

2018 review of the Compulsory Third Party insurance scheme

SIRA Questions on Notice - 23 August 2018

Question - page 71

The Hon. TREVOR KHAN: You would have done some form of projection, I assume, that would have identified these lags in time, that people will not put in all their claims the day after the accident and the like. You would be developing some sort of trend line to make an assessment of performance—

Ms DONNELLY: That is right.

The Hon. TREVOR KHAN: —against expectation, would you not?

Ms DONNELLY: Absolutely. Those estimations are not just SIRA's. We engage independent actuaries, reputable firms. We have them peer reviewed. There is a lot of discipline that goes into them. But, you are absolutely correct, we need to track and we are tracking actively as the claims come in: Are we observing in the actuals what was predicted?

The Hon. TREVOR KHAN: Yes.

Ms DONNELLY: I would have to say I did read through the submission, there are a couple of submissions from the motorcyclists and the submission from the Motorcycle Council. We remain very willing to engage with them, exchange data, monitor the situation with them.

The Hon. TREVOR KHAN: I am sure, but in terms of the trend, are you able, either now or on notice, to indicate whether your expectation of claims performance is actually being met, is it being exceeded, or is it below trend?

Ms DONNELLY: Very happy to provide more information on that.

Question - page 71

The Hon. TREVOR KHAN: It might be.

Mr DAVID SHOEBRIDGE: I hoped you would respond to their package of concerns.

Ms DONNELLY: I would be very happy to give you an explanation on the issues that they have raised.

The Hon. TREVOR KHAN: On notice.

Ms DONNELLY: Yes.

The Hon. LYNDIA VOLTZ: To be clear, you are going to take those projections on notice, is that right?

Ms DONNELLY: Yes.

Question - page 72

Mr DAVID SHOEBRIDGE: But if you have done that analysis, why do you not share it with the Committee now? You have done the analysis—

The Hon. TREVOR KHAN: But she just—

Mr DAVID SHOEBRIDGE: No. I assume a report has been done. Why was the Committee not provided with a copy of that report or a summary of the report before you came here to give evidence? I do not understand.

Ms DONNELLY: I do not have a report as an artefact on the experience for the eight months. There certainly will be documentation about the forecasting done that was part of the conversation that the motorcycle—

The CHAIR: Are you saying in response to this question from the Committee today that based on the data you have you will provide a response? You do not have an existing report, but you will provide what you can on notice?

Answer

The following information was used to analyse the impact of extending statutory benefits to the driver of the at-fault motorcycle:

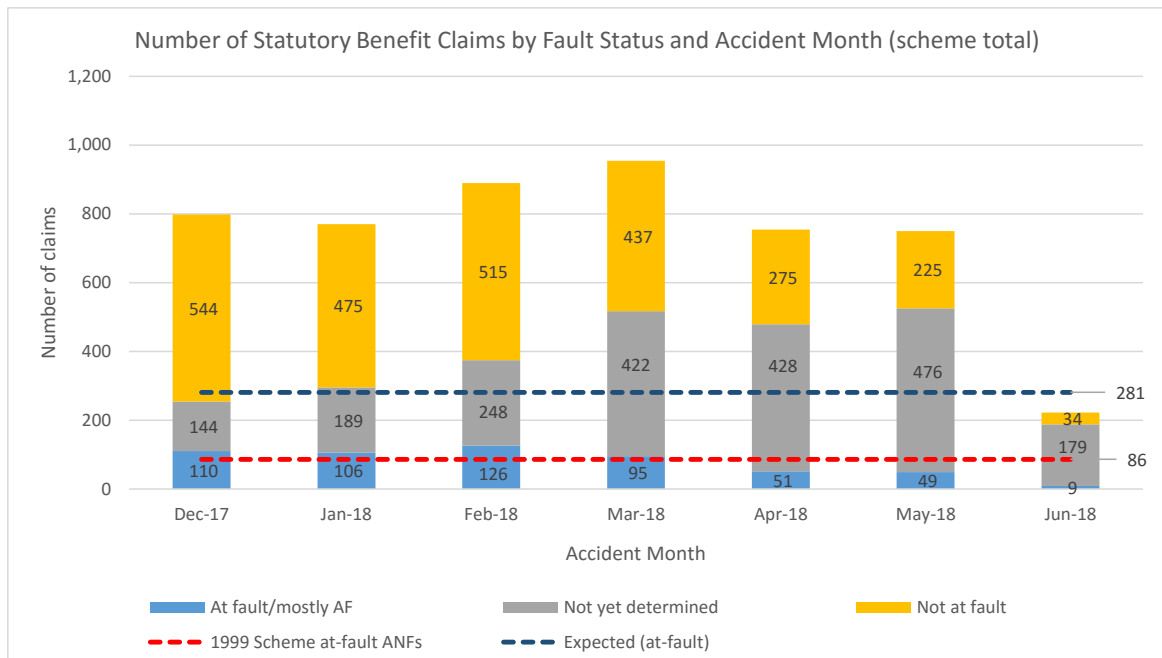
- ▶ Roads and Maritime Services (RMS) NSW Crashlink data (which includes information on crashes and casualties, sourced from Police reports and self-reporting).
- ▶ Victorian TAC casualties and claims information.

The experience of accident notification forms (ANF) from the 1999 scheme was not used as it was not expected to be a good indicator as the benefits for at fault drivers in the 1999 scheme was limited initially to \$500 and then extended to \$5000. For a range of reasons, this led to motorists not claiming under the ANF scheme. The benefits in the 2017 scheme are significantly higher where at fault motorists can receive up to 6 months of income replacement and medical, treatment and care expenses paid.

Using the NSW Crashlink data and selecting 2014 as a typical year, there were 1,685 motorcyclists injured on NSW roads where the motorcycle rider was deemed to be “at fault” (this includes single vehicle and blameless accidents, where there was no other CTP policy from which to claim). From 1 December 2017, these types of injuries for at-fault motorcycle drivers would be eligible for statutory benefits under the 2017 scheme.

The following graph shows the number of statutory claims for all vehicle classes by accident month split by the fault status of the claim as at 30 June 2018. Due to typical reporting delays, the more recent months have a lower number of claims reported and a generally higher proportion of claims with fault status ‘not yet determined’ (grey bars). For the older more developed accident months of December 2017 to March 2018, the number of at fault claims (blue bars) exceed the average number of monthly at fault ANF claims in the 1999 scheme (red dashed line) but are currently below the ultimate expected number of at fault claims (blue dashed line).

However, the number of at fault claims are expected to increase further as some of the claims with fault status ‘yet to be determined’ are assessed as ‘at fault’. More generally, the number of at fault claims in the 2017 scheme is expected to increase as awareness of the at fault benefits of the 2017 scheme spreads throughout the community.



Of the 546 claims assessed as at-fault or mostly at-fault (blue bar), 134 (or 25%) relate to injured motorcyclists where the motorcycle has been deemed the at-fault vehicle. Of the 2,086 claims (grey bar) where fault is not yet determined, 212 (or 10%) relate to injured motorcyclists. However, these figures relate to insurer assessments as at 30 June 2018, and the categorisation of these claims will continue to develop as more information on the claim becomes available and decisions are made about liability (fault). This development will also include the identification of claimants who were not a motorcyclist, but injured in an accident where a motorcycle was at fault such as pedestrians or other road users.

Attached for information is a presentation recently given to the Motorcycle Council at their general meeting on 3 September, along with questions and answers that address the issues raised by the Council and their members. The next meeting with the Motorcycle Council is planned for November 2018.

SIRA would welcome the opportunity to give the Committee a briefing on the contents of the motorcycle presentation, including how their premiums are set, the impact of expanded at-fault benefits, how their claims experience compares to passenger cars and the cross subsidies that apply to motorcycle premiums.

Question - page 73

The Hon. LYNDA VOLTZ: That is why I am asking. What is the dollar figure for payouts for that six months?

Ms DONNELLY: In the first six months last year they add up to about \$7.5 million.

The Hon. LYNDA VOLTZ: No, I am asking about this year.

Ms DONNELLY: This year it is around \$19 million.

Mr DAVID SHOEBRIDGE: What was the projection for this year? You must have that figure.

Ms DONNELLY: I do not have the figure for that six-month period in front of me. I am happy to provide more information.

Question - page 73

The Hon. TREVOR KHAN: We were always going to ask about how the scheme was working.

The Hon. LYNDA VOLTZ: I would like to finish with these figures. You have \$19 million and \$7 million, which is the figure for last year. What was the collection of compulsory third party premiums?

The Hon. DANIEL MOOKHEY: Good question.

Ms DONNELLY: For that six-month period?

The Hon. LYNDA VOLTZ: Yes.

Ms DONNELLY: I am not sure if I have that information with me. Perhaps one of the team has it.

Question - page 88

The Hon. TREVOR KHAN: It said \$7 million on new claims. Is that what the thing is?

Ms DONNELLY: It is in relation to accidents that occurred in that six-month period, so people who were injured in that six-month period, how much they received in that six-month period. It is not all claims. To clarify that further, in the old scheme there would have been a whole lot of payments that related to people who had accidents in the years before.

The Hon. TREVOR KHAN: Tail.

The Hon. LYNDA VOLTZ: Yes, I understand tail.

Ms DONNELLY: That is not the case for the new scheme. So this is really like-for-like comparison.

The Hon. LYNDA VOLTZ: Except we are 18 months on now. Was that \$7 million paid out in that period or has more of that \$1.35 billion been paid out now?

Ms DONNELLY: To your question: If we go back to the first six months of 2017, the accidents that occurred there, there would have been a higher proportion of payments that have been paid out in the 12 and more months since June 2017. That just is not part of my comparing apples with apples.

The Hon. LYNDA VOLTZ: Of that \$1.35 billion there is probably more than \$7.5 million, it has just been paid out over a longer period of time. But do you have those figures?

Ms DONNELLY: We would certainly have them in our office but we do not have them here.

Mr DAVID SHOEBRIDGE: And you took on notice to give us that more detailed data including as against what your projections were, given how fundamentally changed it is with the upfront payments for statutory benefits.

Answer

The majority of the premium collected to date is for accidents and claims that are yet to happen over the 12 month period after the policy is taken out. In cases where an accident has already occurred, there are delays with claim reporting as injured people can make their claim up to 3 months after the accident, some even later. Payments for treatment and income support often continue for months and sometimes years, as serious injuries will take some time to recover.

The 2017 scheme introduces a waiting period of 20 months from the date of accident before an award of damages can be lodged for the majority of claims. It is anticipated that approximately \$1.95 billion will be collected in premiums (excluding GST and levies) in the first year of the new scheme. Of this amount, more than \$1.4 billion will be paid as benefits of which \$1.1 billion is reserved for award of damages and the remaining amount of \$370m is allocated for statutory benefits which will be made over several years.

It is estimated that damages claims will be 73% of the total claims cost of the 2017 scheme. As these claims can take a number of years to be settled, scheme efficiency cannot be commented on at this point with any certainty.

As a result of the above factors, as at 31 August 2018, insurers have paid over \$41.7 million of statutory benefits of the more than \$1.4 billion that is expected to be paid for accidents occurring in the first year of the 2017 scheme. The remaining payments are expected to be paid over the next 5 years as the majority of statutory and damages claims are finalised.

Comparison to 1999 Scheme

The following table compares the payment experience to date for the 2017 scheme to the 1999 scheme. For comparative purposes, the data is for accidents from January to June and nine months of payments data. For the 2017 scheme we have payments data over an eight-month period (January to August), but by September 2018 we expect the payments to be approximately \$42m - \$45m.

Illustrative comparison of payment experience between 1999 and 2017 Schemes (\$)

Scheme	January-June Premium collected ^a	Payments made for accidents January to June	Proportion of premium paid as benefits
1999 Scheme	\$1,358.5m	\$23.7m* As at 30 September 2017	1.7%
2017 Scheme	\$1,035.4m	\$34.6m [#] as at 31 August 2018	3.3%

* For payments to 30 September 2017, in relation to accidents occurring between 1 January and 30 June 2017, inflated to 30 June 2018 values

For payments to 31 August 2018, in relation to accidents occurring between 1 January and 30 June 2018, nominal values. Note that this is one month less payments than the comparative value provided for the 1999 Scheme. By September 2018, this value would be expected to be in the order of \$42m to \$45m.

^a sourced from premium returns, excluding GST and levies

The table above illustrates that in the 2017 scheme, a larger amount of claim payments are being made at a similar point of development for an accident period compared to the 1999 scheme, despite less premium being collected.

Question - page 73

The Hon. DANIEL MOOKHEY: *Out of every dollar that arrives in premiums, we have established that the reform case was 45¢ and we were targeting 57¢.*

Ms DONNELLY: *Yes.*

The Hon. DANIEL MOOKHEY: *What is the balance of that 43¢? What should we be assuming about those 43¢? Where is it going to? How much is going to lawyers and how much is going to insurer profits?*

Ms MAINI: *I will have to take that question on notice and provide more information on what was the past—that is, what was the 43¢ in the old scheme—and what is the assumption and the projection in the new scheme.*

Answer

Scheme efficiency is defined as the proportion of the Green Slip premium which is provided to injured persons through the scheme, which includes payments made as part of the Bulk Billing Arrangement.

For the 1999 scheme, efficiency is currently 46%. Key areas of inefficiencies identified in the 1999 scheme include large insurer profits (22%) and legal and investigation costs including contracted out legal costs amounting to 17% of the premium.

Given the limited experience to date for the 2017 scheme, in particular given that we have not yet completed the first year, the efficiency assessment for the 2017 scheme is based on the EY costing report, “*Estimated cost per policy of the new NSW CTP Green Slip Scheme under the Motor Accident Injuries Act 2017 (NSW)*”, dated 24 July 2017.

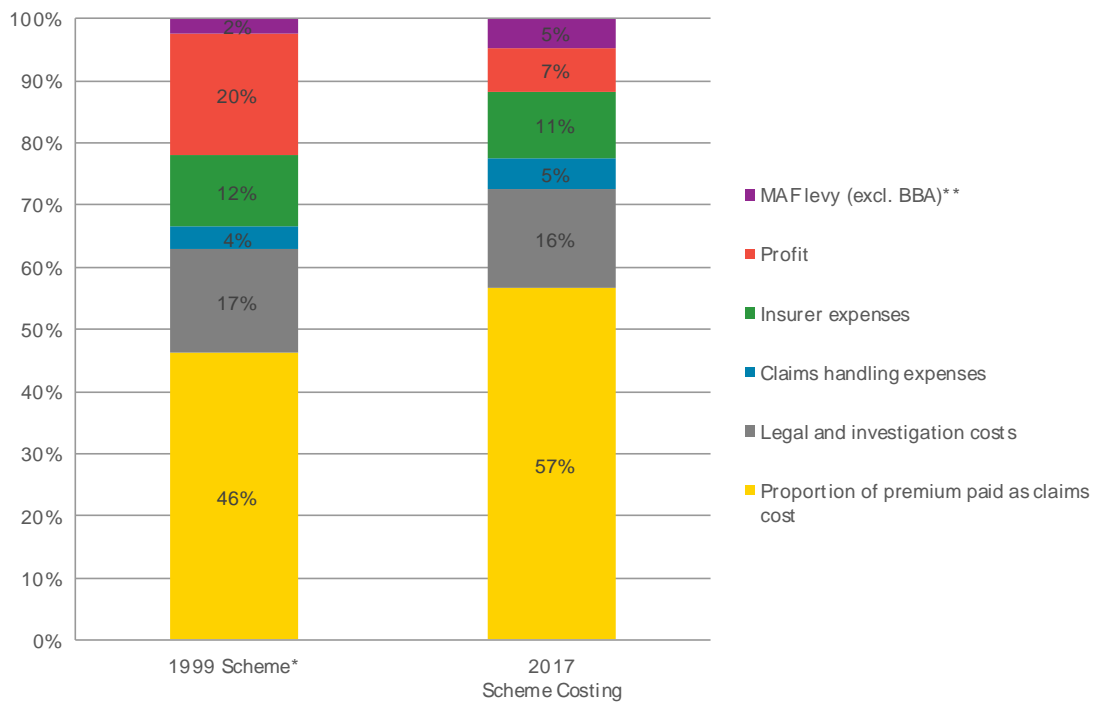
The 1999 scheme efficiency is based on the cumulative average of the historical 1999 scheme underwriting periods. The NSW Government’s CTP Position Paper in 2016 indicated the 1999 scheme efficiency at that time was 45%, it has increased to 46% in the subsequent two years. The following table shows the two scheme efficiency levels.

Comparison of Scheme Efficiency between the 1999 and 2017 Scheme

Scheme	Scheme Efficiency
1999 Scheme (MACA)	46%
2017 Scheme target (MAIA)	57%

The increased efficiency expected in the 2017 scheme is driven by the statutory benefits replacing some common law benefits in the 1999 scheme, introducing a minor injury assessment with benefits limited to 26 weeks, capping of insurer expenses and an excess profit or loss mechanism enabled by legislation. The remaining 43% of premiums are expected to cover legal and investigation costs, claim handling expenses, insurer expenses, insurer profit and Motor Accident Fund (MAF) levy excluding the Bulk Billing Arrangements (BBA) as shown in the graph below.

Scheme Efficiency Comparison



Question - page 74

The Hon. LYNDA VOLTZ: What was it in the first six months of last year?

Ms MAINI: It was just under \$1.35 billion. That is a net reduction of 23.5 per cent.

The Hon. DANIEL MOOKHEY: In premiums collected?

Ms MAINI: Yes.

The CHAIR: You collected less and you paid out more; in fact, double?

Ms DONNELLY: Yes.

The Hon. LYNDA VOLTZ: Yes. But what does \$19 million represent of the \$1 billion.

Mr DAVID SHOEBRIDGE: It is 1.9 per cent.

Ms DONNELLY: It is claim payments.

The Hon. DANIEL MOOKHEY: What other moneys were paid out that were not claimed in that six-month period?

Ms MAINI: We provide payments data as a monthly "scheme at a glance" to a lot of the providers. The payment data would be claimant legal, claimant cost—

The Hon. LYNDA VOLTZ: I want the figures.

The Hon. DANIEL MOOKHEY: If you were able to provide the category and the figure at the same time, that would be great.

Ms MAINI: I will have to provide that breakdown on notice.

Answer

The following table shows that there has been over \$41 million in payments from 1 December 2017 to 31 August 2018. Of these, \$1.9million or 4.5% can be classified as 'non-claimant' payments (i.e. payments for Insurer Medico-Legal, Insurer Investigation, Insurer Legal and Claimant Legal).

Payment type from 1 December 2017 to 31 August 2018

Payment Class	Total Gross Payments (\$)	Percentage of Total Payments
Treatment and Rehabilitation (excluding ambulance, hospital and bulk billing)	18,398,734	44.1%
Weekly Payments	20,022,977	48%
Insurer Medico-Legal	50,816	0%
Insurer Investigation	1,875,434	4.5%
Compensation to relatives/Funeral expenses	990,768	2.4%
Care	353,903	1%
Insurer Legal	8,777	0%
Claimant Costs (excluding legal)	-	0%
Claimant Legal	3,520	0%
Award of Damages	-	0%
Recoveries not yet allocated	-2,781	
Total	41,702,148	100%

Question - page 76

The Hon. DANIEL MOOKHEY: Does research also indicate that there is a higher risk that people will receive their refund and actually cash the cheque? What analysis was undertaken in this respect? From what I understand, from the figures you just gave us, two million people have not got it. You have just said to us that you are going to mail them anyway. I accept that a cheque based transmission of funds is old school—almost from the era of Trevor Khan! —but my point is still made. Surely you would expect more people to use it than all the other devices that you are currently contemplating.

Mr DAVID SHOEBRIDGE: Particularly as they have been resistant to your current methods.

Ms DONNELLY: I am tempted to ask how many people have a cheque book still.

The Hon. LYNDA VOLTZ: I have one.

Mr DAVID SHOEBRIDGE: I still have to deal with Government agencies for Government information.

The Hon. LYNDA VOLTZ: Try getting an FOI without one.

Q.8. The Hon. DANIEL MOOKHEY: The majority of Australian corporations still distribute dividends through cheques. This is not an unprecedented idea that you will come home and a cheque arrives in your mail box.

Ms DONNELLY: I understand the question. I am happy to provide more information about the thinking behind this.

Answer

The distribution of cheques was considered as part of the refund process. In our analysis of the options, the distribution of cheques was less efficient than an option primarily based on electronic fund transfers as there were significant costs and risks with sending cheques to 4.2 million policy holders. The risks included a greater likelihood that cheques for smaller amounts may not be deposited resulting in fewer refunds being returned to policy holders, theft or lost cheques, and high administration costs in distributing the cheques and managing non-presented cheques.

Service NSW offers a multi-channel customer focused option with policy holders being able to claim via various convenient and cost-effective methods including:

1. Over 153 locations across NSW within their Service Centres, Council Offices and Government Access Centres
2. Contact Centre's via telephone 7AM-7PM Monday to Friday
3. Online
4. For customers who cannot make their claim, Service NSW offers an option for an authorised representative to attend and claim on their behalf.

Service NSW's solution for this program caters for every customer journey. Service NSW offers the option of a cheque for customers who do not wish to use one of the options. In addition to their delivery methods, a specialist team has been set up dedicated to assisting in customer resolution and escalations. To date, 75% of refunds have been claimed and the Government has extended the deadline for motorists to claim their refund to 30 June 2019 to allow more time for the remaining vehicle owners to claim their refund.

Question - page 77

The Hon. DANIEL MOOKHEY: Did you model Service NSW as being the best agency to distribute the cheques, or did you undertake any analysis? Was it subject to other tenders? Were there other people—for example, the insurance companies—who were prepared to distribute the funds?

Ms DONNELLY: Certainly there would have been some analysis of the options.

The Hon. DANIEL MOOKHEY: Are you able, on notice—or perhaps, now—tell us what was done?

Ms DONNELLY: I am happy to take that on notice.

The CHAIR: I would like to move this along.

Answer

A comprehensive analysis was conducted to ascertain the best customer focused and cost-effective method to return the funds. Insurers and Service NSW costed the following options and presented them to SIRA.

1. Insurers send a cheque to all eligible policy holders.
2. Insurers engage a financial institution to purchase and provide a pre-loaded credit card to the value of the refund and send to all eligible policy holders. Tenders were held and a preferred company was available to action this role. This option presented a significant cost to administer and presented the risk that unclaimed monies would then revert to the insurers or the financial company.
3. Service NSW manage the refunds, offering a range of ways to claim the refund.

The final option was preferred as it maximised the refund payable to the policy holders and any unclaimed funds would then be returned to motorist via a reduction in the levy, reducing premiums further for another year giving citizens of NSW a greater saving. The delivery of refunds and the proposed approach was discussed with stakeholders including the insurance industry and legal profession through the Ministerial Implementation Group which helped shape and deliver the introduction of the new scheme.

Question - page 79

Mr DAVID SHOEBRIDGE: *How many private lawyers have you paid for advice for the statutory scheme and how much in total have you paid?*

Ms DONNELLY: *Sorry, for this pilot?*

Mr DAVID SHOEBRIDGE: *No, assuming that it was not meant to replace private legal services, how much have you paid for private legal services and how many solicitors have been paid?*

Ms MAINI: *I will have to provide that data in more detail because it is legal costs.*

Question - page 80

Mr DAVID SHOEBRIDGE: *I asked earlier how many lawyers have had their legal fees paid in the dispute system. You have the data in front of you now. As at 30 June how many lawyers have been paid and how much has been paid?*

Ms MAINI: *I can provide more detail for you but we have paid in terms of insurer legal fees—and I will actually run through—*

Mr DAVID SHOEBRIDGE: *Insurer legal fees, how much?*

Answer

As at 31 August 2018, \$8,777 has been paid to 5 firms for insurer legal costs and \$3,520 to 2 firms for claimant legal costs.

These payments are exclusive of the payments made to the lawyers in the Legal Advisory Service pilot. In this pilot, a total of \$4,000 was paid to 4 lawyers with an average of \$1,000 per matter referred. There are 3 additional outstanding matters currently with the lawyers in the Legal Advisory Service pilot.

These figures are not unexpected as legal fees are generally restricted for the statutory benefit element of the 2017 scheme and dispute numbers are still very low.

Question - page 79

Mr DAVID SHOEBRIDGE: How many internal reviews have there been?

Ms MAINI: As at June there were 313 internal reviews.

The Hon. TREVOR KHAN: Does that include merit reviews?

Ms MAINI: No, they are just internal reviews with insurers.

The Hon. TREVOR KHAN: How many merit reviews have there been?

Ms MAINI: I will have to provide more of that detail for you.

Question - page 81

The Hon. TREVOR KHAN: How many have been finalised?

Ms MAINI: They are in progress. Let me check.

The Hon. TREVOR KHAN: Some of them have been finalised. At least five or six decisions have been published on the website.

Ms DONNELLY: Ms Maini is looking at the analysis as at 30 June. The latest information I have would indicate there would be 13 matters finalised. I would like to confirm that.

Answer

The following table shows the number of merit review disputes lodged and finalised (together with the outcomes) at the Dispute Resolution Service between 1 December 2017 and 31 August 2018. The most common type of merit review is related to weekly payments.

Merit Reviews as at 31 August 2018

No. of Merit Review matters lodged	26
Finalised	10
Determined in favour of claimant	8
Determined no change in outcome	2
Declined	2
Open matters at 31 August 2018	16

Question - page 79

Mr DAVID SHOEBRIDGE: So it may not even be four?

Ms MAINI: Yes. So I will need to come back and confirm if they are the same four.

Answer

The Legal Advisory Service was established to provide legal advice to injured people for matters related to statutory benefits which are outside of the cost regulations. This service is made up of a panel of personal injury lawyers who provide independent legal advice to injured people in the new scheme. The need for this service was based on feedback from the legal profession.

This is considered an essential service in a statutory benefits scheme to ensure injured people have access to legal advice to assist them with matters that are otherwise exempt from legal costs.

At the end of June 2018, four referrals were made to the service. Since then there have been an additional three referrals, bringing the total to seven.

These figures are low at this stage in the 2017 scheme for a range of reasons, including the small number of disputes – more than half have been for minor injury (which is outside of the service), and because approximately 20% of claims have a private legal representative identified.

Question - page 80

The Hon. TREVOR KHAN: Is there a set script that your telephone advisory service is provided with to deal with a referral to your pilot program?

Ms MAINI: Yes, we have got a script. I can provide that.

Answer

The CTP Assist team are provided initial training and existing staff are given periodic refresher training. Training includes information which outlines the types of matters that can be referred, how the service is provided and the step by step process for referring the injured person.

There is an extensive training pack which has been developed and is used by staff to assist with scripting for contact with injured people. Attached, for information, is the training material (including notes) which is used to educate and train our staff.

Question - page 82

Mr DAVID SHOEBRIDGE: How many claims were denied up to 30 June? That is a starting point.

Ms MAINI: I will have to confirm that one.

The Hon. TREVOR KHAN: Where is this data released?

Ms DONNELLY: It is on our website. I shot an email over to the Committee clerk with links.

Answer

As at 31 August 2018, 59 claims had been denied for the following reasons:

- 33 late claims with no reasons provided by the claimant. This is an initial coding and injured people still have the opportunity to provide reasons for lodging their claim after the deadline. Should an insurer still not accept the claim after this, the injured person still has a right of appeal
- 8 claims for other jurisdictions (ACT and SA)
- The remaining 8 claims were denied because the claim did not involve a motor vehicle accident, related to a serious driving offence and where injuries were not sustained from the motor vehicle accident.

As a part of the regular monitoring process, SIRA has identified some inconsistencies in data coding and reporting practices among insurers. SIRA's data analytics team is currently working with insurers to enhance coding practices for declined claims. This will allow SIRA to monitor and report declined claims in a more consistent and robust manner. SIRA is also reviewing the late claims and claims management practices to ensure injured people are not disadvantaged.

Question - page 82

The Hon. DANIEL MOOKHEY: How many people have you called?

Ms MAINI: We have contacted over 10,000 so far.

Mr DAVID SHOEBRIDGE: There were 5,137 claims lodged between 1 December 2017 to 30 June 2018.

Ms DONNELLY: We have begun calling people who were in the old scheme as well.

Ms MAINI: In terms of the new scheme it is 1,647.

Mr DAVID SHOEBRIDGE: There were 5,137 claims lodged between 1 December 2017 to 30 June 2018.

Surely you will be able to tell us because you say you are monitoring end-to-end performance closely to ensure the Government's objectives are achieved, that is from your submission, how many of those were refused? How many were rejected—because you are closely monitoring this.

Ms MAINI: I will have to take that on notice.

The Hon. TREVOR KHAN: And are you able, in taking it on notice, to differentiate between insurers in terms of their rejection rates? Are you intending to publish data with respect to the performance of the scheme not only in an aggregated sense but also by reference to the different insurers?

Ms DONNELLY: Yes.

Answer

SIRA is constantly refining its reporting and will produce specific data on this over the coming year as more data becomes available.

We also propose to produce reports on the following:

- Compliments and Complaints
- Claims acceptance rates
- Timeliness
- Internal reviews

Question - page 84

Ms DONNELLY: We have seen some improved competition in offering policies, particularly to young drivers. One of the objectives of the risk equalisation mechanism is to reduce the incentive in insurers for adverse selection of risk, and so the burden of, I guess, the cross-subsidisation of carrying the risk of higher cost, higher risk drivers is shared more equally.

Mr DAVID SHOEBRIDGE: Perhaps you can give us some actual detail on that on notice. It was meant to be one of the significant benefits in the reforms.

Ms DONNELLY: It certainly is.

Mr DAVID SHOEBRIDGE: But, again, I look to the submission and the information on the risk equalisation mechanism is as rare as hen's teeth. Perhaps on notice you could also address the concerns that have been raised by some in the insurance industry about the 144-odd segments of data they are required to provide for each policy. What is the rationale for that and what are the benefits?

Ms DONNELLY: I am happy to provide the information.

Question - page 85

Mr DAVID SHOEBRIDGE: What is the feedback from insurers?

The Hon. TREVOR KHAN: They say there are too many categories.

Ms DONNELLY: There are some very, very interesting arguments between insurers and actuaries about—you would need to have a risk equalisation mechanism that is innovative—it is complicated. Where does any level of burden and complication yield value and when does it not? So we are working with that expert committee to ensure that—

The Hon. TREVOR KHAN: The suggestion is nine categories as opposed to 140-odd is an extraordinary width of differences of opinion, is it not?

Ms DONNELLY: There are swings and roundabouts as well. If you have fewer categories, are you doing it fairly?

Mr DAVID SHOEBRIDGE: A better description would be mice and elephants; they are well out of whack.

Ms DONNELLY: It is a complicated matter. I am happy for us to take some—

Ms MAINI: What we were wanting to do was provide a summary of where it is at, and then give the Committee an opportunity to have a briefing.

The Hon. DANIEL MOOKHEY: That is useful. We appreciate the details

Answer

Benefits of the Risk Equalisation Mechanism (REM).

SIRA restricts the range of CTP premiums that insurers can offer to keep premiums affordable for all NSW vehicle owners. However, this partial community rating (price restriction) means some customers are charged less than their true risk cost, while others are charged more than their true risk cost. This creates an environment where insurers focus on low risk clients in order to maximise profits and avoid high risk customers to minimise losses.

SIRA implemented the REM in July 2017 to alleviate this behaviour by reducing the incentives to compete against poor risks which serves to increase service to the market.

What does the REM do?

The REM is a mechanism to redistribute premium between insurers so each insurer ends up with an appropriate premium that better reflects the average risk of their customers, particularly at the two ends of the risk spectrum.

REM operates behind the scenes, after a customer has paid their premium. SIRA operates a clearinghouse to ensure insurers contribute and receive the required REM amounts on a quarterly basis.

Complexity of the REM

The complexity of the REM stems from the range of risk factors applied in setting individual premiums, specifically ranges of vehicle and driver age which were agreed in consultation with the insurers. For example, there are four sub-classes of driver age, being 17 – 22, 23 – 26, 27 – 54 and 55+. There are five sub-classes of vehicle age, being 0, 1 – 4, 5 – 12 and 13+ years old.

This adds most complexity in the Sydney metropolitan area where the insurers are not able to directly price based on postcodes. Including this dimension in the REM increases the risk segments within the Sydney (metropolitan) region from 16 to 80 by the establishment of postcode clusters and within these postcode clusters are vehicle age and driver age.

SIRA is open to suggestions on simplifying the mechanism and will consider any improvements as the mechanism matures and more experience is available for analysis.

SIRA has established a CTP Premium Committee as a subcommittee of the SIRA Board. This expert group regularly receives reports on the operation of the REM and will review the operation of the REM in 2019.

SIRA is happy to provide the committee a briefing on the practical operation of the REM.

Question - page 85

Ms DONNELLY: I think it is too soon to draw our conclusions about exits or, in fact, the other objective is to reduce barriers to entry, which in my view it does do.

Mr DAVID SHOEBRIDGE: Have any new entrants knocked on the door and said, "We love your risk equalisation mechanism. It looks terrific. Can we enter the market?"

The Hon. TREVOR KHAN: No.

Ms DONNELLY: I am hesitating because—

Mr DAVID SHOEBRIDGE: Maybe you can tell us on notice.

Ms DONNELLY: —I would see that as commercial-in-confidence for anyone we might be having a conversation with.

Mr DAVID SHOEBRIDGE: You can deal with it on notice.

Answer

SIRA is not currently assessing any licence applications from potential new insurers under the Motor Accident Injuries Act 2017 (NSW).

Question - page 87

The Hon. TREVOR KHAN: (a) Did you require them to change their systems in terms of the unique identifier for claims from the VIN to the numberplate and, if so, why?

Ms MAINI: I do not want to mislead and I am not across that level of detail but I will take that on notice and provide an answer.

The Hon. TREVOR KHAN: Could you explain to us the rationale of relying upon a registration number as opposed to a VIN, noting that a VIN cannot be changed but registration numbers can?

Ms MAINI: I will take it on notice.

The Hon. DANIEL MOOKHEY: (b) Are you also able to provide on notice a reply to the Taxi Council's submission that risks are identical between ride sharers and taxis and, secondly, (c) could you give us an update as to how the development of a risk-rating model for ride sharers is going and what the data is so far showing in that respect?

Ms DONNELLY: Are you suggesting that we take that on notice? I am happy to.

The Hon. DANIEL MOOKHEY: You can answer it now but we only have five minutes and the Hon. Lynda Voltz has been waiting very patiently, so answering on notice is fine.

Answer

- (a) The requirement was changing from number plates to the Vehicle Identification Number (VIN) as the unique vehicle identifier, and was required because taxi number plates can be moved from one vehicle to another, sometimes across taxi networks which happens in practice.
- (b) At the commencement of the cents per km premium approach (1 April 2018), there was very limited data available to establish the difference in risk for rideshare compared to taxis. The Motor Accident and Injuries Act 2017 transitional arrangements require that the premiums for taxis and rideshare are similar; the parameters (cents per km travelled) for rideshare were set to be equivalent to taxis. As more trip data is collected and claims data becomes known, SIRA will be in a better position to determine differences, or similarities, in risks.
- (c) As outlined above, SIRA is using distance travelled as a key risk factor to ensure that similar premiums are paid by rideshare and taxis, though this has only been in place since 1 April 2018. As more data is collected, analysis of the distance travelled will be conducted to update assumptions around expected total distanced travelled. In addition, a longer history of information will be required to establish the claims experience of rideshare and taxis under the 2017 Scheme. To set this up, further work by SIRA is underway to match claims associated with rideshare policies (and similarly for non-rideshare policies) as rideshare is not separately classified in the passenger vehicle class. From here, SIRA will then analyse the differences in claim frequency between rideshare vehicles, non-rideshare vehicles and taxis.

Question - page 89

The Hon. LYNDA VOLTZ: It is the comparison, but the amount that is actually paid out you do not have.

Ms DONNELLY: Yes. To encapsulate it, there is less premium being collected and more than double paid out in benefits.

The Hon. LYNDA VOLTZ: In the short term.

Ms DONNELLY: In a very early comparison, trying to have an apples with apples comparison.

Mr DAVID SHOEBRIDGE: But what I thought you had agreed to earlier was you were going to provide what your projections were in terms of—

Ms DONNELLY: Yes, we did agree with that and I am not questioning that.

Mr DAVID SHOEBRIDGE: I will be frank with you, given that the whole idea was to move to a no-fault early payment of weekly expenses and medical expenses, and we are talking of 5,000 claims, it seems a very small amount of money to be paying out, which is \$19 million for 5,000 claims, given there was such a big transfer meant to be to that early payment. I will be interested to know what your projections were and how you think that is tracking. You are going to give that to us on notice, is that right?

Ms DONNELLY: Yes. I was not questioning that; I was just trying to clarify what it was—and I must say I am still not clear what the question was that I have taken on notice from Ms Voltz.

The Hon. TREVOR KHAN: The secretariat will assist.

Mr DAVID SHOEBRIDGE: The question I have is about this 28 day issue, which has been raised repeatedly—28 days in which to make a claim for the new statutory benefits, and it may have been the same insurer that was making two errors: one was counting Sundays and the other one was counting the day of the accident itself, which had material impacts in terms of putting claimants through significant stress, denying their claims, one of which had run all the way through to DRS. Can you provide us with the circular you gave to insurers to correct them and to clarify the position, and can you tell us when that circular went out?

The Hon. TREVOR KHAN: Can I ask also, you might be able to do it now, if you can explain why that problem was not corrected by your three-a-day data dumps? It must have been blindingly obvious to you that at least one insurer had got it entirely wrong. Why did that have to go through all the way to a dispute resolution hearing?

Mr DAVID SHOEBRIDGE: Have you issued a circular?

Ms MAINI: I will have to come back and check that.

The Hon. TREVOR KHAN: Can I ask: Why did you not pick it up earlier? Do you know why?

Ms MAINI: No.

Mr DAVID SHOEBRIDGE: But it ran all the way through to the dispute thing, and that seems bizarre that you let that run all the way through and you did not intervene earlier and say, "Hang on, this is obviously wrong".

Ms MAINI: Again, I really do not want to mislead. We understand that the particular insurer—and I will need to confirm as to—

Ms DONNELLY: Misunderstood the Interpretations Act.

The Hon. TREVOR KHAN: I think that is obvious. I think a number of people have pointed that out. For somebody who only operated in the traffic court, I understood that concept. I am confused if you are requiring three-a-day data dumps so that you make sure that people's date of birth is right but on something like this, this was allowed to escalate to the issue that it had.

Answer

The statutory interpretation issue was raised with insurers by SIRA and the correct interpretation was communicated to insurers at a monthly CTP insurer forum, 'Insurer Monthly Meeting' on 17 July 2018. Minutes of the meeting were recorded and shared with attendees on 23 July 2018. SIRA has

also investigated the matter with the insurer involved and required the insurer to explain its actions including how it has remedied the matter with the injured person in question.

The detailed close to real time data received from insurers does provide an opportunity for SIRA to intervene more rapidly in non-compliance. However, the focus in early months of the scheme has been on embedding the new data arrangements and detecting clear breaches.

In relation to the question of 28 days to lodge a claim, it is important to note that there is no legislative requirement for an injured person to lodge their claim within 28 days of their motor vehicle accident. It is at the discretion of the injured person when they lodge their claim form within the three months allowed by legislation. However, it is in the interest of the injured person to lodge as soon as possible and before the expiration of the 28-day to ensure weekly benefits commence from the date of the accident. If the claim form is lodged after 28 days, weekly payments will commence from day 29.

A claim lodged 28 days after an accident is not always an indicator of non-compliance. SIRA intends to develop more sophisticated risk based surveillance of potential non-compliance risks as the scheme matures and this will include more detailed monitoring of declined claims and adverse decisions by insurers in relation to entitlements of injured people.

SIRA expects to see a certain number of claims lodged outside 28 days for various valid reasons and these people will still access treatment, care and weekly benefits. In the case in question, the issue became known to us due to the dispute between the parties as to the application of the Interpretation Act.

SIRA uses a variety of different data sources to assist with insurer supervision. This includes insights and advice from legal professionals. Over the last eight months SIRA has been actively meeting with a range of different stakeholders and using the information exchanged to make improvements to processes and procedures.

One such meeting is 'the quarterly legal forum' held with representatives from The Law Society of NSW, The NSW Bar Association and the Australian Lawyers Alliance. While SIRA has been working with these stakeholders for several years, the commencement of the new scheme provided the impetus to reconsider the terms of reference and purpose of these meetings. This gave an opportunity for the legal profession to collaborate with SIRA on wide ranging scheme issues such as, among other things, insurer behaviour. These meetings are minuted and actions are recorded and status tracked at the next meeting. Over the course of the eight months since this meeting's inception, there have been a total of 47 actions recorded with 21 closed and the remainder currently being progressed. Attached is the 'Scheme Monitoring update' that was presented at the August meeting that provides an overview of the performance of the 2017 scheme to date. SIRA will be presenting quarterly scheme monitoring updates to this forum and the next meeting is scheduled for 22 November 2018.

Stakeholders continue to express their appreciation for these meetings which give them an opportunity to voice concerns openly with the Regulator and see progress on resolution. SIRA also appreciates the expert input of the legal profession and other stakeholders in bringing risks, non-compliance or other matters to the attention of the regulator. These insights will be utilised by SIRA to build enhanced surveillance analysis to detect risk of non-compliance.