

24 September 2018

The Hon Natalie Ward MLC  
Chair, Standing Committee on Law and Justice  
NSW Legislative Council  
Parliament of NSW  
6 Macquarie St  
Sydney NSW 2000

By email: [law@parliament.nsw.gov.au](mailto:law@parliament.nsw.gov.au)

Dear Ms Ward

**2018 Review of the NSW CTP Scheme – ICA Corrections and Responses to Questions on Notice.**

Thank you for the opportunity to appear at the Law and Justice Committee hearing on 23 August 2018.

Please find below our corrections and responses to the questions taken on notice during the hearing.

**Corrections**

The ICA wishes to correct the following errors of fact made during the hearing as follows:

- The ICA referred to a SIRA publication called “Motor Injuries Insights”. The correct name of the publication is “NSW Motor Accidents CTP Scheme – Scheme Performance Report 2017” (The Report).
- The ICA recalled the latest year included in The Report was the 2016 underwriting year (page 41 of the transcript). This is incorrect. The report shows information by accident year and the latest accident year included is 2017.
- The ICA recalled that the estimated profit margin shown in The Report was 7% for the 2016 underwriting year. To clarify, the estimated profit margin shown in the report for the 2016 accident year is 7%, with an estimated profit margin for the 2017 accident year of 14%.

**Questions on notice**

**Question:**

**The Hon. LYNDA VOLTZ:** Okay. Let's go back to the CTP money collections. Of that \$320 million, what is the breakdown? My original question was: how much of that \$320 million is actually a reduction in profits? What constitutes that \$320 million reduction?

**Ms PEARSON:** I would have to take that on notice and come back to you with those figures.

**ICA response:**

It is difficult to be precise about the components of the \$320 million without the detailed information available to SIRA. Based on our general understanding of the claims and costs driving insurer premiums in 2017 and 2018, we would divide the \$320 million premium reduction very roughly as follows –

- \$180 million from eliminating the roughly 4,000 additional claims that came into the CTP system between 2008 and 2018, at a time when road casualties were actually falling;
- \$60 million from legal costs on minor injury claims;
- \$40 million from benefit (the net impact of removing lump sums for minor injuries and introducing statutory benefits for fault claimants);
- \$30 million from insurer profits;
- \$10 million from insurer expenses.

It is important to note that the reduction in insurer profits is based on filed profit margins. If actual profit in the new scheme is higher than the filed amount then excess profit will be returned to motorists.

**Question:**

**The Hon. LYNDIA VOLTZ:** So if there was an expectation that in future the claims would be reduced and that was why you were collecting less, do you have an explanation for why SIRA's figures showed that under the average green slip price reduction there would actually be more in claimant benefits?

**Ms PEARSON:** I would have to take that on notice.

**ICA response:**

We interpret SIRA's comment as meaning that a greater proportion of the premium will go to claimants as benefits. A greater proportion of the premium will go to claimants mainly because of lower legal costs in the new scheme together with the excess profit provisions which mean that excess profits will be returned to motorists in the form of lower premiums. As explained previously, claimant benefits are estimated to decrease but this is due mainly to the elimination of the 4,000 additional claims that came into the system between 2008 and 2018.

**Question:**

**Mr DAVID SHOEBRIDGE:** Lastly, do you know if there are different processes for different classes of disputes; does everything get the same process or do they get different processes and in which case what are the different processes?

**Mr DUNWOODY:** There are four different categories of dispute types- claims disputes, medical disputes, miscellaneous disputes and I cannot remember the last one.

**Mr DAVID SHOEBRIDGE:** Are you confident you know the pathways for each of these disputes, how they will be allocated and how they will be determined?

**Mr DUNWOODY:** Yes, we are pretty confident.

**Mr DAVID SHOEBRIDGE:** Can you provide, perhaps on notice, what information you have that you rely upon-

**Mr DUNWOODY:** Yes, absolutely, we can take that on notice.

**Mr DAVID SHOEBRIDGE:** -to find out how those disputes operate?

**ICA response:**

There are five types of disputes that can arise in the process of a CTP claim. These are Internal review, Merit review, Medical assessment, Miscellaneous claims assessment and Damages claims assessment.

In relation to processes and pathways, the information we have from the Dispute Resolution Service (DRS) is that there are differences in the way in which disputes relating to 'statutory benefits claims' are organised compared to disputes relating to 'common law' claims.

Disputes relating to statutory benefit claims generally require an internal review to be conducted by the insurer prior to a merit review by the Authority (SIRA). Common law claim disputes follow a similar pathway as they always have through the Medical Assessment Service (MAS) or the Claims Assessment and Resolution Service (CARS) in the old Motor Accidents Compensation Act (MACA) Scheme. This includes assessment by either a medical assessor (for medical disputes) or by a claims assessor (for claims disputes). For matters that are more urgent and impact on the injured person, DRS can expedite these disputes.

Once a dispute is lodged with SIRA, cases are prepared and managed in the same way with little difference or variation. Once allocated to a decision maker or an assessor, the process to resolve the dispute will then be open to the assessor to do so in the most appropriate way, adhering to principles of natural justice and procedural fairness. For example, dispute resolution and decision making may be done by way of face to face conference, teleconference or on the papers.

The new scheme features a more advanced web presence. Injured people are able to lodge and manage disputes online via the SIRA website. Visibility of progression of the dispute can occur in real time. Alternatively, traditional methods of lodging disputes via post or telephone can still occur if people are not comfortable lodging their dispute in this way.

**Question:**

**The Hon. DANIEL MOOKHEY:** How much money is spent annually?

**The Hon. DANIEL MOOKHEY:** The last time we had an opportunity to have this dialogue the Insurance Council said it was working on a code of practice with SIRA in respect of the use of surveillance, can you give us a progress update?

**ICA response:**

The ICA does not have access to information on the amount of money spent on surveillance in CTP claims.

As part of the new Motor Accident Injuries Act scheme (MAIA 2017) there are guidelines as to how claims are to be managed by insurers, including when and how surveillance investigations are to be undertaken. These guidelines apply to both insurers and their service providers.

Specifically, the Motor Accident Guidelines (effective 13 July, 2018) provide a detailed outline list of rules regarding the use of surveillance in CTP claims in the new scheme (located on page 81).

**Question:**

**The Hon. TREVOR KHAN:** So do we. What we are asking: Is it, for instance, necessary for SIRA to require two data dumps per day?

**The CHAIR:** Three

**Mr DAVID SHOEBRIDGE:** Is it creating unnecessary costs and should it be fixed?

**ICA response:**

***Data requirements under previous schemes***

Under previous schemes (MAA 1988 and MACA 1999) insurers were required to provide regular feeds of claims data and payments data into a central database. The data was provided in monthly batches. The data was able to be accessed by the scheme actuary and all insurers. It was used for several purposes, including the determination of future premium rates, the valuation of claims liabilities, and the detection of potentially fraudulent claims.

***Data requirements under the new scheme***

Under the new scheme (MAIA 2017), the previous database has been replaced by a new Universal Claims Database (UCD). At the time the UCD was proposed, insurers were told they would be required to supply data to the new database on a real time basis, rather than via periodic batch feeds. This aspect of the proposal was not supported by insurers. The Industry considered the expense of developing a real time database for a long tail scheme was not supported by the single justification of 'more timely reporting'.

Two of the four insurers have implemented automated real time interfaces to the UCD. The other two insurers are supplying data in batches and SIRA has required the frequency of batch submissions to be three times a day.

We have recently been advised by SIRA that the UCD is used as a tool by CTP Assist and/or the Dispute Resolution Scheme (DRS) to support their interactions with injured motorists. This insight – not previously known to insurers – provides a clearer rationale for more frequent collection of UCD data. Insurers support the collection of the UCD information as it supports the active regulation of the scheme by SIRA, is used as a tool by CTP Assist and/or the Dispute

Resolution Scheme (DRS) to support their interactions with injured motorists, and can be used to combat fraud.

***Issues with data validation***

The new UCD is a significantly more complex database than that it replaced. In addition, SIRA has specified very detailed data validation requirements. The issue that has been generating lots of (non-value adding) work for insurers relates to excessively onerous data validation rules. The application of these rules is slowing down the flow of data to reporting derived from the UCD, which is in turn artificially suppressing statistics in relation to the volume of claims and payments.

We now understand that SIRA has recently partially relaxed the data validation rules. ICA asks the Committee to consider recommending that the UCD data validation rules be further relaxed as may be appropriate to reduce the level of non-value adding effort required by insurers.

***Future data requirements and technology enhancements***

The ICA recommends that SIRA continue to engage closely with insurers and other relevant stakeholders to coordinate any future enhancements. It is important that adequate planning and delivery timeframes are provided to enable insurers to implement any requirements successfully.

For the sake of scheme efficiency, the ICA recommends that all future IT enhancements are subject to robust cost-benefit analysis to ensure that all initiatives are of a high value.

I trust this information is helpful.

If you have any questions or comments please do not hesitate to contact Fiona Cameron

Yours sincerely

Robert Whelan  
Executive Director & CEO