Compulsory Third Party

2014 Scheme Performance Report

State Insurance Regulatory Authority

November 2015

INDEX

1. INTRODUCTION

1.1 Executive Summary

This report is comprised of six chapters. Chapter 1 provides an introduction including an executive summary, overview of recommendation 7 of the twelfth report by the Standing Committee on Law and Justice and the scope of the report. It also provides an overview of the New South Wales motor accidents scheme and the State Insurance Regulatory Authority (SIRA), which has taken over the regulatory functions of the Motor Accidents Authority (MAA). Chapter 2 outlines changes to insurer market share over the past seven years. Chapter 3 examines increases in Green Slip premiums. Chapter 4 provides an analysis of the cost drivers in the scheme. Chapter 5 assesses the financial sustainability of the scheme including scheme efficiency and insurer profit. Chapter 6 considers claims duration, claims profiles and Nominal Defendant claims. It also provides an assessment of medical and claims disputes.

Green Slip premiums have risen by more than 70 per cent since 2008. As at 31 December 2014, the average price offered for a Sydney metropolitan passenger vehicle was $612 (levy and GST inclusive). The average Green Slip premium for all passenger vehicles is currently 34 per cent of average weekly earnings, compared to 28 per cent of average weekly earnings in 2008.

Following the withdrawal of the *Motor Accident Injuries Amendment Bill 2013* in August 2013, the MAA (now SIRA) commenced a program of scheme enhancements within the current legislative framework. These enhancements aim to improve the customer experience and transparency in the scheme, however they were not designed to improve key scheme metrics including price, efficiency, time to settlement and disputation levels.

The SIRA anticipates that, without reform, Green Slip premiums will continue to increase significantly more than the inflation rate each year. It is noted that measures that may reduce the size and length of the long tail of claims would help off-set the impact of interest rates on CTP premiums.

These increases are anticipated due to the continuing trends of a range of factors including external market components such as investment returns as well as the volatility of claims costs. Analysis by the independent scheme actuary, Ernst & Young, indicates that:

- In the years since the Global Financial Crisis, Australian Government bond yields have varied from around 7 per cent down to as low as the current 2.25 per cent which significantly impacts insurers' investment income and as a result the amount of premium they need to collect.
- While casualty numbers have continued to fall in recent years, the number of full claims being made by injured people increased by 40 per cent between 2008 and 2014.
- The increase in claim numbers in the scheme has been driven by an increase in the propensity to claim, which has increased from 30 per cent to close to 50 per cent between 2008 and 2014.
- The number of claims for minor severity injuries that involve legal representation has increased by 78 per cent between 2008 and 2014 and are the main contributor to the increase in claim numbers.

The impact of the increase in claims for minor severity injuries that are legally represented is particularly significant.

The average claims cost per policy in 2014 is projected to be $379, compared to approximately $250 in 2008. Of the $379, the highest contributor is legally represented minor severity injury claims ($156 or 41 per cent of the total).

The increase in claims has directly impacted on legal and investigation costs per policy[1], which have risen by 49 per cent between 2008 and 2014. This has led to a corresponding increase in insurer claims handling expenses, which are a component of the premiums charged by each CTP insurer. Claims handling expenses have increased from $62 million in 2008 to $90 million in 2014.

Claims data shows that the increase in the number of legally represented motor accident claims in the scheme coincides with the increase in the maximum benefit available under the ANF from $500 to $5,000 on 1 October 2008. While the ANF was intended to provide a simplified, fast-track process for resolving smaller motor accident claims, analysis indicates that while the number of ANFs has been increasing since 2008, there has not been an offsetting reduction in full claim numbers. The SIRA is planning a review of the operation of the ANF scheme in order to consider this trend in greater detail. The Authority is also currently working with CTP insurers to better understand the nature and sources of the cohort of recent minor injury claims.

There have been considerable changes to insurer market share over the past seven years. Of the seven licensed Compulsory Third Party (CTP) insurers, QBE has increased its market share while AAMI, GIO, Allianz, CIC-Allianz and NRMA have lost market share. While these changes in insurer market share are an indication of the competitiveness between licensed insurers, the Authority does not expect any new insurance companies to enter the CTP market in the near future.

The costs of capital of a ‘long tail scheme’, the investment in specialist staff resources required to operate a personal injury insurance operation and the risks for a new entrant in terms of quickly building a balanced portfolio, all operate as scheme design challenges for insurers in writing New South Wales CTP business. For these reasons, there have not been any new CTP licences issued by the Authority since 2001. The SIRA anticipates that opportunities to better address competition in the scheme will be identified as part of an independent review of insurer profits in the CTP scheme (refer page 38).

The scheme actuary advises that there are significant cross-subsidies operating in the motor accidents scheme. There has been a sharp increase in reported claims in the Sydney metropolitan region compared to outside Sydney and the outer metropolitan, which has resulted in higher Green Slip prices in the Sydney region. Newer vehicles are subsidising older vehicles and, as expected, older drivers are subsidising younger drivers under 30 years of age. The SIRA is currently reviewing the components of the premium framework, including insurer profits, vehicle classification and the operation of current approaches to cross-subsidisation of premiums.

In relation to the financial sustainability of the scheme, the scheme actuary advises that profit margins have been projected to be above the targeted 8 per cent across all accident years (ending 30 June) except 2009. **The average profit margin from 2005 to 2009 is estimated to be 17 per cent and the average for 2010 to 2014 is estimated to be 12 per cent.** The main driver of the higher than anticipated profit margins in the scheme has been the benign levels of superimposed inflation (i.e. increases in claims costs over and above normal inflation) in the scheme.

The SIRA continues to be concerned about the high level of insurer profits in the CTP scheme. The Authority has responded to recent insurer profit margins by driving down the allowable estimates of superimposed inflation in premiums filings and introducing revised *Premiums Determination Guidelines*, however it is too early to assess their impact on Green Slip prices and insurer profit margins in particular.

[1] The total cost of claims divided by the number of insured motor vehicles in the scheme.

The MAA (now SIRA) commissioned an independent review of insurer profits in the CTP scheme, which was still underway at the time of reporting. The SIRA is planning an analysis of superimposed inflation risks and strategies to address them, in consultation with key stakeholders.

Efficiency is a key indicator of the performance of the New South Wales private motor accidents scheme and considers the proportion of premium paid to claimants as benefits, excluding the publicly-underwritten Lifetime Care and Support scheme. According to the scheme actuary, efficiency was less than 50 per cent up to accident year 2007, and since then has generally been between 50 per cent and 60 per cent. The projected average efficiency for the latest five accident years is 59 per cent. It is noted that while the New South Wales motor accidents scheme is not as efficient as some other schemes, the benefits paid under the scheme are considerably more generous than in many other Australian states.

On the claims side, the average time to lodge a claim is 4 months from the date of accident, and claims then typically take between 1.5 to 5 years to get finalised from the time they are lodged. The median time to finalise minor severity claims like whiplash or soft tissue injuries is 1.5 years. Serious injury claims like complex fractures take about 2.8 years to finalise. Critical severity claims for brain injury or spinal cord injuries typically take about 5 years to finalise. As the scheme is settlement based and larger claims for more serious injuries take longer to finalise, only 50 per cent of total claim payments have been made only by the end of the fourth year.

Males are more likely than females to cause a motor vehicle crash, as are 17 to 25 year olds. Claims made by pillion passengers, motorcycle riders and pedestrians account for small numbers of claims but disproportionately high average claim costs. Nominal defendant claims have decreased over the past year, from 809 in 2012-2013 to 680 in 2013-2014. The Authority has been working on a number of initiatives aimed at making improvements to the claims process to improve the experience for injured people. This includes enhancing the information, support and advice available to injured people and revising its *Claims Handling Guidelines* to require insurers to comply with claims handling principles. The SIRA has also commenced data analysis in an attempt to better understand the drivers and sources of claims increases.

The number of disputes being assessed by the SIRA's independent Assessment Services has remained relatively stable over the past seven to eight years. The volume of applications to the Medical Assessment Service (MAS) has remained within a range of 4,000 to 5,000 applications for the last eight years. The volume of applications to the Claims Assessment and Resolution Service (CARS) has remained within a range of between 3,000 and 4,000 applications a year for the past seven years.

It is acknowledged that the relatively high number of claims that end up at MAS and CARS (around 30 per cent of claims) lengthens the duration of claims and increases stress for injured people. The SIRA is continuing to closely monitor these trends.

1.2 Twelfth review by the Standing Committee on Law and Justice

This report implements recommendation 7 of the twelfth report by the Legislative Council Standing Committee on Law and Justice on the review of the Motor Accidents Authority (MAA). Recommendation 7 states:

> "That the Motor Accidents Authority provide a report annually to the committee by 30 April that includes a comprehensive review of scheme performance in the most recent accident year, including an analysis of the drivers of high levels of insurer profits".

The Government response to the Standing Committee's twelfth report, tabled in Parliament on 12 January 2015, notes that recommendation 7 is supported and that:

> "The MAA will provide a new scheme performance report annually to the Committee. This will include the reporting requirements regarding insurer profit that the MAA is required to provide to the Committee".

During the twelfth review, the Authority advised the Standing Committee that it was difficult for the agency to provide detailed, up-to-date information on scheme performance in its Annual Report as the report must be presented to the Minister for Finance and Services by the end of October, only one month following the end of an accident reporting year. For this reason, the Committee recommended that the Authority produce a separate report which contains a more comprehensive analysis of scheme performance.

The Standing Committee recommended that the report include the drivers for insurer profits and the profit margin premiums and the actuarial basis for calculating those margins, as per section 28 of the *Motor Accidents Compensation Act 1999*. The twelfth report notes that the Standing Committee "is interested to view and analyse this information so that it can gain a greater appreciation for the performance of the scheme, the process involved in insurer price filings and the reasons why insurer profits have been consistently high over the life of the scheme".

The Authority is required to report annually to the Law and Justice Committee on insurer profits. In the past, the MAA had included its report on insurer profit in Annual Reports. This information will now be provided in the Scheme Performance Report. The Committee's twelfth report also recommends that analysis be undertaken on superimposed inflation and reported to the Committee. A discussion on superimposed inflation in the scheme is included in this report.

The SIRA will now principally report on the performance of the CTP scheme annually via this report, and the SIRA Annual Report will primarily focus on the performance of the Authority as a Government agency.

1.3 Scope of Report

This report covers the performance of the CTP scheme, regulated by the SIRA. It does not cover the performance of the Lifetime Care and Support scheme which is managed by Insurance and Care NSW (which has taken over the services formerly provided by the Lifetime Care and Support Authority), and is subject to separate review by the Standing Committee on Law and Justice.

The data contained in this report is based largely on an analysis of key metrics in the New South Wales CTP scheme undertaken by the scheme actuary, Ernst & Young, in their *Review of selected performance indicators of the NSW CTP scheme 2014*. The Ernst & Young review mostly uses data up to 30 June 2014. Figures that relate to average Green Slip premiums and CTP insurer market share are current as at 31 December 2014.

1.4 Overview of New South Wales Motor Accidents Scheme

The New South Wales CTP personal injury insurance scheme (the scheme) provides compensation for people injured in motor vehicle accidents that are the fault of another vehicle owner or driver. In some cases the person at fault may also be eligible for some scheme benefits. The scheme is privately underwritten by CTP insurers who are licensed and overseen by the SIRA.

Compensation benefits under the scheme are fully funded from CTP insurance policies, also known as ‘Green Slips’. It is compulsory for all vehicle owners in New South Wales to purchase a Green Slip from one of seven licensed CTP insurers before registering their vehicle. A Green Slip protects the owner or driver of a vehicle from liability in case they cause a motor accident in which someone is injured. Green Slip prices vary between the CTP insurers and the SIRA offers a complimentary service to enable motorists to compare the prices of all insurers and ‘shop around’ for the best available Green Slip price.

The scheme provides a range of compensation benefits for people injured in motor vehicle accidents that are caused through the fault of another driver. Benefits are determined under a modified common law scheme which allows for negotiation as to the amount payable and settlement in a single lump sum. Once the lump sum has been paid no further claim can be made on the insurer. Expenses for medical, rehabilitation and treatment services and domestic assistance are paid as incurred. Payment for future treatment, rehabilitation and care, past and future economic losses and for those who exceed an impairment threshold, damages for non-economic loss or pain and suffering, are paid in a lump sum at the finalisation of the claim.

Everyone, irrespective of fault, can access early payments for medical and treatment expenses and lost earnings up to $5,000 under an ‘Accident Notification Form’ (ANF). The ANF scheme allows for early notification and quick payment of treatment expenses and lost income incurred within the first six months of an accident. In addition, everyone injured in a motor accident in New South Wales can access public health and ambulance services free of charge, because the SIRA pays for these services in bulk funded from a levy on each Green Slip.

The motor accidents scheme also incorporates a Nominal Defendant scheme, which ensures that people injured in an accident where the vehicle at fault was uninsured or unidentified are still entitled to the same benefits as those covered by a valid Green Slip.

Motor accident claims are managed by the private CTP insurers who must comply with guidelines and standards set and issued by the Authority. The SIRA licences, monitors and regulates the private CTP insurers to ensure that Green Slip premiums are competitive and fair and that motor accident claims are resolved justly and expeditiously.

1.5 State Insurance Regulatory Authority (SIRA)

The SIRA is a statutory body that was established by Parliament on 1 September 2015 under the *State Insurance and Care Governance Act 2015*. The SIRA brings together the regulatory functions of the WorkCover Authority and the Motor Accidents Authority, both of which were abolished by the Act.

The SIRA continues to perform the functions of the former MAA in monitoring and regulating the CTP personal injury insurance scheme for motor vehicles registered in NSW. The Motor Accidents Insurance Regulation division within SIRA ensures that the premiums charged by CTP insurers are reasonable and competitive, that vehicle owners have easy and equitable access to appropriately priced policies and that claims are managed in accordance with the prescribed requirements. The SIRA also monitors and reports on the performance of the scheme.

The functions of the SIRA are set out under section 206 of the *Motor Accidents Compensation Act 1999* (MAC Act) and include:

- to monitor the operation of the motor accident scheme and in particular to conduct (or arrange for other persons to conduct) research into and to collect statistics or other information on the level of damages awarded by the courts, the handling of claims by insurers and other matters relating to the scheme;
- to advise the Minister as to the administration, efficiency and effectiveness of the scheme;
- to publicise and disseminate information concerning the scheme;
- to issue and keep under review relevant guidelines under the Act;
- to provide an advisory service to assist claimants in connection with the claims assessment procedure under the Act;
- to provide funding for measures for preventing or minimising injuries from motor accidents and safety education; and
- to monitor services that provide acute treatment, rehabilitation, long-term support and other services for persons injured in motor vehicle accidents, provide support and funding for programs that assist in injury management including research and education.

The SIRA has guideline making powers and compliance with these statutory guidelines is a condition of an insurer's licence. The SIRA monitors insurer compliance, investigates complaints about insurer behaviour, and takes regulatory action in respect of breaches of these statutory guidelines.

The SIRA also operates an independent assessment and dispute resolution service as a free alternative to the court system for medical and claims disputes between injured people and CTP insurers. This process is administered by the Assessment Services Division and includes the Medical Assessment Service (MAS) and the Claims Assessment and Resolution Service (CARS).

2. MARKET

2.2 Background

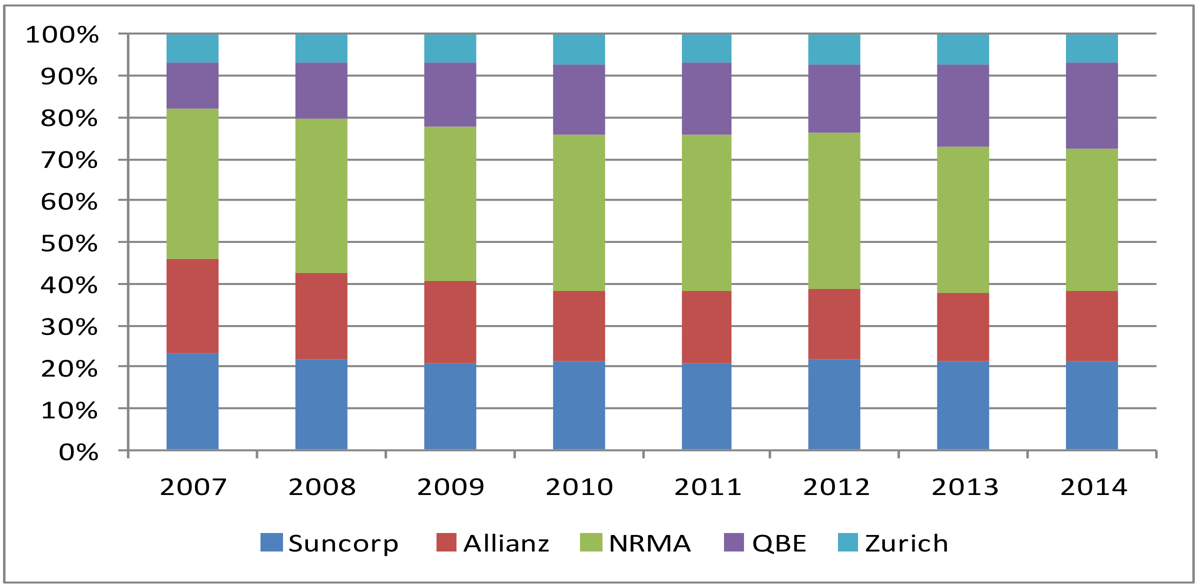
The New South Wales CTP scheme is underwritten by private insurance companies. The insurers are licensed under the MAC Act to write CTP policies in New South Wales and it is illegal for an insurer to offer CTP insurance without the appropriate CTP licence. As at December 2014, there were seven licences issued in New South Wales to five insurance companies - NRMA, QBE, Allianz (holds the Allianz and CIC-Allianz licences), Zurich and Suncorp (AAMI and GIO licences). The market is split into two segments: retail and non-retail. AAMI, GIO, and NRMA compete mainly in the retail segment while CIC Allianz and Zurich compete in the non-retail commercial vehicle market. QBE and Allianz operate in both segments of the market.

There were no new CTP licences issued by the Authority during 2014 and the number of licensed insurers has not changed since 2001.

2.3 Key Facts

- Over the past seven years, QBE has gained significant market share (9.5 per cent).
- AAMI, GIO, Allianz and CIC-Allianz lost substantial market share from 2007 to 2010.
- NRMA has lost 3.7 per cent in market share since 2011, which is a significant amount in a relatively short period of time.
- Zurich's market share has remained relatively stable.

Insurer market share (by premium)



Sydney passenger vehicle headline price[2] ($) by insurer

Insurer	31 December 2012	31 December 2013	31 December 2014
AAMI	501	532	509
GIO	485	519	514
Allianz	498	528	544
CIC Allianz	509	524	551
NRMA	503	532	549
QBE	492	492	503
Zurich	507	543	553

Note: these premiums include MCIS Levies and GST

2.3 Customer Experience

The SIRA provides a free online Green Slip Calculator (www.greenslips.nsw.gov.au) that allows motorists to quickly and easily compare prices from all seven insurers.

The Authority has also been working to streamline Green Slip purchasing by progressing a real-time integration project linking insurer databases with Roads and Maritime Services databases. In addition, the MAA (now SIRA) initiated a review of the Green Slip Certificate format, with a view to increasing the scheme information delivered to customers when they purchase a Green Slip, which was ongoing at the time of reporting.

Following extensive consultation with insurers, the Authority issued new *Market Practice and Business Plan Guidelines*, effective from 1 November 2014. The Guidelines:

- prohibit unfair discrimination and verify that insurers are to act in good faith at all times when interacting with customers;
- explain the underlying principles to be followed by insurers, in order to provide clarity as to the expectations of the Authority for equality of access to CTP policies;
- promote better, more informed communication between insurers and their customers in relation to the issuing and maintenance of CTP policies;
- foster competition by removing unnecessary barriers to innovation by insurers.

Under these new Guidelines, insurers are required to lodge a comprehensive business plan with the Authority, outlining how they ensure their compliance with requirements and providing details of their current distribution and market strategies.

2.4 Comment

Changes in market share are an indication of the competitiveness between licensed insurers and a positive sign that greater levels of competition are re-emerging in the market. A shift to principles-based *Market Practice and Business Plan Guidelines* has put a greater onus on insurers to demonstrate that they are meeting the Authority’s expectations.

[2] Headline price is the best price offered for a new customer private use Sydney passenger vehicle, youngest driver aged 30 to 54.

2.5 Outlook

The recent increase in competition in the CTP market is likely to continue. However given the costs of capital of a ‘long tail’ scheme, the investment in specialist staff resources required to operate a personal injury insurance operation and the risks for a new entrant in terms of quickly building a balanced portfolio, there are no immediate indications that there will be changes to the mix of insurers operating in the CTP market in the short term.

To address longer term options, the MAA (now SIRA) commissioned a review of insurer profits in the CTP scheme, which is including a review of opportunities to better address competition in the scheme. The review was underway at the time of reporting. For more details see the discussion on insurer profits in chapter 5 of this report.

3. PREMIUMS

3.1 Background

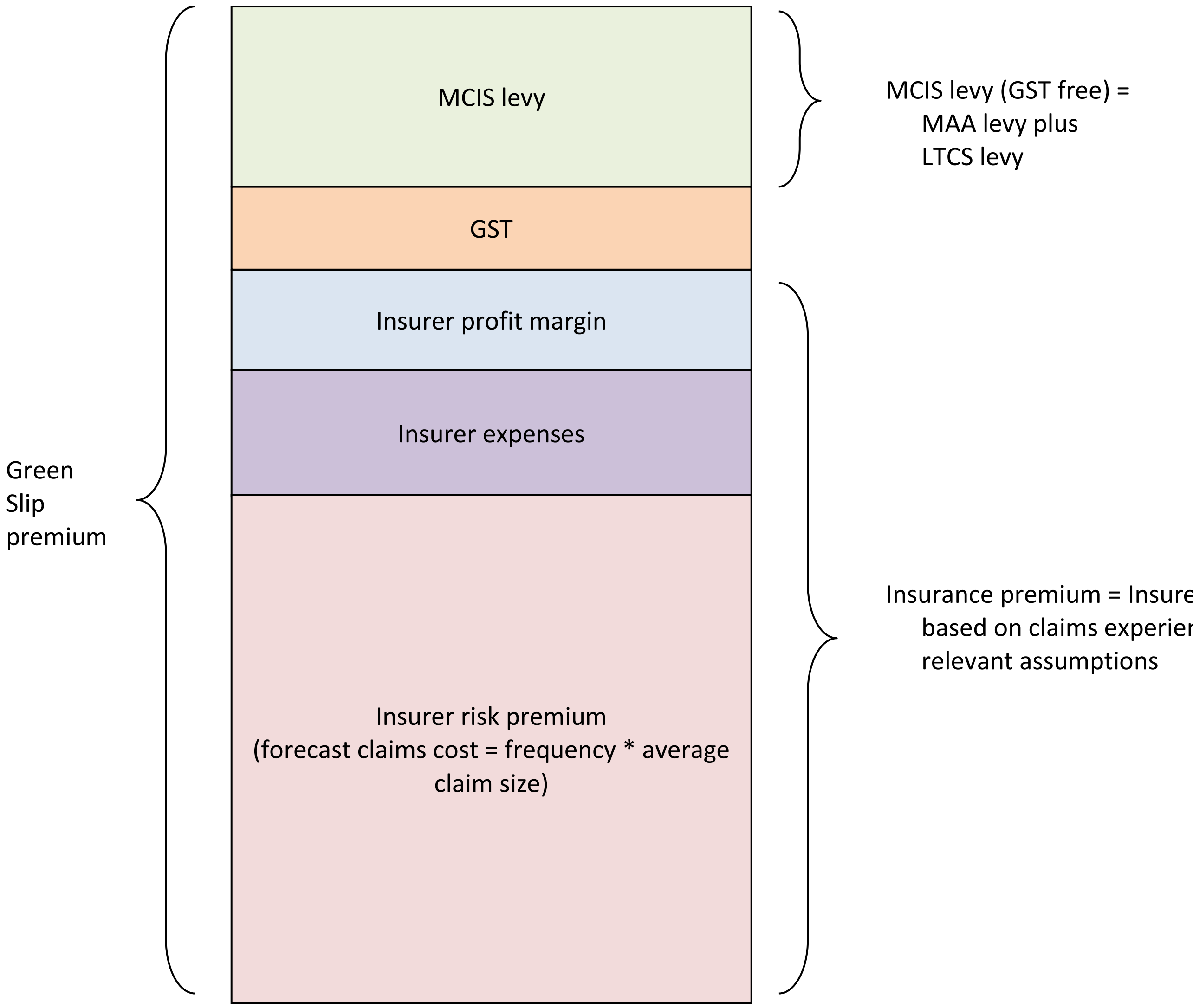
The Government does not set or approve Green Slip premiums. Green Slip premiums are set in a competitive market by licensed CTP insurers, within guidelines approved by the Board. They are based on the actual and forecast claims experience of an insurers' expected portfolio mix of vehicles and rating districts for the filing period. Insurers may use any relevant objective risk factor in differentiating premiums, within specific limits prescribed by the *Premiums Determination Guidelines*.

The MAC Act requires licensed insurers to file proposed Green Slip premiums with the Authority at least once a year (or a longer period as approved by the Authority). The Act provides the Authority with only a limited power to reject a premium – if the Authority is of the opinion that the premium:

- will not fully fund the present and likely future claims liability;
- is excessive;
- does not conform to *Premiums Determination Guidelines*; or
- is calculated in contravention of the maximum commission allowed to be paid to insurer' agents.

The Authority engages an independent actuary (who advises on CTP matters and is currently Ernst & Young) to review each insurer filing and provide actuarial advice to assist the Authority to determine its opinion.

Apart from covering the cost of claims, the Green Slip premium paid by motorists also provides for the cost of insurers' claims management and administration of insurance policies, profit, GST and Medical Care and Injury Services (MCIS) levy. The MCIS levy is used to fund the public hospital and ambulance costs of all road accident victims, all catastrophic Lifetime Care claims and providing funding for the operation of the Authority and its Assessment Services. The following diagram illustrates the components of a Green Slip.



To promote competition and innovation by insurers, the Authority allows risk based pricing but within limits to keep premiums affordable. The premium framework blends both risk-based and community-rated approaches. Generally, Green Slip premiums reflect the underlying risk, plus or minus a subsidy, so good risks subsidise the poor risks within imposed limits. If the cross-subsidy was not included the cost of CTP for some motorists (e.g. under 25 year old drivers) would be unaffordable and the community would run the risk of these motorists driving their vehicles uninsured and unregistered.

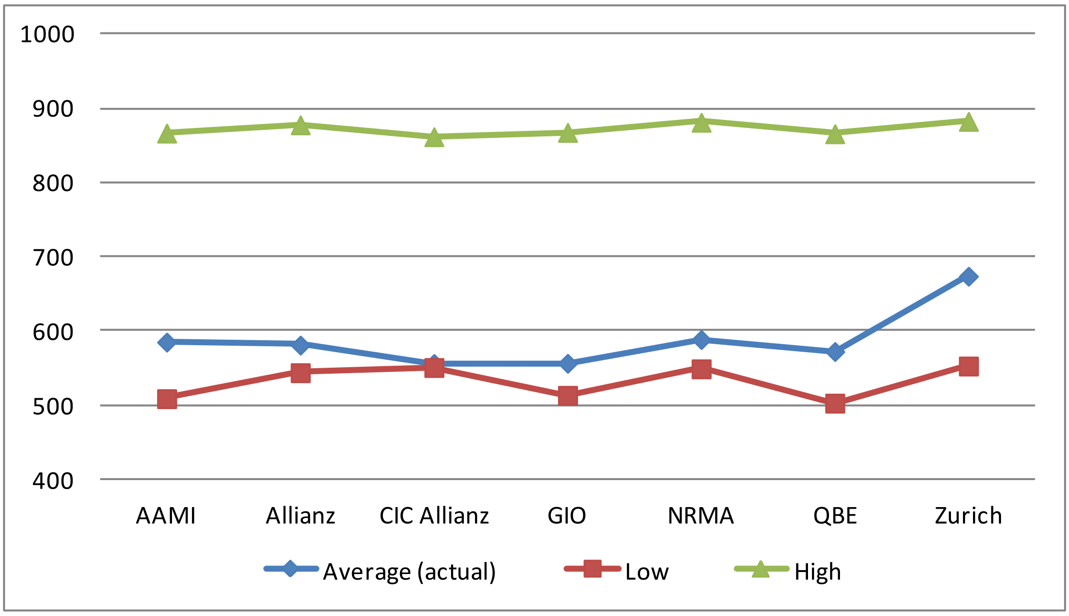
Prices are calculated for each ‘region’ and ‘vehicle class’ – there are 5 regions in New South Wales and 33 vehicle classes. Just over 41 per cent of the total vehicle fleet are “Class 1” passenger vehicles in the Sydney metropolitan region.

On top of these prices, an insurer can offer a discount or impose a loading on a Green Slip premium. Insurers may take into account any objective risk rating factor (except postcode, gender, race, policy duration or GST status). CTP insurers use the age of the owner/ driver as the primary rating factor. Secondary rating factors include age of the vehicle and driver record, for example, number of at-fault accidents, number of traffic offences, comprehensive insurance history and level of no claims bonus, and demerit points.

The Authority specifies the overall range of discounts and loadings that insurers can apply. Currently the maximum bonus or discount is 15 per cent, except for drivers over 55 where it is 25 per cent. The maximum loading varies by insurer using a formula set by the Authority and currently is around 50 per cent on average. The extent to which insurers are able to risk rate individual Green Slip policies within the CTP scheme determines the extent of cross subsidies in the scheme.

The chart below provides the premiums charged by each insurer (GST & MCIS levy inclusive) for a passenger vehicle garaged in the Sydney area. The maximum premium that a poor risk (e.g. 17 year old) would pay is approximately $880. Good risks will pay between $500 and $550 depending on the insurer chosen.

Green Slip pricing spread for a Sydney passenger vehicle[3] as at 31 December 2014



The use of the discount and loadings structure promotes competition between CTP insurers as they apply risk factors differently based on their experience. For this reason, the Authority encourages motorists to ‘shop around’ and compare the prices available in the competitive Green Slip market using the free price calculator on the Authority’s website.

3.2 Key Facts

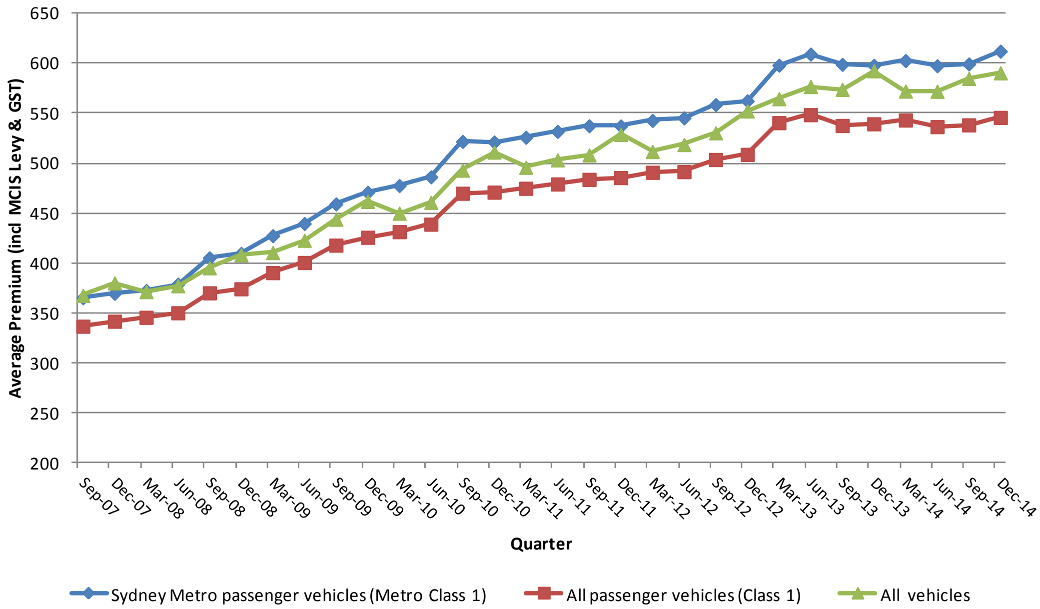
- Green Slip premiums have risen by more than 70 per cent since 2008.
- The average Green Slip price offered for a Sydney metropolitan passenger vehicle was $612 (levy and GST inclusive) as at 31 December 2014, compared to $598 (levy and GST inclusive) as at 31 December 2013.
- The average Green Slip price for all passenger vehicles in New South Wales was $546 (levy and GST inclusive) as at 31 December 2014 compared to $539 (levy and GST inclusive), as at 31 December 2013.
- The average Green Slip price for all New South Wales vehicles was $591 (levy and GST inclusive) as at 31 December 2014, compared to $593 (levy and GST inclusive) as at 31 December 2013.

[3] Based on private use with the youngest driver aged 30 to 54.

- The best Green Slip price for the owner of a Sydney metropolitan passenger vehicle aged between 30 and 54 was $503 (levy and GST inclusive) as at 31 December 2014, compared to $492 (levy and GST inclusive) as at 31 December 2013.

- The average Green Slip premium for all passenger vehicles has increased from approximately 28 per cent of average weekly earnings in 2008 to approximately 34 per cent of average weekly earnings in 2014.[4]

Average Green Slip Price (MCIS levy and GST inclusive)



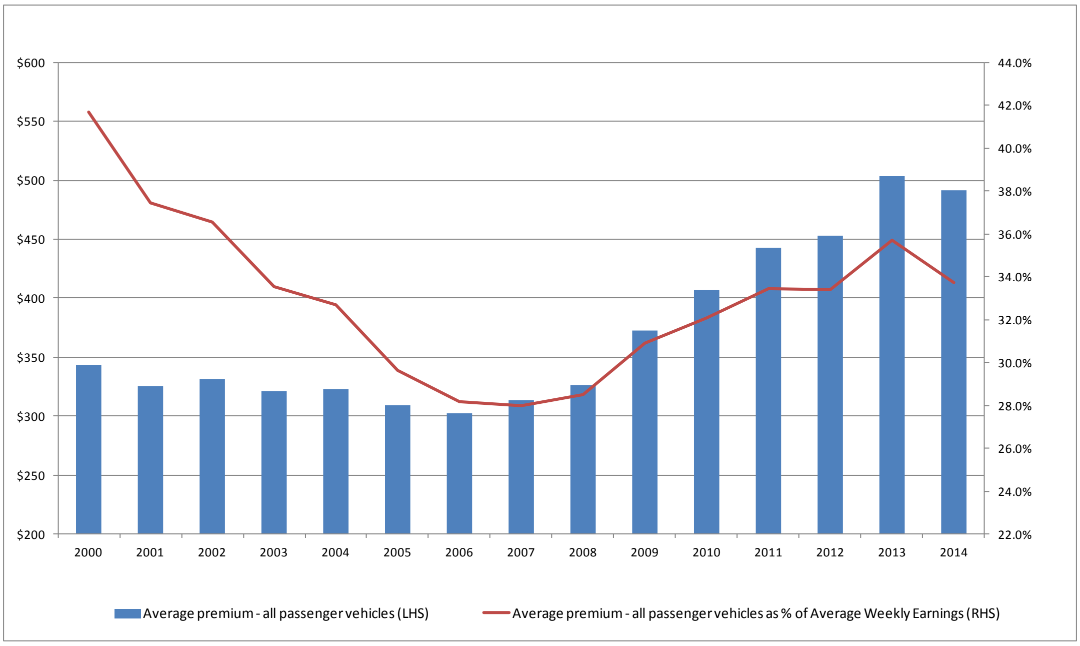
3.3 Affordability

Affordability is measured by comparing the average Green Slip price for all passenger vehicles (including MCIS levy but excluding GST) with the NSW Average Weekly Earnings (AWE). The lower the ratio the more affordable premiums are considered to be.

In the year 2000 the cost of a Green Slip represented 42 per cent of AWE. Between 2000 and 2008 affordability of Green Slips improved dramatically and this was due to the average Green Slip Premium declining slightly during this period. Since 2008 the affordability has deteriorated from 28 per cent of average weekly earnings to 34 per cent, but this is still significantly below the 2000 levels.

[4] The affordability of a Green Slip is measured by comparing the average Green Slip price for all passenger vehicles (including the MCIS levy but excluding GST) with the New South Wales Average Weekly Earnings (AWE). The lower the ratio the more affordable premiums are considered to be.

Premium as a proportion of NSW Average Weekly Earnings



Note : These premiums are as at 30th June for annual polices and exclude GST

3.4 Customer Experience

Feedback received by the Authority from CTP policy holders indicates that there is a very poor understanding of the product and its value – that is, what a CTP policy provides. There is a general perception that Green Slip prices are too expensive and consumers have indicated that they do not want further price increases. Concerns have also been raised about the price of New South Wales Green Slips compared to other States, given that New South Wales is one of the least affordable jurisdictions in Australia. The fact that the benefits provided under the New South Wales scheme are more generous than those in other States is not generally recognised.

3.5 Comment

While average Green Slip prices reduced somewhat in 2013-2014 due to a reduction in the MCIS levy and lower filed premiums by some insurers, the price of a Green Slip has increased significantly overall during the past six years. These increases are due to a range of factors including the residual impact of the global financial crisis on long term bond yields, increased claims frequency and an increasing number of small claims involving legal representation. For more information see the discussion on the analysis of scheme cost drivers in chapter 4 of this report.

The MAA (now SIRA) issued new *Premiums Determination Guidelines* which commenced on 1 November 2014 following a trial period to ensure new processes and requirements were workable. The revised Guidelines provide a more robust framework for the scrutiny of insurer filings by the Authority. They require greater transparency from insurers regarding proposed price changes as insurers must provide more specific information on the assumptions underlying their projections. The new rules improve the Authority's capacity to determine whether filings represent a genuine effort on the part of the insurer to offer competitive premiums, which are not excessive and are fully funded.

In addition, the revised Guidelines Practice Note imposes an affordability ceiling on Green Slip prices – the average maximum CTP premium payable for a New South Wales passenger vehicle (excluding GST) is to be within 50 per cent of the average weekly earnings for New South Wales workers. All licensed insurers lodged new prices to commence on 1 November 2014. The details of insurers' headline price movements for a Sydney passenger vehicle were:

Insurer	NRMA	GIO	AAMI	Allianz	QBE	CICA	Zurich
November 2014	$572	$514	$509	$544	$503	$551	$553
June 2014	$532	$519	$524	$542	$509	$565	$547
Headline price change $	$40	-$5	-$15	$2	-$6	-$14	$6
Headline price change %	7.5%	-1.0%	-2.9%	0.4%	-1.2%	-2.5%	1.1%

Note: These are the lowest premiums (GST & MCIS levy inclusive) offered for a new customer, private use Sydney passenger vehicle, youngest driver aged 30 to 54

3.6 Scheme Volatility

The design of the current CTP scheme makes it volatile due to a range of factors including external market components such as investment returns from premiums invested in government bonds and inflation, commercial decisions by CTP insurers and the uncertainty of the common law system. This volatility of premiums and claim costs in the scheme also has the impact of making the scheme less attractive to new entrants.

Premiums are materially affected by the investment returns achieved by insurers. CTP insurance is unlike most insurance products in that it is a 'long-tail' product. This means that it may be many years after a claim is lodged before the entitlements are paid. Insurers invest a large portion of the premium collected to provide for future claim payments. These amounts are typically invested in 3 to 10 year bonds and insurers rely on the combined investment income and the amounts invested to have sufficient funds to pay their future claim liabilities. One of the consequences of the global financial crisis has been a long term reduction in investment income for CTP insurers, which subsequently increases the premium they must collect to ensure they have the funds to pay all future claims (refer pages 26-27).

Fluctuations in Green Slip premiums in New South Wales are also due in part to commercial decisions made by individual CTP insurers to avoid 'poor' risks and attract 'good' risks. Insurers are also able to offer a discount or impose a loading on a Green Slip premium based on any objective risk rating factor (except postcode, gender, race, policy duration or GST status, refer pages 16-18). While the Authority specifies the overall range of discounts and loadings that insurers can apply, insurers can – and do – change their pricing mechanisms (malus loading or bonus discount) from time to time. This changes the premiums payable by policy holders from year to year, sometimes quite dramatically. On the other hand, the ability to adjust prices quite freely enables competitive pricing, which may be of benefit to vehicle owners who shop around. The effectiveness of the current approach to pricing will be the subject of a review by the SIRA in 2015-2016.

The volatile nature of Green Slip premiums in New South Wales is also due in large part to the lack of certainty in the scheme. The New South Wales CTP scheme is a common law based system, which means that legal precedents can also drive unexpected cost. This is known as superimposed inflation (the rate of escalation of claim costs which exceeds ordinary inflation) which tends to be volatile over time (refer page 39). In other words, insurers cannot be sure of the ultimate number of claims that will be made at any point in time nor can they be sure of the likely future payments that they will have to make. In recent years, claims frequency and claims propensity has been rising despite improvements to road casualty rates (refer pages 27-29). The increase in overall claims frequency in New South Wales is likely to be reflected in future premium filings.

Changes to the scheme would be required to ensure reduced settlement times and to increase certainty and transparency in regard to scheme costs and damages awarded and thus limit the volatility which currently exists.

3.7 Cross subsidies

As the NSW CTP scheme is a mandatory scheme, there are cross subsidies in place to ensure that premiums are affordable for all vehicle owners. Following is an overview of cross subsidies in relation to geographic location, age of the youngest driver and age of vehicle. As part of its CTP scheme improvement program, the SIRA is currently reviewing the components of the premium framework, including insurer profits, vehicle classification and the operation of current approaches to cross-subsidisation of premiums.

Geographic area

The following table shows the number of reported claims by the Authority's rating regions for Class 1 vehicles (motor cars) only based on the garage postcode of the vehicle most at fault.

Reported full claim numbers by rating region

Region	**Claims reported in year ending 30 June**							**Overall increase**	
	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014***	**Number**	**Percentage**
Metropolitan	3,616	3,673	3,903	3,967	4,339	4,925	5,020	1,404	39%
Outer Metro.	95	106	124	115	132	112	118	23	24%
Newcastle	588	592	547	598	584	589	446	-142	-24%
Wollongong	152	113	138	150	134	167	142	-10	-7%
Country	1,035	1,021	1,047	1,135	1,139	1,067	949	-86	-8%
Other/Nom def.	49	56	99	71	83	84	83	34	69%
All Claims	5,535	5,561	5,858	6,036	6,411	6,944	6,758	1223	22%

**Figures do not allow for ANFs which may be converted to full claims at a later stage, hence the decrease compared to 2013.*

The increase in reported claims can be attributed to the sharp increase in the Metropolitan region, an increase of around 40 per cent over six years. The increase in the number of Class 1 vehicles over the same period is 11 per cent for the metropolitan region. Note that the number of full claims reported in 2014 shown above is lower than 2013 as some claims initially notified as an ANF may convert to a full claims at a later stage.

Outside the Sydney and outer metropolitan regions there has been no obvious trend in claim numbers reported for Class 1 vehicles. This increasing trend in claim numbers observed for the Sydney metropolitan region explains why CTP premiums have increased more in recent years in this region and if the trend continues into the future, Green Slip premiums in the Sydney metropolitan area will increase more than in other regions of New South Wales. This has contributed in the recent increases in the Class 1 premiums for the Sydney Metropolitan region relative to the other regions.

As discussed elsewhere in this report, the increase in claim numbers in the scheme has primarily been caused by sharp increases in claims for minor severity injuries with legal representation (and moderate severity injuries to a smaller extent). The following table shows the number of reported minor severity injuries with legal representation claims by the Authority's rating regions for Class 1 vehicles.

Reported minor severity injuries with legal representation claim numbers by rating region

Region	Claims reported in year ending 30 June							Overall increase	
	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014***	**Number**	**Percentage**
Metropolitan	1,572	1,675	1,955	1,926	2,321	2,783	3,528	1,956	124%
Outer Metro.	40	41	50	48	60	53	84	44	110%
Newcastle	235	221	228	232	237	266	213	-22	-9%
Wollongong	58	42	76	72	67	84	83	25	43%
Country	421	424	467	452	507	472	550	129	31%
Other/Nom def.	17	30	33	34	34	35	48	31	182%
All Claims	2,343	2,433	2,809	2,764	3,226	3,693	4,506	2163	92%

**Figures do not allow for ANFs which may be converted to full claims at a later stage.*

Over the last six years, the number of claimants with minor severity injuries who are legally represented has increased by more than 120 per cent for the Metropolitan region. This accounts for most of the observed increase in this claim category for the scheme.

Vehicle age

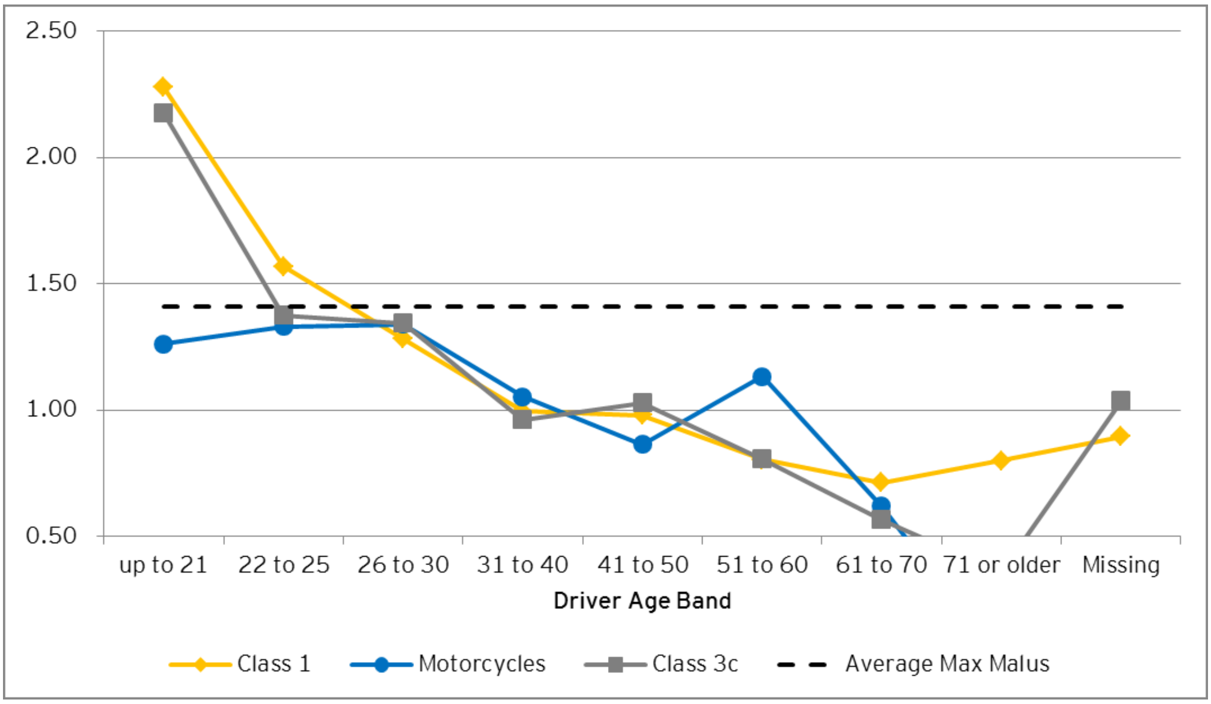
For Class 1 motor vehicles, the relative claims cost is lower for vehicles less than 10 years of age, and more for vehicles over 10 years of age. The relative claims cost for newer vehicles is around 20 per cent lower than the average cost for all Class 1 vehicles. This suggests that on average newer Class 1 vehicles cross subsidise older Class 1 vehicles.

Driver age

The following chart shows the relative claims cost by driver age for the different vehicle classes, Class 1, Class 3c (goods vehicles) and motorcycles. All three vehicle classes show a very similar pattern for the relative cost by driver age band – relative cost reduces with increasing driver age. The relative costs of young drivers (less than 30 years of age) are typically much higher than 1.0 and drivers in the 31 to 40 and 41 to 50 bands have relative costs around 1.0 (i.e. the average). The relative cost for drivers aged 61 and over are significantly below 1.0.

Under 21 year old drivers of Class 1 and 3c vehicles have relative costs substantially higher (more than double) than the industry average which suggests they are cross subsidised by vehicles driven by older drivers in the scheme.

Relative cost by “youngest” driver age band and vehicle class



3.8 Outlook

Based on the trends set out in the next chapter, the Authority expects Green Slip premiums will continue to increase significantly more than the inflation rate each year.

4. ANALYSIS OF COST DRIVERS IN THE SCHEME

4.1 Background

Green Slip premiums have increased steadily since 2008 due to the insurers' declining investment returns as a result of the decline in Government Bond yields, inflation, increased claims frequency and claims costs and an increasing number of claims involving legal representation and ANFs. These cost drivers are discussed in detail below.

In this section the scheme actuary has provided the analysis in relation to the impact of investment rates, changes in claim and ANF numbers, claims cost per policy and legal and investigation costs.

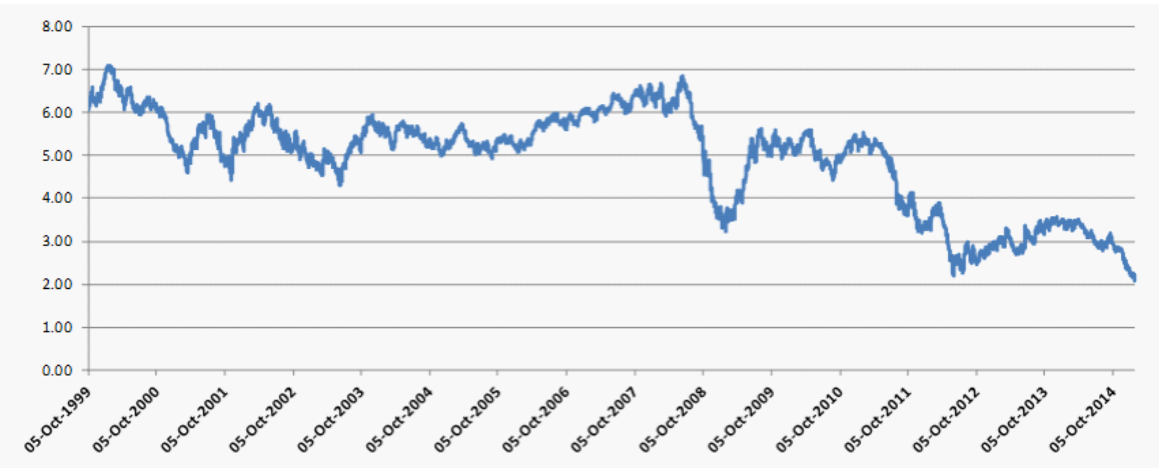
4.2 Key Facts

Investment income

Premiums are affected by investment returns by insurers. CTP insurance is unlike most other insurance products in that it is a 'long-tail' insurance product. This means that it may be many years after a claim is lodged before the entitlements are paid. While some claim payments are made early in the life of a claim (such as treatment expenses), the lump sum payment of entitlements is not made until negotiations are complete and the claim is finalised. This is in contrast to 'short tail' insurance products, such as motor vehicle property damage or home and contents insurance, where the majority of claims are made and paid in the same year as the premiums are collected. It is also in contrast to 'statutory benefit' personal injury schemes like WorkCover, where economic losses are paid as incurred and most claims do not receive a lump sum payment.

Insurers invest a large portion of the premium collected to provide for future claim payments. These amounts are typically invested in 3 to 10 year bonds and insurers rely on the combined investment income and the amounts invested to have sufficient funds to pay their future claim liabilities. Any movements in bond yields will impact the amount of premium the insurer needs to charge. In the years since the start of the Global Financial Crisis, Australian government bond yields have varied from around 7 per cent down to as low as the current 2.25 per cent. Due to the long duration of claim payments, a 1 per cent decrease in yields would result in a 4 per cent (approximate) increase to Green Slip prices to offset the reduction in investment income.

Trends in 5 year Commonwealth bond yields



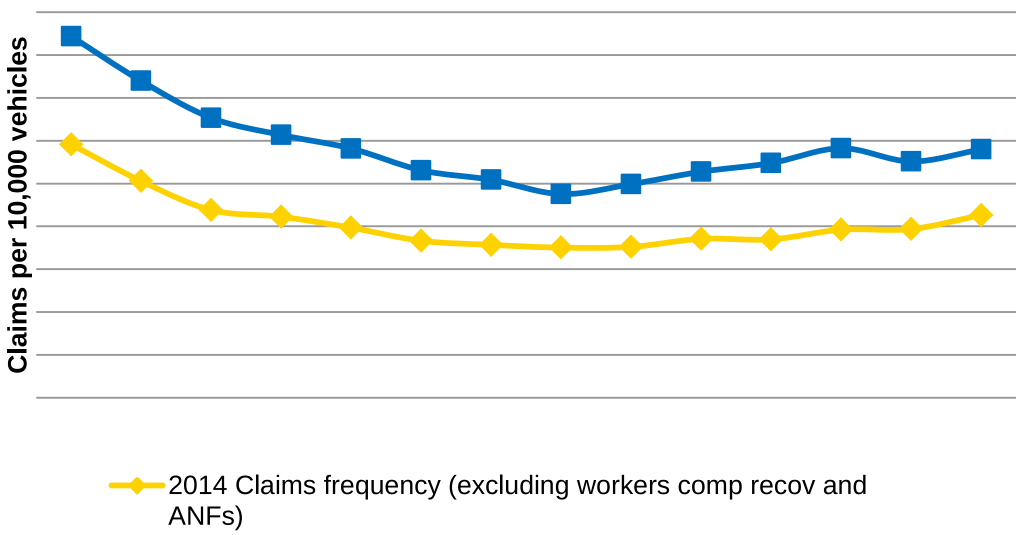
The impact of the interest rate reductions between June 2013 and June 2014 is a 1.8 per cent or $7 increase in the average Green Slip premium (excluding GST and MCIS levy), while the impact of the increase in wage inflation expectation was a 1.3 per cent or $5 increase. It is anticipated that if interest rates fall by another 1 per cent, the average Green Slip premium will increase by 3.6 per cent or about $14 (based on an average insurer premium of $400 excluding GST and MCIS levy).

One of the consequences of the global financial crisis therefore has been a long term reduction in investment income for CTP insurers, which subsequently increases the premium they must collect to ensure they have the funds to pay all future claims.

Claim frequency and propensity to claim

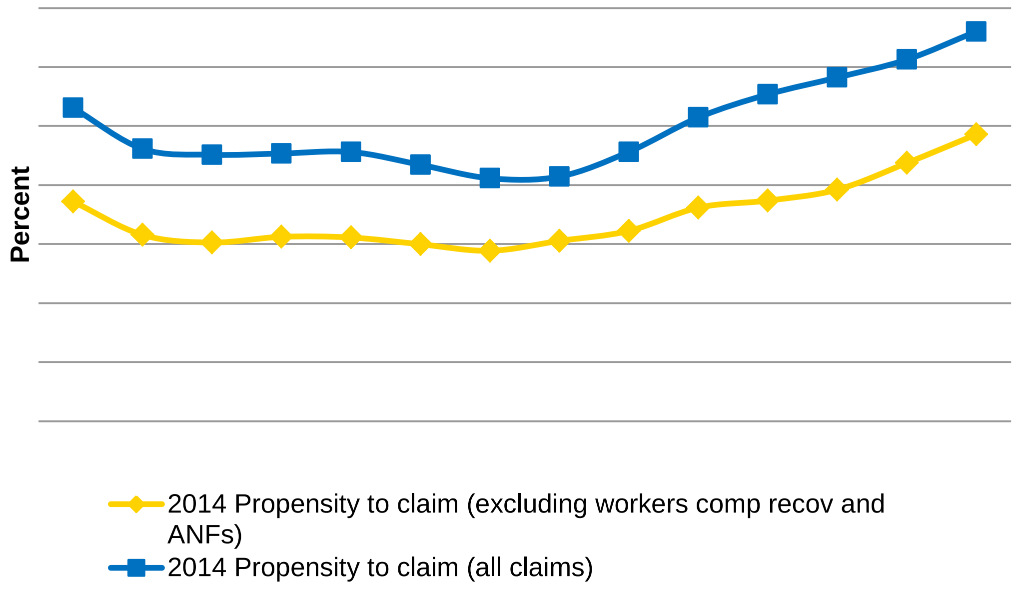
People injured in motor vehicle accidents in New South Wales are increasingly likely to lodge a CTP claim (either ANF or a full claim). Since 2008, full claim frequency (the number of full claims lodged for every 10,000 vehicles) has increased from 18 to 21. This increase is due to an increasing propensity to claim rather than the frequency of road casualties.

Claim frequency by accident year



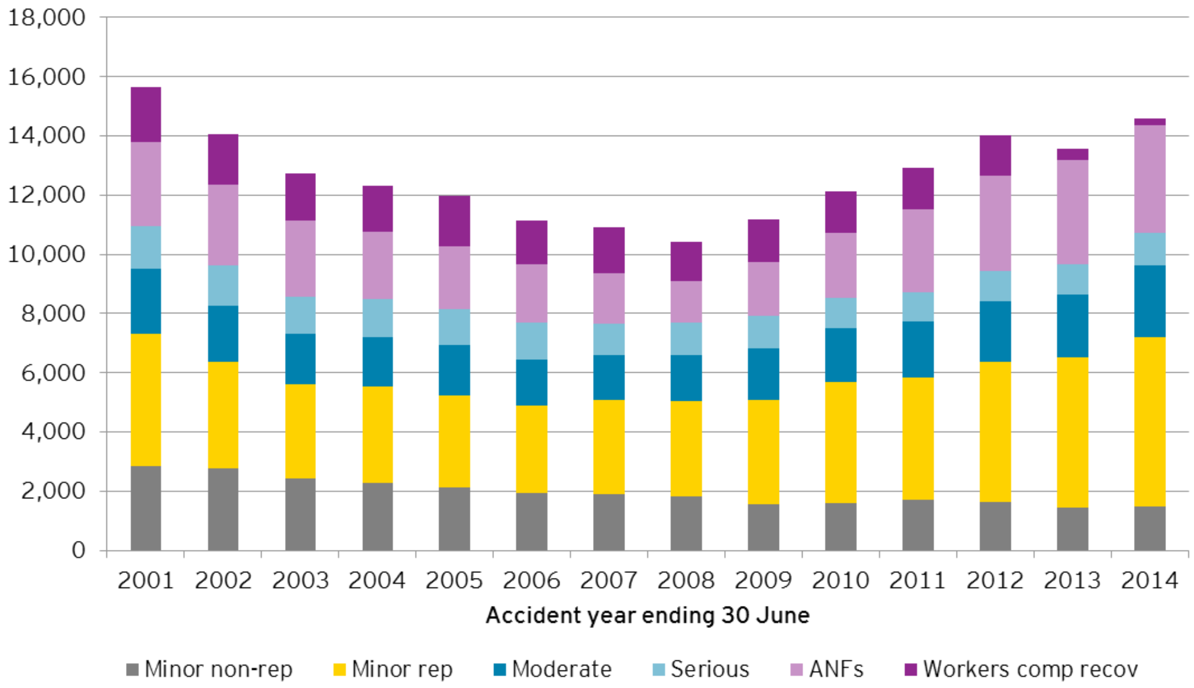
Propensity to claim [the number of full claim notifications per 10,000 road casualties (hospital admissions resulting from motor vehicle road accidents)] has also increased significantly since 2008. The overall propensity to claim (all claims – ANF plus full claims) has increased on average by 4 per cent every year between 2008 and 2014.

Propensity to claim by accident year

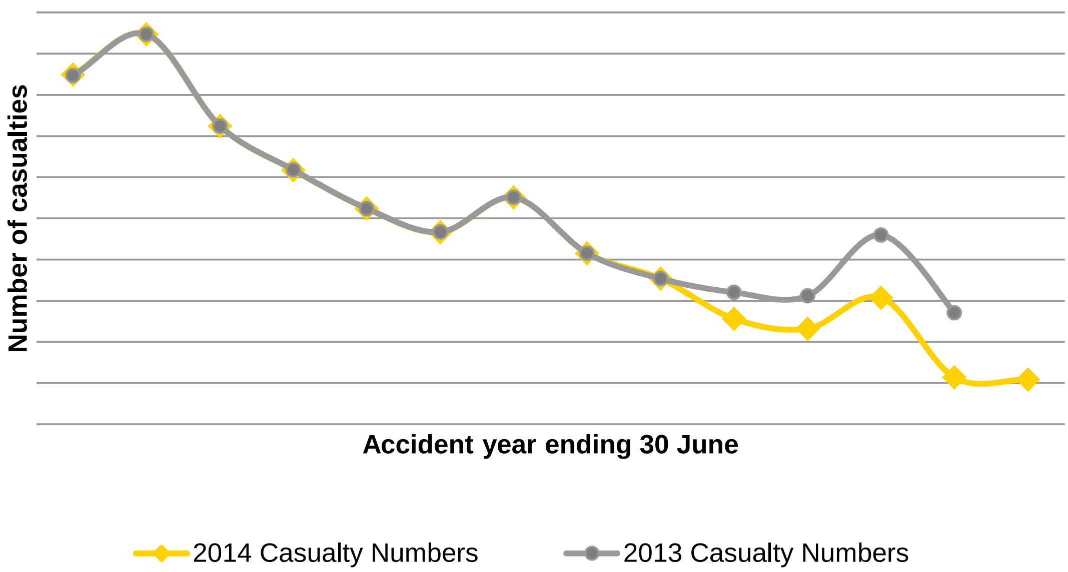


The number of CTP claims (excluding workers compensation recoveries and ANFs) increased 40 per cent between 2008 and 2014, despite a 12 per cent decrease in road casualties over the same period. These are shown in the following two graphs.

Ultimate number of full claims and ANFs



Casualty numbers



The increase in claim numbers is largely due to an increasing number of claims being lodged by legally represented people with minor severity injuries. The number of claims for minor severity injuries that involve legal representation has increased significantly since 2008, rising by 78 per cent overall between 2008 and 2014. In addition, the proportion of claims for legally represented minor severity injuries represented close to 40 per cent of total CTP claim numbers in 2014 compared to 27 per cent between 2003 and 2007. In contrast, the number of claims being made by injured people with minor severity injuries who are not legally represented has decreased from approximately 20 per cent of claims in the early 2000s to 10 per cent of claims in 2014.

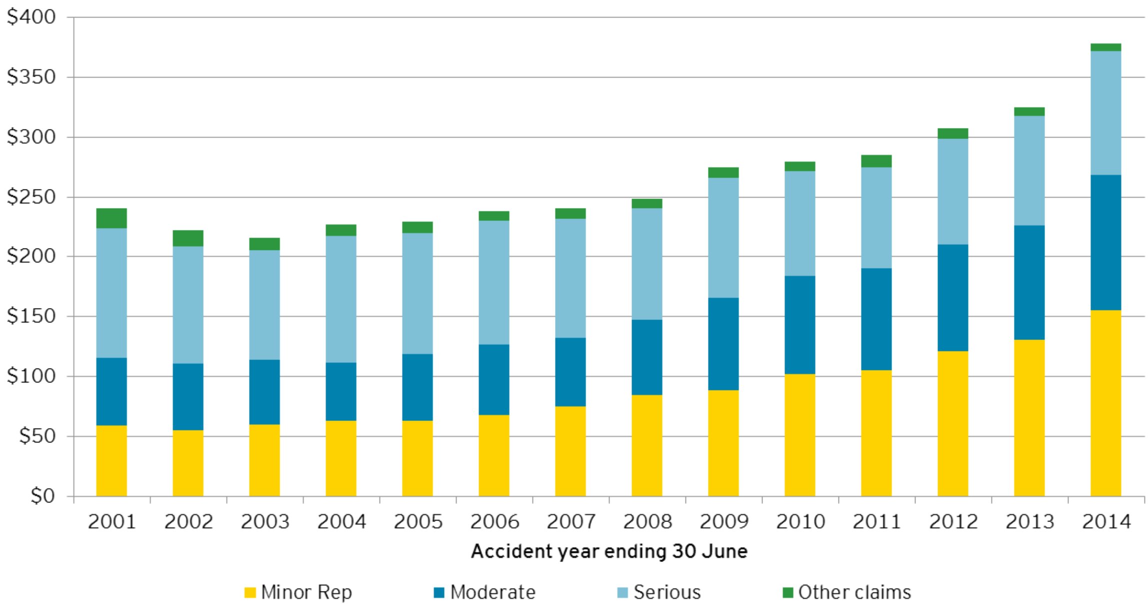
The recent increasing prevalence of minor severity injury claims with legal representation has contributed to an increase in overall scheme claim costs. Analysis indicates that the average claim size for minor severity injuries with legal representation is close to eight times that for minor severity injuries without legal representation. The average claim size for minor severity injury claims without legal representation is $23,000 in June 2014 values while the average claim size for minor severity injuries that are legally represented is $125,000 in 30 June 2014 values.

The number of not-at-fault ANFs has also increased significantly since 2008, rising by 87 per cent overall between 2008 and 2014 following the increase in the ANF threshold. The proportion of ANFs has also been increasing, making up 25 per cent of total CTP claim numbers in 2014.

Claims Costs

The overall claims cost per policy has increased significantly since 2008. As the following graph shows, the cost per policy in 2014 is projected to be $379, compared to approximately $250 in 2008. Of the $379, the highest contributor is legally represented minor severity injury claims ($156 or 41 per cent of the total), followed by moderate severity injury claims ($113 or 30 per cent of the total) and serious severity injury claims ($103 or 27 per cent of the total).

Cost per policy for all claims and ANFs



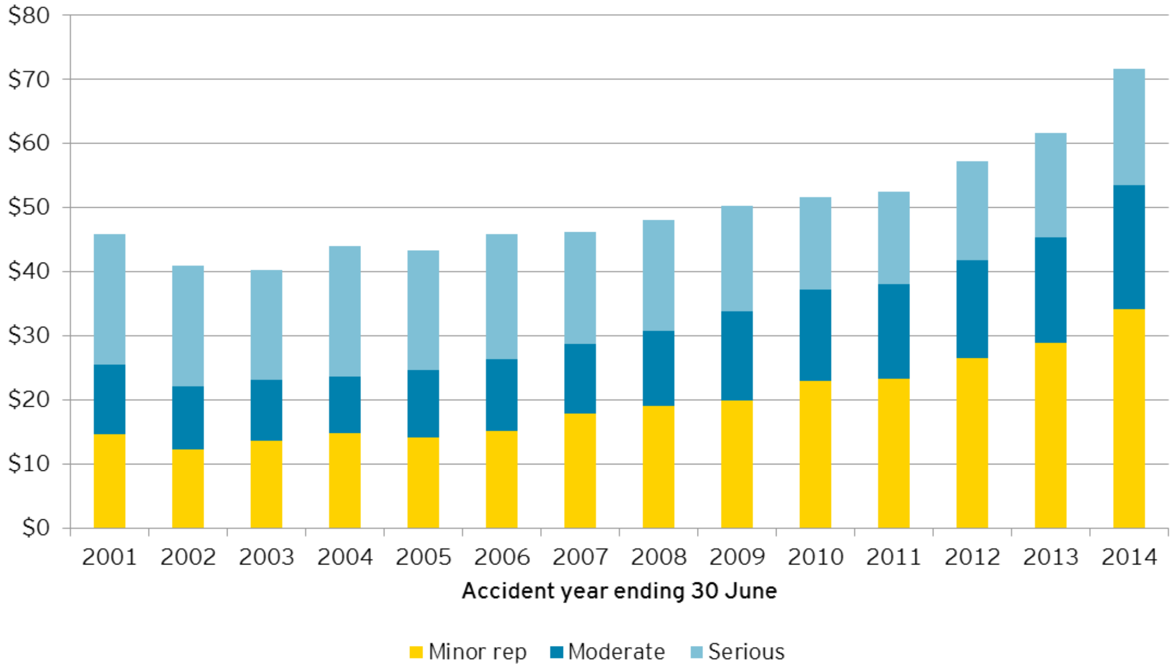
Other claims include non-legally represented minor injury severity claims, ANFs and workers compensation recovery claims.

The main driver of the increase since 2008 is therefore a higher frequency of claims from injured people with minor severity injuries who are legally represented and moderate severity injuries. The claims cost from serious severity injuries has also increased recently although there are no clear signs of a longer term trend. Other claims (workers compensation recovery claims, non-legally represented minor injury severity claims and ANFs) represent less than 5% of claims cost.

Legal and investigation costs

Legal and investigation costs per policy have also increased significantly since 2008 and especially from 2012. The overall increase between 2008 and 2014 is 49 per cent, and the increase in 2014 alone is 16 per cent. The increase is mainly due to minor severity injury claims and to a smaller extent moderate severity injury claims. As shown in the following graph, the number and frequency of these claims have been increasing significantly recently.

Legal and investigation costs per policy

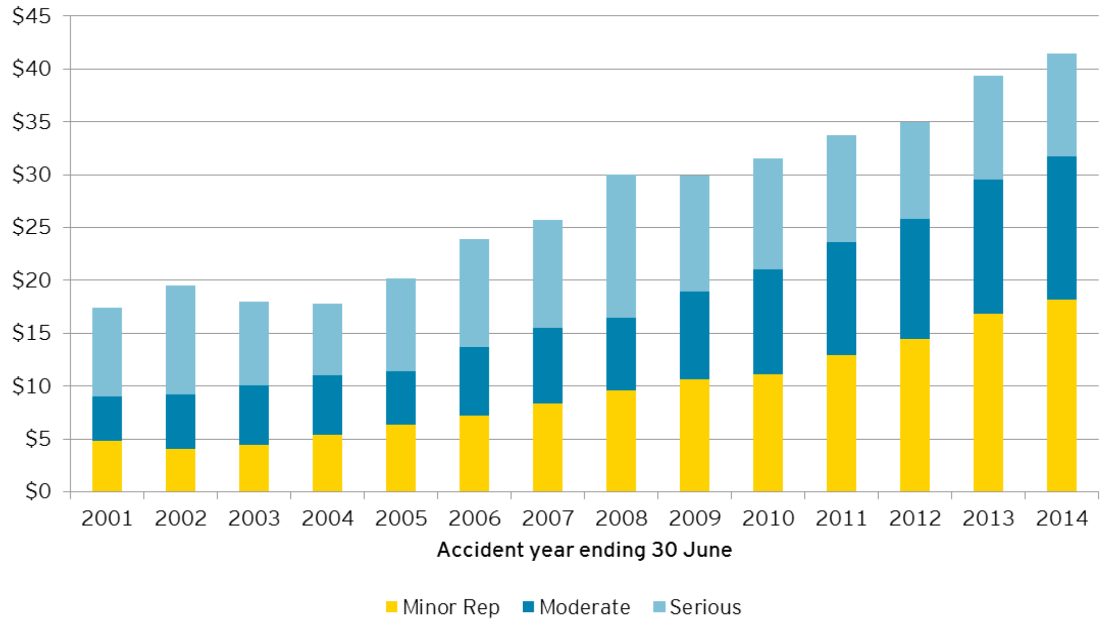


For 2014, minor severity injury claims made up close to half of the overall legal and investigation cost. The remaining legal and investigation cost is split evenly between moderate and serious severity injury claims. In contrast, minor severity injury claims contributed 34 per cent of legal and investigation costs prior to 2008.

Care costs

Injured people can claim for the cost of care (i.e. attendant care and personal care) under the scheme, including care that may have been provided free of charge by family or friends, if such care exceeds a statutory threshold. The cost of care has increased at very high rates since 2000 (i.e. high rates of superimposed inflation) relative to other payment types. Care cost per policy has increased steadily over the past ten years, rising from $18 per policy in 2004 to $42 per policy in 2014. The increase was contributed by all injury severity types, but most notably legally represented minor severity injury claims followed by moderate severity injury claims.

Care costs per policy

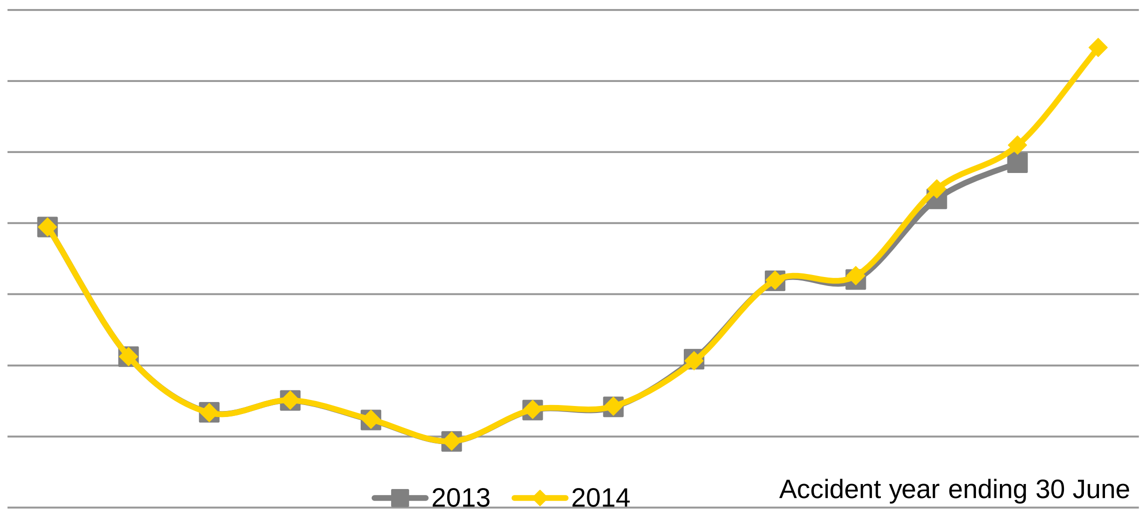


Claims for minor severity injuries with legal representation

Since 2008, the number of minor claims that are legally represented has increased from 64 per cent to 79 per cent. While some claimants seek legal representation at the start of a claim, others may retain legal representation at some later point during the life of a claim. Since 2008, an increasing proportion of claims are being lodged with legal representation. The number of full claims lodged with legal representation increased from 37 per cent in 2008 to 56 per cent in 2014.

The increase in minor severity injury claims with legal representation has led to a corresponding increase in insurer claims handling expenses, which are a component of the premiums charged by each CTP insurer. Claims handling expenses have increased from $62 million in 2008 to $90 million in 2014 and represent 5 per cent of the average CTP premium.

Ultimate number of claims for legally represented minor severity injuries



Accident Notification Forms (ANFs)

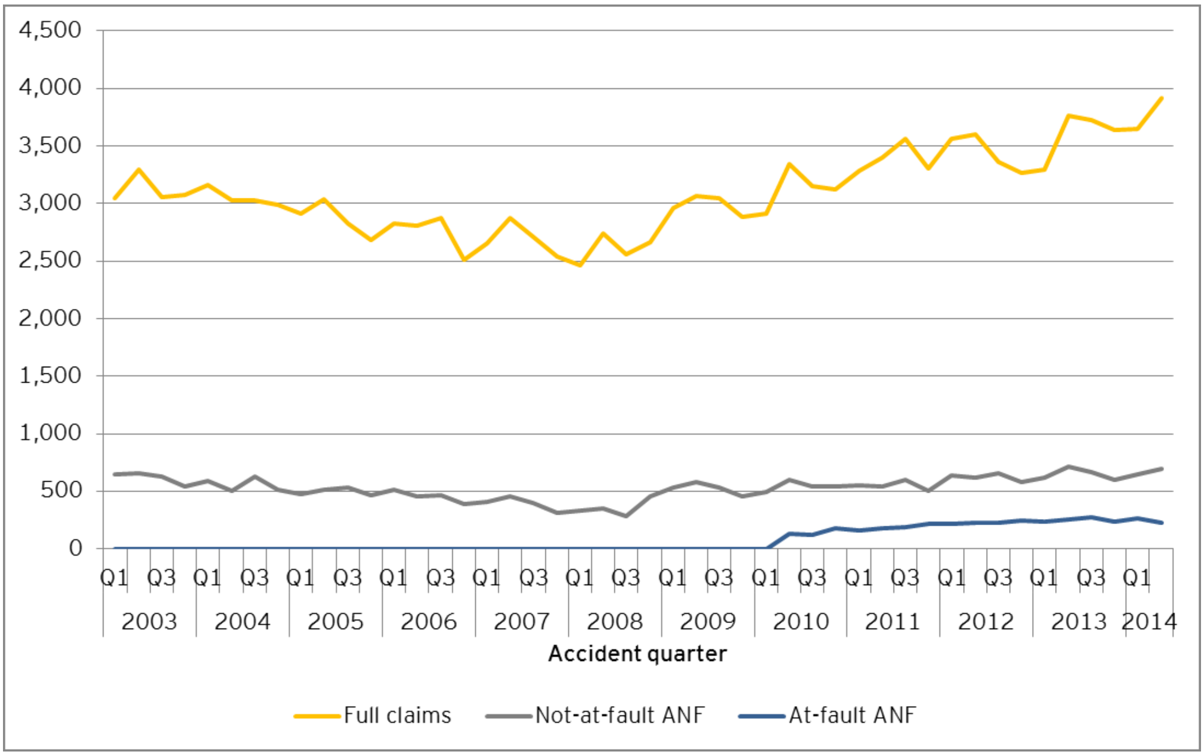
On 1 October 2008, the maximum benefit available under the ANF was increased from $500 to $5,000. The stated rationale for expanding the ANF threshold was "to provide claimants with more minor injuries the option of a simplified process for the recovery of up to $5,000 in treatment expenses and lost earnings ... [and to] provide a fast-track process for more efficiently resolving small claims".[5]

Analysis of the ANF shows that there has been a significant change in claims behaviour in the scheme immediately from 1 October 2008. The increase in the ANF threshold from $500 to $5,000 has resulted in an increase in the number of ANFs as predicted, however the anticipated offsetting reduction in full claim numbers has not been observed, in fact these have continued to increase.

As noted above, the number of ANFs being made in the scheme has increased significantly since 2008, and in 2014, ANFs made up 25 per cent of total CTP claim numbers. Most of these are not-at-fault claims.

The ultimate number of not-at-fault ANFs reduced between 2001 and 2008 but increased thereafter with the increase in the maximum benefit available under the ANF. They increased by 87 per cent between 2008 and 2014, although the rate of increase has slowed markedly in the last two years. The ultimate number of at-fault ANFs has been increasing since they were introduced in 2010.

Number of full claims and ANFs by accident quarter



[5] New South Wales Parliament, *Parliamentary Debates*, Legislative Assembly, 27 November 2007

Since 1 October 2008 when the new maximum benefit under the ANF was introduced:

- the number of ANFs have increased gradually while the number of full claims has increased at a faster pace, especially for minor and moderate severity injury claims; and
- there has been a sharp increase in the number of legally represented claims and the increase is continuing.

4.3 Outlook

Significant price pressure has been building on the scheme due to increasing claims frequency and size, ongoing low investment returns and relatively stable premium prices over the past two years. These factors are placing upward pressure on prices that is likely to be reflected in future premium filings.

The existing CTP scheme is 'long tail', fault-based, complex and adversarial. Because of the complexity and adversarial nature of the scheme, and because most claimants have never dealt with formal dispute resolution processes, many engage a lawyer to help them with their claim. The number of legally represented claims has increased significantly since 2008, which has in turn contributed to an increase in overall scheme claims costs and ultimately Green Slip premiums. The increase in legally represented claims for minor severity injuries has coincided with the extension of the ANF benefit from $500 to $5,000.

Recent analysis suggests that there may be some patterns in the cohort of recent minor injury claims that warrant further investigation. The SIRA is working with insurers to better understand the nature and sources of these claims.

5. SUSTAINABILITY

5.1 Insurer Profit

5.1.1 Background

Section 28(1) of the MAC Act provides that a licensed CTP insurer is required to disclose to the Authority the profit margin on which a premium is based and the actuarial basis for calculating that profit margin. The Authority may reject a premium if it will not fund the liabilities or if it is excessive. In relation to profit, the MAC Act provides that a premium will fully fund the liabilities if the premium is sufficient to "provide a profit margin in excess of all claims, costs and expenses that represents an adequate return on capital invested and compensation for the risk taken" (section 27(8)(c)).

The Authority ensures that the profit component of a premium is assessed against objective criteria and has adopted a methodology prepared by Taylor Fry Actuaries.

Section 5(2)(d) of the MAC Act provides that insurers, as receivers of public money that is compulsorily levied, should account for their actual profit margins. The Authority's assessment of realised profit requires a review of the development of the underwriting year from the time of the premium filing. The premium filing includes the insurers' prospective estimates of the profit margin, but the actual profit or loss that an insurer may ultimately make will depend on the extent to which the other assumptions, such as estimated claims costs, in the premium filing prove to be correct. As noted earlier there is considerable uncertainty in predicting the likely number and cost of claims that are yet to be made against policies sold in a given year. Estimates are based on past history and where claim costs and the propensity to claim are both rising, insurers must necessarily make conservative estimates to ensure that future liabilities will be covered.

The Authority assesses an insurer's estimated future profit by accounting for the actual payments made to date and current estimates of the liabilities for each underwriting year. These estimates do not represent actual profit but a current indication of the profit that may be realised once all claims are paid if the current liability valuations prove correct. They are therefore heavily qualified by the fact that they will change as the scheme develops further and more claims are paid. This is not a deficiency in analysis but a natural by-product of an insurance underwriting practice in a long-tail common law scheme where claims may not be settled for years after the accident occurs.

The extent to which projected profit margins align with the actual profits made by insurers depends on the extent to which the assumptions in insurers' premium filings are realised. It is typically four to six years before the bulk of claim payments are made for a given accident year and therefore actual profits cannot be determined before this with any accuracy.

In this section the scheme actuary has provided the analysis in relation to insurer profit, superimposed inflation and scheme efficiency.

5.1.2 Key Facts

Comparison of profit by accident year (ending 30 June) and underwriting year (ending 30 September)

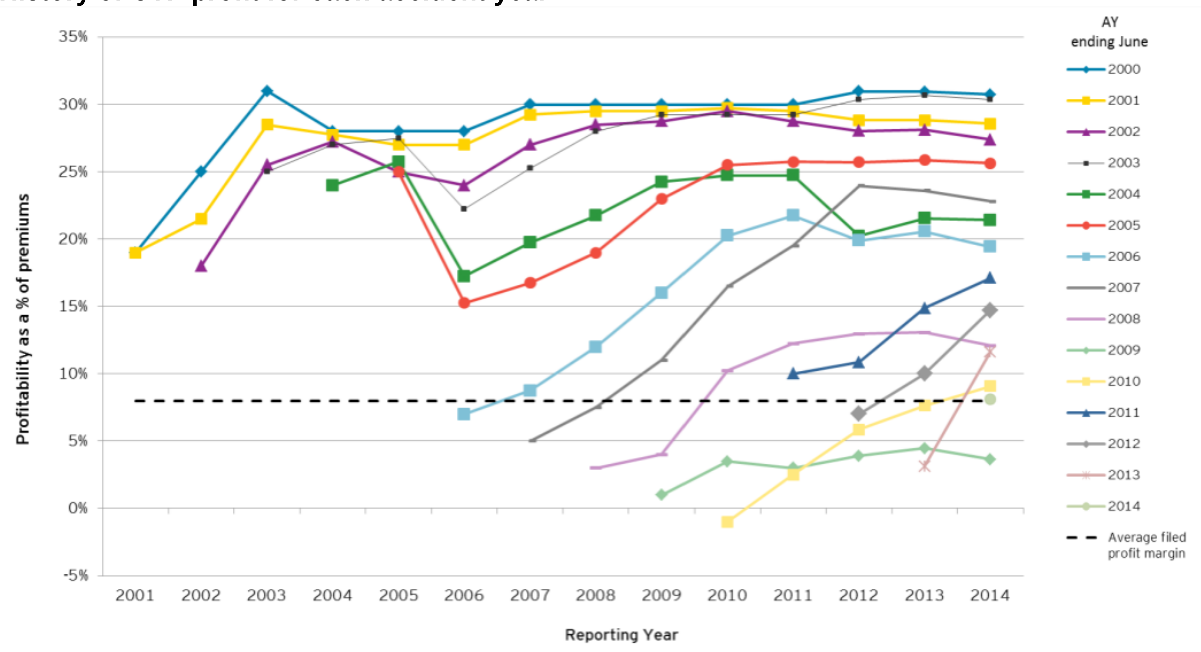
Accident / underwriting year	Profit by accident year using June 2014 data	
	Profit ($m)	Profit margin (%)
2000	461	31
2001	378	29
2002	362	27
2003	412	30
2004	305	21
2005	378	26
2006	281	19
2007	316	23
2008	144	12
2009	44	4
2010	125	9
2011	269	17
2012	253	15
2013	214	12
2014	166	8
Total	**4,108**	**19**

Insurer profits increased notably in accident years 2010 to 2013 mainly due to the absence of superimposed inflation in the scheme in these years (compared to the long term average of approximately 3 per cent).

Insurer profits in other years remain largely unchanged. Profit margins for the most recent accident years are lower, however with the exception of 2009, they are still on average significantly higher than the average filed profit margin on 8 per cent.

The benign level of superimposed inflation in the last five years is the main contributor to the higher than anticipated insurer profits. Each year of superimposed inflation experience that was less than what was assumed increased the estimated insurer profit. A detailed discussion of superimposed inflation in the scheme is set out below.

History of CTP profit for each accident year



There are a number of reasons for the high profits in the CTP scheme since 2000 as shown in the above graph. This includes:

- historically greater than anticipated reduction in claims frequency prior to 2008;
- benign levels of superimposed inflation in the scheme and the innately conservative estimation of future liabilities by insurers, who consider long term trends and are slow to react to recent low rates of superimposed inflation;
- assumptions adopted in insurer premium rate filings – higher anticipated compared to actual experience.

5.1.3 Customer Experience

Feedback received from customers is that the current level of realised insurer profit is considered unreasonable, particularly for a compulsory insurance product.

5.1.4 Comment

In accordance with recommendation 5 of the twelfth review of the MAA by the Standing Committee, the MAA (now SIRA) commissioned an independent review of insurer profits in the CTP scheme. The review team has been asked to consider the following as part of the review:

- whether insurer filed profits and realised profits are reasonable;
- competition in the market and related issues;
- whether there are systemic problems in the spread of profit across the industry;
- options to improve the premium system and/or its regulation by the Authority;
- the impact of claims (and other expenses) management approaches on scheme outcomes.

5.2 Superimposed inflation

5.2.1 Background

Superimposed inflation (i.e. increases in claims costs over and above normal inflation) is a regular feature of compensation type schemes. Superimposed inflation is usually caused by a combination of legal, judicial, social, medical and other external factors. Superimposed inflation tends to be volatile over time. Analysis shows that the New South Wales CTP and workers compensation schemes have experienced very high levels of superimposed inflation for a number of years and also periods of benign or negative superimposed inflation.

The long-term superimposed inflation average of the current CTP scheme (1999 – present) is around 3 per cent. However in recent years, unusually, there has been no superimposed inflation. While an absence of superimposed inflation is usually a sign of scheme stability, insurers have nonetheless reasonably anticipated some degree of superimposed inflation in their liability estimates, and have therefore made higher than expected profits in those years where superimposed inflation has been lower than anticipated.

5.2.2 Key Facts

Analysis indicates that:

- Under the previous Scheme, for accidents up to September 1999, the average superimposed inflation from 1992 to 1996 was approximately 14 per cent per annum and around 3 per cent from 1997 to 2003.

- For the current Scheme the average superimposed inflation was around 6 per cent from 2004 to 2008 based on assessment made by various actuaries. Ernst & Young's analysis shows it has been benign since then and approximately zero or negative since 2008.

- Due to changes in the mix of claims in the scheme and the increasing number of claims involving minor injuries with legal representation, the average size of claims settled has been reducing by around 2 per cent each year since 2008.

- If the mix of claims in the scheme continues to change in future consistent with trends over the past seven years, then superimposed inflation will continue to be negative even if superimposed inflation within each injury severity level continues to be close to zero.

5.2.3 Comment

The MAA (now SIRA) responded to the benign levels of superimposed inflation in the scheme by driving down the allowable estimates of superimposed inflation in premiums filings and introducing revised *Premiums Determination Guidelines*.

The need to allow for superimposed inflation in insurer premium filings may be overcome by a regular process of addressing its underlying causes. The twelfth review of the MAA by the Standing Committee recommends that the MAA report on any emerging issues driving superimposed inflation. The Authority will undertake an analysis of superimposed inflation risks and strategies to address them in consultation with key stakeholders.

5.3 Efficiency

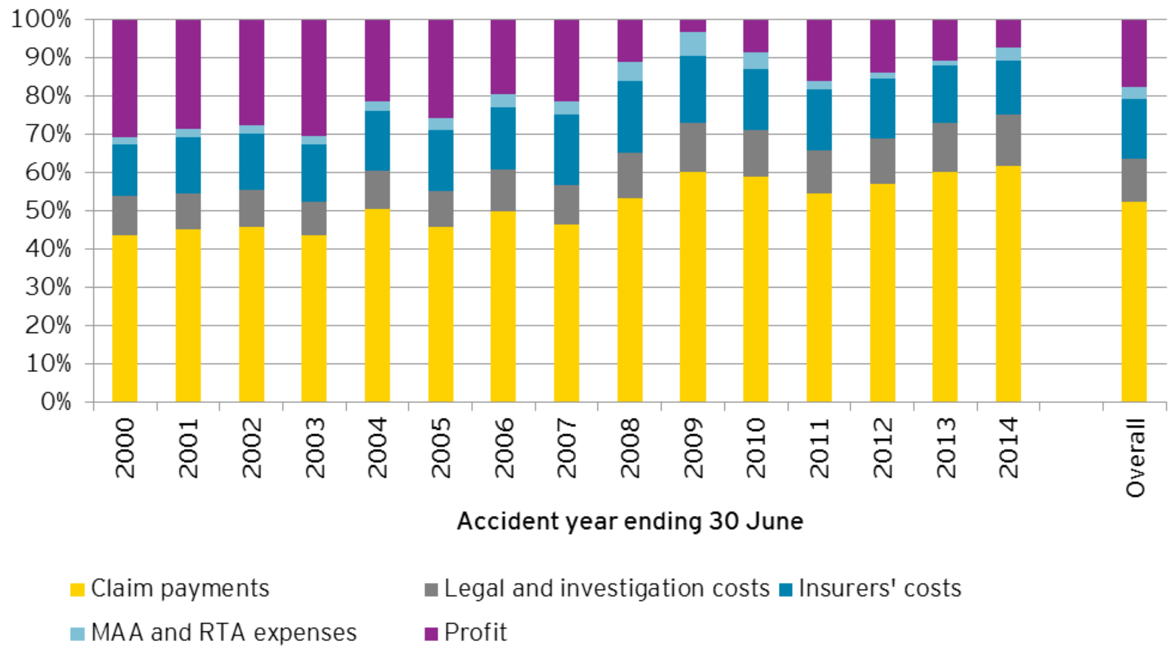
5.3.1 Background

Scheme efficiency considers the proportion of each dollar paid in premiums that is directly returned to injured people as benefits (excluding the Lifetime Care and Support scheme). The benefits considered to have been directly returned to injured people include loss of earnings payments, general damages and medical and related costs paid on the injured person's behalf (including payments for care, rehabilitation, bulk-billed ambulance and public hospital costs, home modifications and travel).

Service delivery costs such as legal expenses, investigation expenses and medico-legal costs, insurers' expenses, insurers' profit, Authority operating costs and Roads and Maritime Services (RMS) fees are not classified as benefits received by claimants. The analysis does not include an allowance for 'contracted out' legal costs, which are typically paid out of a claimant's settlement money. The Authority currently does not have data on this although a regulation is now in place to enable its collection in future. This analysis therefore over estimates to some extent the proportion of the premium that is really received by a claimant.

5.3.2 Key Facts

Split of premium before adjustment for contracted-out legal costs



- Scheme efficiency was less than 50 per cent up to 2007 and since then has been between 50 per cent and 60 per cent. That is, since 2007 the proportion of dollars in the CTP scheme (excluding the Lifetime Care and Support scheme and GST) going to claimants has averaged between 50 per cent and 60 per cent of money collected from vehicle owners. These figures overestimate efficiency to some extent because the amount of money paid by the claimant in legal costs is not known and therefore not included in the analysis.

- Efficiency for the accident year ending 2014 is projected to be just above 60 per cent based primarily in insurer filings.

- The projected average efficiency of the scheme for the latest five accident years is 59 per cent.

As shown in the following two tables, smaller claims whose total value is less than $50,000 are the least efficient, with only 46 per cent of the premium dollar returned to injured people for accident years 2000 to 2014. Also, as to be expected, legally represented claims have lower efficiency than non-legally represented claims. Non-legally represented claims have approximately 58 per cent efficiency across all claim sizes while efficiency for legally represented claims ranges from 41 per cent for claims whose total value is less than $50,000 to 52 per cent for claims whose total value is greater than $1 million.

Scheme efficiency results by claim size band

Claim size band	Before adjustment for contracted-out legal costs
<$50k	46%
$50k - $100k	46%
$100k - $200k	48%
$200k - $500k	51%
$500k - $700k	53%
$700k - $1m	53%
> $1m	52%

Scheme efficiency results by legal representation

Claim size band	With legal representation*	Without legal representation
<$50k	41%	57%
$50k - $100k	45%	58%
$100k - $200k	47%	58%
$200k - $500k	51%	58%
$500k - $700k	53%	59%
$700k - $1m	53%	57%
> $1m	52%	58%

*before adjustment for contracted out legal costs

5.3.3 Comment

Common Law systems are typically less efficient than defined benefits type schemes, as effort needs to go into establishing liability, negotiation of lump sums and dispute resolution. The CTP scheme actuary's *NSW CTP Scheme Performance Update, 2012* found that, by comparison, some other Australian accident compensation schemes return around 65 to 80 cents in the dollar of the premium collected to claimants. It should be noted, however, that while the New South Wales motor accidents scheme is not as efficient as some other schemes, the benefits paid under the scheme are considerably more generous for the individual claimant than in many other Australian states. The cost of providing benefits for those injured in motor vehicle accidents is directly related to the price of Green Slips.

Because each claim is negotiated separately on its merits, the final cost to an insurer is less certain and hence insurers need to make conservative assumptions to ensure they are not caught out with insufficient funds to pay claims. Insurers must also anticipate the number of claims that will be made, the likely average size of these, the amount that will eventually be spent in legal and investigation costs, and the likelihood of superimposed inflation. The essential conundrum in insurance is that the price must be set before the cost of production is known. Hence there are numerous reasons why the profits eventually realised by insurers may be greater than was anticipated when insurers set their premiums.

The Standing Committee has asked the Authority to consider reporting a combined efficiency measure which incorporates the Lifetime Care and Support scheme. This has been considered extensively and the actuaries for both CTP and Lifetime Care and Support recommend against doing this.

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

Specifically, the two actuaries advise that the privately underwritten CTP scheme, regulated by the SIRA, and the Government underwritten and administered LTCS scheme are vastly different in nature. Premiums are set on very different bases and the schemes are accounted under different accounting standards and as a result the calculated efficiency measures for the two schemes are using vastly different valuation bases and assumptions. It would not be appropriate to simply average the two figures to calculate a combined efficiency measure.

5.3.4 Outlook

Under the current scheme, the efficiency ratios will likely remain at current levels. Measures such as the new *Premiums Determination Guidelines* are expected to help in creating a clearer basis upon which insurer assumptions are made in filings, but the ultimate uncertainties in scheme design coupled with the necessarily conservative nature of premium setting will likely continue to result in realised profits that exceed filed estimates. The current profit review and premium review processes will explore options to better address this issue going forward.

6. CLAIMS AND DISPUTES

6.1 Background

As noted above, a person injured but not at fault in a motor vehicle accident in New South Wales can make a claim for a range of benefits under the CTP scheme including past and future medical and related costs, care costs and economic losses as well as payments for 'pain and suffering' for those who exceed an impairment threshold.

The scheme also provides some benefits irrespective of fault – it covers the first $5,000 of treatment costs and lost income incurred in the first 6 months after an accident, and provides access to the Lifetime Care and Support scheme for the catastrophically injured. The Lifetime Care and Support scheme is funded from a levy on CTP premiums and administered by Insurance and Care NSW, which is the subject of separate review by the Law & Justice Committee.

The SIRA is also the Nominal Defendant for claims arising from motor accidents in New South Wales against owners and drivers of uninsured or unidentified motor vehicles. This means that the Authority stands in for the at-fault driver who was involved in a hit and run crash or was driving an uninsured car. The Authority provides a safety net for the injured person, giving them a 'defendant' from whom they can seek compensation. The Authority allocates these Nominal Defendant claims to CTP insurers in proportion to their market share. The insurer then manages the claim as they would any other.

The SIRA issues Guidelines outlining the practices required of insurers in managing claims (the *Claims Handling Guidelines* – compliance with which is a condition of an insurer's licence, and the *Treatment, Rehabilitation and Care Guidelines*). The SIRA monitors insurer compliance with these Guidelines, investigates complaints about insurer behaviours, and takes regulatory action in respect of breaches.

The MAC Act introduced the concept of independent, binding expert assessment of medical disputes about treatment and permanent impairment, creating the Medical Assessment Service (MAS) as an independent alternative to court dispute resolution service. The purpose of MAS is to ensure medical disputes are determined efficiently and effectively by independent medical experts as early in the lifecycle of a claim as possible, instead of being determined in a final court hearing by a Judge, often many years after the accident. This is to increase the possibility of early treatment and rehabilitation and the early clarification of entitlements, so a claim can be resolved as early as possible and avoid the need to proceed to court if feasible.

The MAC Act also created the Claims Assessment and Resolution Service (CARS) as an independent alternative to court dispute resolution service. CARS was created to address concerns that had arisen about the lengthy, complex and expensive motor accidents claims process, where disputes not settled by the parties were resolved at court. All disputes about claims must go to CARS to either be assessed or exempted from assessment before proceeding to court. CARS provides a simpler, more accessible and faster way of assessing claims for compensation and resolving disputes between an injured person and an insurer in connection with a motor accident claim, outside the court system.

A party to a motor accident claim is not entitled to commence court proceedings in respect of a claim unless the claim has been exempted from general assessment by the Principal Claims Assessor or assessed by a Claims Assessor. If an insurer denies liability for a claim, it is exempted from CARS and allowed to proceed to Court. Legal costs are regulated in the scheme, but these regulations do not apply to exempted matters.

This report provides an analysis of claims cost, including frequency and propensity to claim which are covered in more detail in chapter 4 *Analysis of costs drivers in the scheme*, which commences on page 25. A discussion of the increase in claims for minor injuries that involve legal representation and ANF claims can also be found on page 32-34.

6.2 Key Facts

- The average time taken to lodge a full claim is 4 months from the date of accident.

- 27 per cent of full claims are lodged after the six month time limit. Of these, 30 per cent are lodged within one month of the six month time limit.

- The average time to lodge an ANF is 23 days after the accident.

- 22 per cent of not-at-fault ANFs were lodged after the 28 day time limit and 37 per cent of at-fault ANFs were lodged after 28 days. Of these, 51 per cent were lodged within one week of the 28 day time limit.

- CTP claims take on average between 1.5 – 5 years to settle. Typically claims for minor injuries settle in a relatively short time for below average cost and severe claims take longer to settle higher cost.

- In terms of total claim payments, only 50 per cent of payments have been made by the end of the fourth year.

- Benefits paid through the scheme increased by 5.2 per cent in 2013-14 – a total of $1.42 billion was paid in benefits in 2013-14 compared to $1.35 billion in 2012-13. For the most part, these payments are for settlement of claims or ongoing expenses from accidents that occurred in previous years.

- In New South Wales, males currently make up 49.7 per cent of the population and 51.5 per cent of licence holders but cause 62.9 per cent of crashes that result in injuries. In contrast, females cause only 34.9 per cent of injury crashes and in the remainder of cases the gender of the at-fault drivers is unknown.

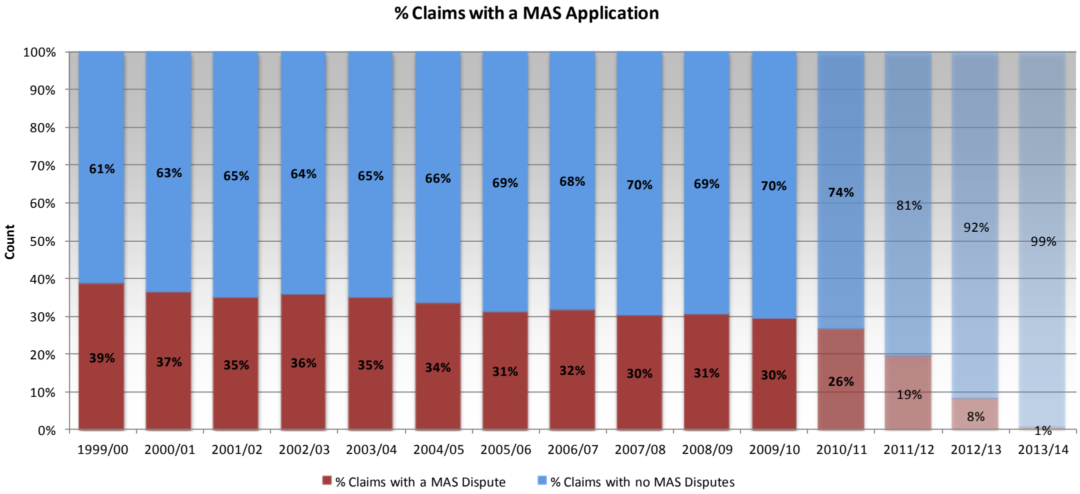
- Persons aged between 17 and 25 years currently make up 12.3 per cent of the population and 14.2 per cent of licence holders but cause 26.0 per cent of all injury crashes, which account for 16.4 per cent of all claims costs. Persons in the 50-69 year old category make up 21.2 per cent of the population and 30.6 per cent of licence holders but cause 20.9 per cent of injury crashes, their crashes accounting for 28.6 per cent of all claims costs.

- Claims made by pillion passengers, motorcycle riders and pedestrians account for small numbers of claims but disproportionately high average claim costs. Claims from pillion passengers make up only 0.6 per cent of claims but 1.0 per cent of overall claims costs with an average incurred cost per claim of $231,700. In contrast, drivers make up about half of all claims and have an average cost per claim of $100,900.

- The Authority received 680 claims as Nominal Defendant during 2013-14 compared to 809 in 2012-13, a decrease of 19 per cent. 72 per cent of Nominal Defendant claims related to an accident where the vehicle at fault was not identified and 28 per cent involved an uninsured vehicle.

- The proportion of claims with a medical dispute requiring a MAS assessment has reduced from about 40 per cent of claims in the early years of the scheme to about

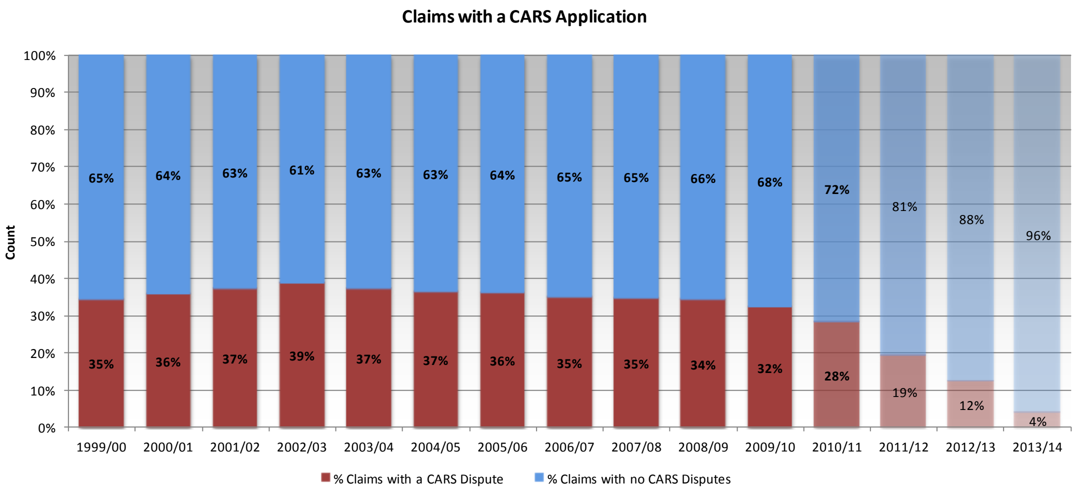
30 per cent in recent times. The years 2011 onwards are not fully developed. It is expected that as the claims from these accident years reach maturity, some may have a medical dispute arise that will require a MAS assessment.



- In 2013/14 there were 4,651 medical disputes lodged at MAS, up slightly from the previous year when 4,420 applications were lodged. This increase is in line with and slightly less than, the increases seen in the total number of claims lodged in the CTP scheme in recent years.

- The volume of applications has remained within a range of between 4,000 and 5,000 applications for the last eight years, well below the initial peaks seen in 2002/03 and 2005/06.

- Both the volume and the proportion of claims with an application to CARS have been reducing in recent years, down from around 40 per cent of claims arising from accidents in 2002/03 to around 32 per cent of claims arising from accidents in 2009/10 (the most recent fully mature year).



- The volume of applications to CARS has remained within a range of between 3,000 and 4,000 applications a year for the last 7 years, well below the initial peaks seen in 2002/03 to 2005/06.

- In 2013/14 there were 3,801 applications lodged at CARS, up more than 10 per cent from the prior year when 3,447 applications were lodged.

- The trends for the number of CARS applications generally follows on directly from the trend for the lodgement of claims in the CTP scheme, approximately 3-4 years after those claims were lodged.

- Over the last five years the number of CARS applications has increased by more than 7 per cent from 3,539 in 2009/10 to 3,801 in 2013/14. This increase over 5 years at CARS is only about half the rate of the increase in the total number of full claims lodged in the CTP scheme, which have risen from around 7,600 in 2007/08 to 9,434 full claims in 2012/13 (the last mature year), an increase of more than 24 per cent over those 5 years.

- The driver of the increase in total lodgements at CARS in 2013/14 was a significant increase in exemption applications lodged (up by 18 per cent) after a Court of Appeal decision in September 2013 (Smalley v MAA) and in the lead up to Guideline changes that occurred in May 2014 in response to that decision. In recent months the impact of those changes has begun to be felt with applications for exemptions reducing, which will be shown next year in 2014/15 data.

6.3 Customer Experience

Feedback received from customers has highlighted concerns about the length of time taken for payment of compensation and the negative financial and health outcomes resulting from the protracted and often adversarial claim processes.

The MAA (now SIRA) commenced work on a number of initiatives aimed at improving the way the CTP scheme operates, within the current legislative framework. This includes initiatives aimed at making improvements to the claims process to improve the experience for injured people.

The Authority's Claims Advisory Service has adopted new practices to facilitate the early lodgement of claim notifications, with positive feedback received from claimants and insurers. The Early Notification Protocol involves Claims Advisory officers transferring phone calls from injured people directly to insurer claims managers when they first make contact with the Authority. The aim is to accelerate the claimant's access to treatment and rehabilitation and reduce the claim timeframe for people with minor injuries.

Following consultation with insurers and legal professionals, the MAA (now SIRA) developed a new *Motor Accident Personal Injury Claim Form*, which came into effect on 8 January 2015. The new, streamlined claim form was developed in consultation with key scheme stakeholders and seeks to make it quicker and easier for injured people to complete and lodge their motor accident claim. Among other things, the number of questions on the form has been reduced and the requirement for the form to be verified by statutory declaration has been removed.

The Authority has highlighted to insurers areas of persistent poor claims performance and non-compliance with the existing claims handling requirements, and has undertaken a review of the *Claims Handling Guidelines* and the *Treatment, Rehabilitation and Care Guidelines* following extensive consultation with stakeholders. The revised Guidelines, currently out for comment, adopt a principles based approach rather than the previous focus on process. The aim is to reduce unnecessary disputation, oblige insurers to progress claims towards resolution expeditiously and to keep the claimant informed of progress, and ensure greater transparency and accountability around insurer decision-making.

Amendments were also recently made to the *Claims Handling Guidelines* and *Claims Assessment Guidelines* to counter the effect of a Supreme Court decision (Smalley v MAA), which would have resulted in more claims being exempted from resolution through CARS. The amended Guidelines ensure that suitable claims will still be assessed by CARS, thereby reducing the scheme costs and delays associated with litigation of these matters. The MAA (now SIRA) initiated a stakeholder consultation process to support this amendment process, which achieved a high level of stakeholder consensus and will provide a platform for future consultations.

The Assessment Services has also developed a new Customer Service Charter for claimants who access MAS and CARS, which sets clear expectations on the Authority and the parties to disputes, together with a number of new and updated information sheets to help injured people to better understand the 'alternative to Court' dispute resolution services delivered by MAS and CARS.

A new *Motor Accidents Compensation Regulation 2015* came into effect on 1 April 2015. Following a constructive consultation process with legal professional groups, CTP insurers and peak medical profession bodies, the Authority was able to address the key stakeholder issues and achieve a high level of consensus. The new Regulation increases the amount that injured people can recover from insurers for legal and medico-legal fees. It also requires claimant solicitors to disclose all costs to the Authority. When this provision comes into force it will enable the Authority to better understand the amounts claimants are paying out of their settlement money, and to calculate the real efficiency of the scheme.

6.4 Comment

While the SIRA continues to work towards improving the experience for claimants, enhancing the information, support and advice available, and requiring insurers to comply with claims handling principles, there are natural limitations to the amount of change that can be expected in an adversarial system.

The relatively large number of claims that end up in a formal dispute (around 30 per cent of claims require a MAS or CARS assessment, including matters that go to court) adds to the timeframes and increases stress for injured people.

It is noted that the number of applications to MAS and CARS may be considered quite large when compared to other Australian accident compensation scheme. In Victoria, for example, protocols were implemented in 2005 in collaboration with legal stakeholders to provide an alternative to the formal dispute resolution process at the Victorian Civil and Administrative Tribunal and reduce the time and cost to resolve disputes. In 2013-14, 1,042 applications for a review of a TAC decision were lodged under the protocols and even less in 2012-13 (974). These figures would appear to be quite low in comparison to New South Wales (4,000 to 5,000 applications a year to MAS and 3,000 to 4,000 applications a year to CARS).

6.5 Outlook

The current claims trends provide a grim outlook for prices. The increase in propensity to claim, especially for those with minor injuries who may previously have not considered it worthwhile to make a claim, may well continue putting further pressure on premium prices. Increasing legal representation will also result in rising claims costs.

The Authority has commenced data analysis to understand better the drivers and source of these claims increases.

The adversarial approach is well entrenched and changing the behaviours of insurers and legal practitioners will take time within the current framework. The implementation of new *Claims Handling Guidelines* may have some impact on reducing the duration of claims, but it is a delicate balance to ensure both just and expeditious resolution of claims, while at the same timing not resulting in increasing average claims costs and therefore higher premiums.

A material and sustained reduction in claim duration, and greater certainty for claimants about their entitlements and for insurers about future claims costs, could be achieved by looking at structural and procedural changes to the current system.

7. GLOSSARY

Accident Notification Forms (ANFs)	The form provides for the early payment of reasonable and necessary medical expenses and/or lost earnings up to a maximum of $5,000. ANFs can be lodged by at-fault and not at-fault injured parties.
Accident year	Denotes the year in which the vehicle accident giving rise to the claim occurred. Accident years generally run from 1 July to 30 June.
Affordability	Average premium (including levies but excluding GST) charged in the quarter divided by average weekly earnings in the quarter. The higher this ratio the less affordable the premium.
Agents’ commission	Refers to payments made to agents/brokers by insurers for writing CTP insurance on behalf of the insurer. The maximum commission payable for CTP insurance is 5 per cent of the insurance premium.
Bulk-Billing	Under the Bulk Billing Agreement, an amount is collected as part of the MCIS levy and paid to NSW Health and the Ambulance Service of NSW for public hospital and public road ambulance services.
Casualty	Any person killed or injured as a result of an accident attributable to the movement of a road vehicle on a road, as recorded by Roads and Maritime Services.
Claim frequency	Ultimate number of claims divided by the number of vehicles.
Claims handling expenses	Refers to expenses related to managing and administering CTP claims. These expenses include costs of claims staff managing claims, rehabilitation staff, managers and support staff.
Claims	The claims in the NSW CTP scheme are split into full claims, ANFs and workers compensation recovery claims.
Contracted-out legal costs	Costs payable to the legal practitioner representing the claimant, directly by the claimant, under an agreed private arrangement. These costs are not transparent in the insurer or Scheme data held by the Authority.
Cost per policy	Total cost of claims divided by the number of insured motor vehicles in NSW.
Green Slip	This is also known as a CTP policy. The term ‘Green Slip’ dates back to the start of the NSW CTP scheme in 1989 where the CTP insurance invoice was a detachable green coloured slip.
Incurred claims cost	Claim payments to date plus case estimates.
Medical Care and Injury Services (MCIS) levy	Refers to a levy applied to the CTP insurance premium to fund the cover provided by the Lifetime Care and Support scheme. Part of the MCIS levy is also used to fund the Authority and Bulk Billing arrangements for ambulance and hospital services.
Profit margin	Refers to the proportion of premium in excess of all insurer claims and expenses. Levies and GST are excluded from assessing the profit margin.

Propensity to claim	Ultimate number of claims divided by the number of road casualties.
Scheme efficiency	The amount of each premium dollar that is returned to injured people.
Superimposed inflation	The increase in claim costs over time, over and above wage inflation.
Underwriting year	The year the CTP policy was sold.