Management
			Decisions
			Notifications
			Payment
			Others
		CTP Green Slips	Calculator Feedback
			Coverage
			Green Slips Refunds
			Price
			Rating Factor
			Short Term Rego
		The CTP Scheme	Other
			Police
		Contact Support Services Dispute Resolution Services	CTP Reform
		Compliment	2.86%
Decisions			
Notifications			
Payment			
Others			
The CTP Scheme	Police		
	CTP Reform		
Contact Support Services Dispute Resolution Services			
Complaint	7.85%	About an Insurer	Case Management
			Decisions
			Notifications
			Payment
			Others
		CTP Green Slips	Calculator Feedback

Feedback Type	Feedback Sub-Type		Internal Category
			Coverage
			Green Slips Refunds
			Price
			Rating Factor
			Short Term Rego
		Other	
		The CTP Scheme	Police
			CTP Reform
		Contact Support Services Dispute Resolution Services	
Fraud	0.31%	Fraud	
Misc.	22.59%	Consumer	Green Slips Transfer to SNSW
			Other General Enquiries
			Price/Premium Checks
			Short Term Rego
		Injured Person	Cold Call Report/Scam
			DRS-Motor Accidents Compensation Act 1999 Transfer
			DRS- Motor Accident Injuries Act 2017 Transfer
			Transfer to Other Services
		Insurer	Drives Enquiry
			DRS Transfer
			Insurer Claims Enquiry
		Legal	Cost Disclosure Enquiry
			Drives Enquiry
			DRS Resolved
		Medical	DRS Transfer
			Assessor Transfer to DRS
		Outbound Call	Drives Enquiry
			Survey Call

**Q.12. How many complaints have been received about the operation of CTP Assist?**

A total of 8 complaints received since the service commenced in December 2017.

**Q.13. How many claims have been made for no-fault statutory payments for funeral expenses for death claims under the scheme since 1 December 2017?**

72 claims have been made for funeral expenses. 110 compensation to relatives claims have been made.

**Q.14. How many deaths have there been on NSW roads since 1 December 2017?**

SIRA has been advised that from 1 December 2017 – 19 September 2018 there have been 306 deaths on NSW Roads.



**Q.15. What is the number of claims that have thus far been rejected by insurers under the statutory benefits scheme for being late?**

33 late claims for statutory benefits have been rejected as there were no reasons for late lodgement provided by the claimant. This is an initial coding of the status of the claim by insurers and injured people still have the opportunity to provide reasons for lodging their claim after the deadline. Should an insurer not accept the claim after this, the injured person has a right of review.

SIRA is conducting an audit of insurer coding of claims status and claims management practices, including of these 33 late claims, to ensure that injured people with late claims are treated fairly by insurers and that claims management practices are compliant with the legislation and guidelines. Work is also underway to continue to improve the data quality of the insurer reporting.

**Q.16. Of this number, how late on average were claims that were rejected lodged?**

Based on the information available, the average time for receipt of late claims is approximately 2 months after the 3 month time frame to lodge a claim.

**Q.17. What is the shortest time a claim was rejected for being late? What was the longest time a claim was rejected for being late?**

Based on the information available, the shortest period of time for which a claim was rejected for being late was 10 days after the 3 month time-frame to lodge a claim, and the longest was 182 days.

**Q.18. How many claims were rejected or denied because the insurer denied liability?**

As at 31 August 2018, approximately 59 claims had been denied.

**Q.19. What was the reason given for the denial of liability above?**

- 33 late claims were denied because the insurer determined that no reasons for the late claim were provided by the claimant,
- 8 claims that were denied because the insurer determined the claims related to motor vehicle accidents that occurred in other jurisdictions (ACT and SA)
- 18 claims were denied because the insurer determined that the claim did not involve a motor vehicle accident, or that the injuries were not sustained from the motor vehicle accident or that the claim related to a serious driving offence.

**Q.20. Since 1 December 2017 how many claims were rejected or denied due to fraud?**

No claims have been rejected or denied due to fraud under the new scheme to date.

**Q.21. Since 1 December 2017 how many claims have there been where the insurer has alleged fraud on the part of the Claimant or a service provider?**

There have been 51 such claims since 1 December 2017 in the 1999 scheme. There have been no claims where an insurer has alleged fraud on the part of the claimant or service provider under the new scheme.

**Q.22. How many claims have been exempted from assessment by CARS or by the DRS due to an insurer alleging that the claimant or someone connected with the claim has made a fraudulent claim and/false or misleading statements in relation to a claim?**

From 1 December 2017, 65 claims have been exempted from assessment by CARS or by DRS due a fraudulent claim and false or misleading statements.

**Q.23. How many of these exempt claims have settled by way of negotiation and what are the average, highest, lowest and median levels of payments made on those occasions?**

From the 65 exempted claims, the average, median, highest and lowest is represented in the table below:

	Total payment	Total Payment Excl. Legal and investigation
Average payment	\$28,973	\$8,548
Median payment	\$16,044	\$1,108
Highest payment	\$443,158	\$285,307
Lowest payment	\$75	\$0

**Q.24. How many of the exempt claims noted above have been assessed or determined by way of court proceedings and, what are the average, highest, lowest and median levels of payments made on those occasions?**

Based on the available information, all of these were settled and did not proceed to judgement.

**Q.25. How many referrals by insurers under Section 117 of the Motor Accident Compensation Act 1999 have been made to the NSW Police Force?**

Based on the information available, there have been 117 referrals by insurers under Section117 of the Motor Accident Compensation Act 1999 to the NSW Police Force through Strike Force Ravens.

**Q.26. How many referrals by insurers under Section 6.40 and/or 6.41 of the Motor Accident Injuries Act 2017 to the NSW Police Force have been made?**

Based on the information available, there have been 2 referrals under Section 6.40 and Section 6.41 of the Motor Accident Injuries Act 2017 to the NSW Police Force through Strike force Ravens.

**Q.27. How many prosecutions have been commenced under either Section 117 of the Motor Accidents Compensation Act 1999 or Section 6.40 or 6.41 of the Motor Accident Injuries Act 2017?**

From the information available, 10 prosecutions have been commenced in conjunction with Strike force Ravens under Section 117 of the Motor Accidents Compensation Act 1999, and no prosecutions have been commenced under the Motor Accident Injuries Act 2017.

**Q.28. How many referrals to other agencies have been made by insurers for investigation and/or prosecution of alleged fraudulent behaviour (for claims including Medicare, Centrelink, family benefits or taxation fraud)?**

From the information provided to SIRA, there have been 12 matters referred to date by insurers, with several additional matters currently under investigation. These relate to both the 1999 and 2017 schemes.

**Q.29. How many prosecutions have arisen out of referrals to the agencies as noted above?**

From the information available, at least 14 prosecutions have arisen from referrals made to the NSW Police Force and other agencies for fraudulent behaviour.

**Q.30. What steps have been taken by SIRA to ensure that fraud and/or over-servicing is not being committed by service providers such as medical and allied health practitioners.**

SIRA and the Health Care Complaints Commission (HCCC) as co-regulators refer matters between the two entities to ensure the regulatory response is actioned by the regulator with the relevant powers.

With the recent increase in more detailed data from insurers, SIRA is designing regular reporting to enable evidence based oversight of provider interactions within the CTP scheme, including identification of spend trends and outliers.

For example, SIRA is currently undertaking an investigation of a medical provider who has allegedly undertaken potentially fraudulent behaviour across both the motor accident and workers compensation insurance schemes. SIRA is analysing data to determine the scope of the potential fraud, and assessing the avenues for regulatory enforcement activity available under the relevant legislation.

**Q.31. How many people have been notified that their benefits will be cut off at 6 months post-accident?**

Based on the information provided to SIRA, approximately 3300 people have been notified that their statutory benefits will be limited to 26 weeks (6 months). This is consistent with the injury profile in the 1999 scheme, and other motor accident schemes around Australia, where the majority of injured people have injuries of a minor severity. The evidence and advice of medical experts is that people with only minor injuries should be recovered and back to their normal life well within 6 months.

If injured people with a minor injury can show that ongoing treatment will further aid their recovery, an insurer is able to continue the provision of treatment beyond 6 months. To date there are more than 400 people with minor injuries who have received treatment beyond 6 months.

**Q. 32. What proportion of statutory benefits claimants do you estimate will require the support of a lawyer to have their dispute resolved?**

As at 30 June 2018, of the 5,137 reported statutory benefit claims in the 2017 scheme, 1,051 have been coded by insurers as involving a lawyer. This represents an estimated current legal representation rate of 20%.

However as injured people progress through the 2017 scheme we expect disputes to arise between insurers and injured persons leading to greater legal involvement. Ultimately, we expect legal representation for the 2017 scheme to develop to about 50%-60% as claims develop and reach finalisation.

**Q.33. What proportion of claimants required the services of a lawyer in the old scheme?**

For claims reported for the last accident year of the 1999 scheme, the legal representation rate was 79%.

**Q.34. Will the DRS and CTP Assist ultimately lead to a reduction in scheme legal costs?**

CTP Assist is a support and outreach service to assist people with information about the scheme, including claims and dispute resolution processes. It is also intended to assist with improved claimant experience of the scheme and enables closer regulator monitoring of insurer conduct and claims handling. Where this service can escalate issues arising from claim management to early regulator intervention, it has potential to reduce disputes and therefore reduce legal costs.

The Dispute Resolution Service established in the 2017 scheme is designed to resolve disputes in an efficient, timely and relatively informal manner. SIRA is working to put in place procedures to provide earlier access to decision makers. Where earlier resolution of disputes is achieved it is anticipated legal costs would reduce on average.

**Q.35. How does the Panel of Independent Legal Experts work and how will you measure the success of this new service?**

SIRA has established a CTP Legal Advisory Service. This service is made up of a panel of lawyers who provide independent legal advice to injured people in the new scheme.

CTP Assist will confirm eligibility and arrange a telephone based consultation between the injured person and the lawyer from the service. Interpreters can be engaged if needed.

Advice will be provided over the phone and also confirmed in writing. The advice is confidential.

Only certain matters can be referred to the legal advisory service. These are outlined on the attached fact sheet. The Legal Advisory Service Lawyer will only advise on the specific matter referred to the service. There is no cost to the person for using this service.

SIRA acknowledges that take up of this service has been very low and will now commence an evaluation in December 2018. The evaluation will include assessment of:

1. Operational output such as numbers of injured people referred to the service and, of the people referred, the number who actually use the service.
2. Operational performance such as lawyer response timeframes and average cost of advice.
3. Customer outcomes including customer satisfaction and feedback.
4. Consultation with stakeholders and service providers to identify improvements in the service.

**Q.36. In the old scheme legal costs accounted for 18 per cent of the total premium collected, will it be less in the new scheme?**

On a scheme efficiency basis, 17% of premiums (\$596 million) each year was paid for legal and investigation costs for the 1999 scheme. In the 2017 scheme, 16% of premiums (\$356 million) is expected to be paid each year for legal and investigation costs.

The reduction in legal and investigation costs is expected to return around \$240 million to the vehicle owners of NSW in reduced premiums. This combined with reduction in insurer profits and costs has resulted in most motorists getting a reduction in their Green Slip price of between \$130 and \$200.

**Q.37. Are these services modelled on the Victorian Transport Accident Commission scheme and what are the learnings from the Victorian experience?**

The CTP Legal Advisory Service is not modelled on the Victorian Transport Accident Commission (TAC) scheme. There are no identical services being provided in any other State.

The TAC does pay set fees, for statutory benefit disputes, to legal firms that have signed up to the TAC Protocols which detail processes and costs in resolving agreed types of disputes. While SIRA did explore the option of taking a similar approach prior to the implementation of the new CTP scheme it is understood it appeared at the time that this did not have broad support. The 2017 scheme provides for legal costs to be set by regulation, which is not the equivalent of the TAC Protocols. However, there may be potential for the CTP Legal Advisory Service to adopt some features from the TAC model if that is considered to have merit.

SIRA’s evaluation of the CTP Legal Advisory Service will include consultation to identify options for improvement. SIRA is also working to enhance the information on the SIRA website to inform injured people about available legal service providers.

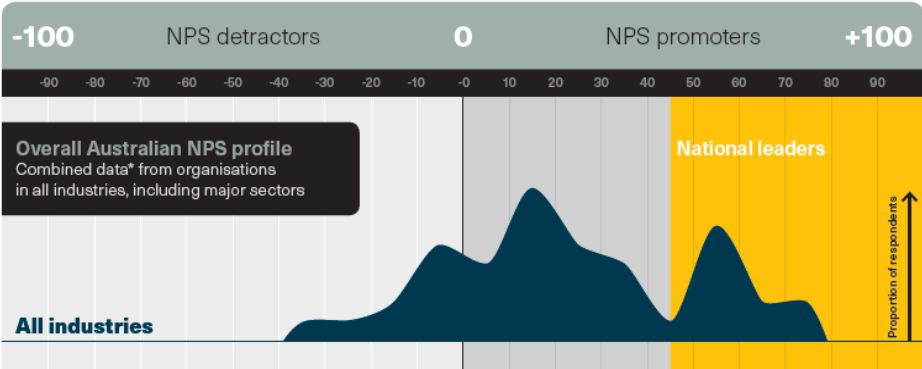
**Q.38. How will you measure claimant satisfaction with the CTP Assist service? Was this being measured in the old scheme?**

Customer Satisfaction with CTP Assist is measured through Net Promoter Score and Customer Experience Research conducted by an independent market research company. This involves online surveys and qualitative interviews assessing interactions at different points in the claims process.

This was not previously measured in for the service delivered by the Claims Advisory Service in the 1999 scheme, however we have recruited participants who have claims under MACA for surveys and interviews as part of this new measurement program.

The current Net Promoter Score (NPS) based on responses to the question “how likely are you to recommend CTP Assist to a family member, friend or work colleague?” is +46. As the diagram below indicates this is a good result according to the Australian NPS Pulse Check.

**Australian NPS Pulse Check**



*This diagram is provided by the Customer Experience Company [www.customerexperience.com.au](http://www.customerexperience.com.au).*

The current Customer Effort Score based on responses to “CTP Assist made it easy for me to get help (from 0 to 5)” is 4.1 out of a possible highest score of 5.

Customer satisfaction surveys are indicating a 67% satisfaction with CTP Assist (2017 scheme) compared to a 45% satisfaction with the Claims Advisory Service (1999 scheme).

## **Terms of Reference for the independent actuarial review of the new motor accident injuries (compulsory third party) scheme premium parameters**

*Commissioned by SIRA August 2018*

### **Background**

Following the design of the *Motor Accident Injuries Act 2017* (MAI Act) CTP scheme benefits, Ernst & Young (EY), the State Insurance Regulatory Authority's (SIRA's) independent scheme actuary, produced a costing for average premium payable in the new scheme of \$551 (including GST and levies) based on a number of assumptions derived from an analysis of accident data as well as CTP schemes with similar benefit structures. This costing was then used in calibrating the Motor Accident Guidelines Schedule 1E parameters to meet the required average premium of \$528 announced by the government for the initial premium for the new scheme.

Prior to the commencement of the scheme on 1 December 2017 and in accordance with the Motor Accident Guidelines, each of the insurers filed and provided a comparison of their filing parameters against each of the Motor Accident Guidelines Schedule 1E parameters. This took into account their own business mix by class and region and other claims experience related factors.

The filed average premium for all insurers taking into account projected market share was \$520. Since 1 December 2017, several insurers have re-filed and the current average premium is in the order of \$518.

In addition to the legislated review of the scheme after 3 years, as part of SIRA's monitoring activities, SIRA is commissioning an interim review of the 2017 Scheme by the independent scheme actuary EY to assess the status of the scheme and provide any early insights or observations that would inform any actions by SIRA. SIRA is also commissioning independent peer review actuary Taylor Fry to peer review the EY report.

### **Terms of Reference**

Considering the powers of SIRA to direct premium changes during the transition period to ensure fair CTP prices, the principal objectives for the interim review are to:

- Assess whether there is any evidence to change the Motor Accident Guidelines Schedule 1E parameters based on the scheme experience from 1 December 2017 to 30 June 2018 inclusive, which may lead to a direction to insurers to re-file
- Based on the above findings, advise of any emergent potential to alter benefit-related costs without altering premiums (including GST and levies), taking into account the need to assure financial stability of the scheme and a competitive market.

Both EY and Taylor Fry will be asked to present to the Chief Executive and the SIRA Board CTP Premium Committee and will be given an opportunity to provide any other relevant advice to SIRA on significant matters or emergent risks or opportunities detected during the review.

Both the EY report on the interim review and the Taylor Fry peer review are planned for completion in September 2018.

# Compulsory Third Party (CTP) Premium Committee

## Member Profiles



State Insurance  
Regulatory Authority

### Chair, Nancy Milne, OAM

Ms Milne is a former lawyer with over 30 years' experience primarily in insurance and reinsurance, risk management, corporate governance and professional negligence.

She was a partner with Clayton Utz until 2003 and a consultant until 2012. In 2008, she was awarded the Order of Australia Medal for services to the legal sector particularly as an insurance lawyer and to the community. She was also previously a director of the Australand Group (now Frasers Property Group), Greenstone Limited, and the Superannuation Administration Corporation (Pillar Administration).

Ms Milne is currently Chair of the Securities Exchange Guarantee Corporation and the State Insurance Regulatory Authority Audit and Risk Committee, a director of ALE Property Group, non-executive director of FBR Limited, and a member of the Asbestos Safety and Eradication Council and the NSW Council of the Australian Institute of Company Directors.

Ms Milne has a Bachelor of Law from the University of Sydney and is a fellow of the Australian Institute of Company Directors.

### Member, Janet Dore

Ms Dore has been Chair of the Committee for Ballarat since October 2015.

She has previously held senior executive roles in local government as Chief Executive Officer of the Cities of Ballarat and Newcastle NSW, and was the Chief Executive Officer of the Transport Accident Commission in Victoria from 2008 to 2015.

Ms Dore is currently Deputy Chair of the Central Highlands Water Board, Victorian Taxi Services Commissioner, Municipal Monitor at the Rural City of Ararat, and Director of the Municipal Association of Victoria (MVA) WorkCare. Her previous Board experience has included nib Health Funds, Newcastle Airport, and Institute for Safety Compensation and Recovery Research (ISCRR).

Ms Dore holds a Master of Business Administration from Deakin University and is a Fellow of the Australian Institute of Company Directors.

### Member, Chris Latham

Mr Latham is an actuary with extensive experience in accident compensation schemes throughout Australia and New Zealand. He has advised government authorities and private insurers over long periods on matters relating to premiums, balance sheet liabilities and costs of benefit changes.

He was a partner of PricewaterhouseCoopers for over 20 years before retiring in 2013.

Mr Latham is currently a non-executive director of ReturntoWorkSA and the Asbestos Injury Compensation Fund. He was previously Chairman of the Personal Injury Education Fund (PIEF) and a director of the Institute of Safety Compensation and Rehabilitation Research (ISCRR).

He has been a member of the Board of the Institute of Actuaries of Australia and been an active member of various committees and taskforces relating to general insurance, professional standards, financial condition reports and research. He has authored a number of papers on insurance and accident compensation matters.

He has a Bachelor Science (Hons) degree from the University of Tasmania and is a Fellow of the Institute of Actuaries of Australia.





## Member, John Trowbridge

Mr Trowbridge has a background as a consultant, executive, company director and regulator in a career spent predominantly in financial services with an emphasis on insurance-related businesses.

He founded Trowbridge Consulting in the 1980s which became a leading actuarial and management consulting firm in Australia and Asia, merging with Deloitte in 2000. From 2006 to 2010, as one of the Australian Prudential Regulatory Authority's three Members he had carriage of life and general insurance and also executive remuneration. He chaired the Australian Government's review of natural disaster insurance following the 2011 floods. In 2015, he chaired the Life Insurance and Advice Working Group to recommend reforms in the life insurance industry which came into effect in January 2018.

Mr Trowbridge continues to undertake occasional consulting assignments and he recently played a pivotal role in the recent redesign of the CTP premium regime in NSW. John has degrees in science, engineering and arts and is a Fellow of the Institute of Actuaries of Australia. He was President of that Institute in 1998 and a member of the Treasurer's Financial Sector Advisory Council from 1998 to 2004.

This fact sheet for injured people provides an overview of the CTP Legal Advisory Service created by the State Insurance Regulatory Authority (SIRA).

## What is the CTP Legal Advisory Service?

When the new CTP Green Slip scheme came into effect on 1 December 2017, new laws were introduced which prevents lawyers from receiving payment for certain services, and regulates how much they can charge for other types of services. This means lawyers cannot be paid for or recover costs for providing advice on certain matters.

To ensure you have access to legal advice in these instances, SIRA has established a CTP Legal Advisory Service. This service is made up of a panel of lawyers who provide independent legal advice to people who have been injured in a motor accident on or after 1 December 2017.

If you are already receiving advice from a lawyer on your CTP claim it is recommended that you speak to them.

## How do I access the CTP Legal Advisory Service?

Call CTP Assist on 1300 656 919. They will confirm your eligibility and arrange a telephone-based consultation between you and a lawyer from the service. If you need an interpreter CTP Assist can also arrange this for you.

The lawyer will provide you with advice over the phone, and confirm that advice to you in writing. The advice you receive will be confidential. Access the “CTP Legal Advisory Service – timeframe expectations” fact sheet on the SIRA website ([www.sira.nsw.gov.au](http://www.sira.nsw.gov.au)) for further information on what to expect when working with the service.

## What matters can be referred to the CTP Legal Advisory Service?

Only certain matters can be referred to the CTP Legal Advisory Service for advice (see the table, below). These relate to claims for statutory benefits for a motor accident that occurred on or after 1 December 2017.

Advice can be provided at different stages during the life of a claim, including:

- before a decision is made by an insurer
- at any time before or after internal review (but not in connection with the internal review application)
- at any time before an application is made to the Dispute Resolution Service (DRS).

To read more about internal reviews and the DRS, visit the [SIRA website](http://www.sira.nsw.gov.au).

The table below outlines the matters which can be referred to the CTP Legal Advisory Service:

Reason for referral	Example of when information or advice may be required
Funeral expenses	What is a 'reasonable' funeral expense?
Amount of weekly payments	Pre-accident weekly earning, post-accident earning capacity and calculations.
Cessation of a pending damages claim	Whether the cessation of weekly payments after the maximum weekly payments period is subject to a pending claim for damages.
Suspension due to work fitness evidence	Insurer disputes 'special reasons' for a certificate of fitness for work covering a period that exceeds 28 days.
Suspension due to non-rehabilitation/treatment/training	Do you have a 'reasonable excuse' not to comply in undertaking rehabilitation, treatment or vocational training?
Insurer notice periods	Has the insurer complied with the relevant notice periods?
Recoverable statutory benefits	Is there a right to recover and if so, what amount?
Gratuitous services	Do you have a loss of capacity to provide gratuitous services, and if so, what is the amount payable?
Retirement age termination	Termination of weekly payments on retiring age.
Suspension re medical evidence	Have you provided the insurer with a medical certificate certifying your fitness for work?
Weekly benefits outside Australia	Are you residing outside of Australia and want to claim ongoing weekly payments and your loss is likely to be permanent?
Variation of weekly payments	Your weekly payments been varied and you do not agree (e.g. have they been indexed correctly?)
Cost of treatment and care	Is the cost of treatment and care reasonable?
Verification of expenses	Have expenses been properly verified in accordance with the Act?
Treatment and care within time	Have expenses been incurred within the 26-week period for at fault or minor injury claims?
Treatment and care authorised	Are treatment expenses incurred more than 26 weeks after the date of the accident authorised to be paid?
Treatment and care compensated	Has the treatment and care already been paid under a damages claim or bulk billing arrangement?
Treatment and care limits	Does the cost of treatment or care exceed the limits imposed by the Motor Accident Guidelines?
Excluded treatment and care	Is the treatment and care covered by the Lifetime Care and Support Scheme?
Treatment and care outside Australia	Are you receiving treatment outside Australia (as a citizen or permanent resident)?

Note that the lawyer assigned to you can only advise on the specific matter for which you have been referred after contacting CTP Assist.

For example, if you are referred to the CTP Legal Advisory Service for advice on the amount of statutory benefits that are payable, the lawyer can only advise you on whether your pre-accident weekly earnings (PAWE) has been calculated correctly. The PAWE is the amount you were earning at the time you were injured. The lawyer would not be able to also provide advice on another matter, for example, whether you have a minor injury.

## Matters which cannot be referred to the CTP Legal Advisory Service include:

- advice about a claim under the *Motor Accidents Act 1988*
- advice about a claim under the *Motor Accidents Compensation Act 1999*
- any common law claims
- advice relating to an application for internal review.

The CTP Legal Advisory Service lawyer cannot:

- file any documents or make any applications in a court or to DRS on your behalf; or
- represent you at DRS or in a court.

## What will it cost?

There is no charge to you to access this service.

## Who are the lawyers who provide advice through the CTP Legal Advisory Service?

The lawyers who provide advice through the CTP Legal Advisory Service have significant experience in providing legal advice on motor accident and personal injury law. They practice in both regional and metropolitan areas across NSW.

## What if I am not eligible?

CTP Assist will provide you with information about other available legal services. These include:

- the Law Society of NSW. They can give you more information, including how to find a lawyer in NSW. They can be contacted on (02) 9926 0333 or visit [www.lawsociety.com.au](http://www.lawsociety.com.au)
- Community Legal Centres – visit [www.clcsw.org.au](http://www.clcsw.org.au).

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers. However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website [legislation.nsw.gov.au](http://legislation.nsw.gov.au).

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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Website [www.sira.nsw.gov.au](http://www.sira.nsw.gov.au)

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# New CTP scheme at a glance - to date

1 December 2017 to 31 August 2018

## Claims lodged

**797** at fault  
**3,251** not at fault  
**2,856** fault not yet determined  
**6,904** Total

## Claims by gender

♂ **3,495** ♀ **3,392** X **16** ◇ **1**<sup>1</sup>

## Claims by age and work status

	Earner	Non-earner <sup>2</sup>	Not stated	Total
Before Birth	0	3	0	3
0-16 years	17	132	141	290
17-24 years	530	123	159	812
25-39 years	1,483	327	365	2,175
40-49 years	802	199	259	1,260
50-64 years	890	306	340	1,536
65-79 years	111	236	309	656
80+ years	3	79	90	172
Unknown	0	0	0	0
<b>Total</b>	<b>3,836</b>	<b>1,405</b>	<b>1,663</b>	<b>6,904</b>
	56%	20%	24%	100%

## Injuries

**2,094** total claims with soft tissue injuries (includes neck and back strain)  
**1,996** not at fault minor injury determinations by insurers  
**981** not at fault soft tissue injury claims determined as minor injury (includes neck and back strain)

## Payments

Payment type	Amount \$
Weekly payments	20,022,977
Treatment expenses	18,398,734
Care	353,903
Funeral expenses	990,768
Insurer investigation	1,875,434
Insurer medico-legal	50,816
Insurer legal	8,777
Damages	0
Claimant costs (excluding legal)	0
Claimant legal	3,520
Recoveries not yet allocated	-2,781
<b>Total</b>	<b>41,702,148</b>

## Legal representation

**1,580** legally represented  
**5,324** self-represented



## CTP Assist (both schemes)



**40,343** customers assisted by phone and email



**2,123** injured people connected with an insurer



**25,206** outbound calls

## Dispute resolution



**623** Insurer internal reviews

**227** Disputes

lodged at the Dispute Resolution Service. Excludes those opened in error and 1999 scheme disputes.

**8** Common law claims

Lump sum damages

**110** Compensation to relatives

<sup>1</sup> ◇ Gender not specified.

<sup>2</sup> This includes children, retirees and those not working.

# New CTP scheme at a glance - August 2018

1-31 August 2018

## Claims lodged

**139** at fault  
**425** not at fault  
**391** fault not yet determined  
**955** Total

## Claims by gender

♂ **486**   ♀ **468**   X **3**   ◇ **-2**<sup>1</sup>

## Claims by age and work status

	Earner	Non-earner <sup>2</sup>	Not stated	Total
Before Birth	0	1	0	1
0-16 years	3	25	13	41
17-24 years	90	19	14	123
25-39 years	204	57	34	295
40-49 years	107	26	34	167
50-64 years	121	51	43	215
65-79 years	19	38	37	94
80+ years	0	9	11	20
Unknown	0	0	-1	-1
<b>Total</b>	<b>544</b>	<b>226</b>	<b>185</b>	<b>955</b>
	57%	24%	19%	100%

## Injuries

**360** total claims with soft tissue injuries (includes neck and back strain)  
**838** not at fault minor injury determinations by insurers  
**425** not at fault soft tissue injury claims determined as minor injury (includes neck and back strain)

## Payments

Payment type	Amount \$
Weekly payments	4,470,780
Treatment expenses	6,766,055
Care	104,693
Funeral expenses	184,229
Insurer investigation	482,863
Insurer medico-legal	25,049
Insurer legal	5,761
Damages	0
Claimant costs (excluding legal)	0
Claimant legal	1,760
Recoveries not yet allocated	-1,239
<b>Total</b>	<b>12,039,951</b>

## Legal representation

**327** legally represented  
**628** self-represented



## CTP Assist (both schemes)



**5,263** customers assisted by phone and email



**210** injured people connected with an insurer



**2,639** outbound calls to injured people

## Dispute resolution



**187** Insurer internal reviews

**94** Disputes

lodged at the Dispute Resolution Service. Excludes those opened in error and 1999 scheme disputes.

**0** Common law claims

Lump sum damages

**30** Compensation to relatives

<sup>1</sup> ◇ Gender not specified. Negatives are where gender has been identified in claims where previously not specified.

<sup>2</sup> This includes children, retirees and those not working.