

Mr Matthew Bennett
Executive General Manager
Direct Insurance Australia
Insurance Australia Group

By email: [REDACTED]

Dear Mr Bennett

Letter of Censure – Delay in payment of weekly benefits

I refer to the investigation conducted by the State Insurance Regulatory Authority (the Authority) into the delays by NRMA Insurance (NRMAI) in processing weekly payments of statutory benefits [REDACTED]

[REDACTED]

The Authority has now finalised its investigation and is satisfied that in the above noted claims, NRMAI has contravened the following sections and requirements of the *Motor Accident Injuries Act 2017* (the Act) and the Motor Accident Guidelines (the Guidelines relevant at the time):

1. Section 3.6(5) of the Act

Weekly entitlements during first entitlement period (first 13 weeks after motor accident)

(5) If a weekly payment of statutory benefits is payable under this section, but further information is required to determine the amount of the payment, interim payments are to be made in accordance with the Motor Accident Guidelines until the correct amount of the payment can be determined and paid.

2. Section 3.19(1)(2) of the Act

If a decision is made to discontinue or reduce weekly payments, to an injured person who has received weekly payment of statutory benefits for a continuous period of at least 4 weeks, the insurer must give the required period of notice before that decision takes effect, in accordance with Division 3.3, section 3.19(2) of the Act.

required period of notice for the purposes of this section is –

- (a) when the discontinuation or reduction is during the first entitlement period – 2 weeks, or*
- (b) when the discontinuation or reduction is during the second entitlement period – 4 weeks, or*
- (c) when the discontinuation or reduction is after the second entitlement period – 8 weeks.*

3. Section 7.14(4) of the Act

If the decision results in an increase in the amount of any weekly payments of statutory benefits payable to a claimant, the insurer must commence payment of the statutory benefits in accordance with the decision within 7 days after the issue of the certificate as to the merit reviewer's determination.

4. Clause 4.26 of the Guidelines (version 7)

In accordance with Division 6.3, section 6.15(4) of the Act, if notice of a claim has been given to an incorrect insurer and the claim must be transferred to the relevant insurer, the claimant is excused from giving notice of a claim to the relevant insurer. The insurers must cooperate so that the necessary information is exchanged, and the claimant's recovery and benefits are not adversely affected.

5. Clause 4.5 and 4.6 of the Guidelines (version 7)

4.5 - Insurers and those acting on their behalf are to deal with claims in a manner consistent with the objects of the Act, the below principles and the general duties under Division 6.2 of the Act.

4.6 - These principles apply across all claims management aspects for the life of a claim:

- (a) proactively support the claimant to optimise their recovery and return to work or other activities*
- (b) make decisions justly and expeditiously*
- (e) communicate with the claimant and keep them informed of the progress of their claim*

6. Clause 7.27 of the Guidelines (Version 7)

The internal review decision of the insurer must be given effect to as quickly as is practicable.

Contraventions with the above requirements are also a contravention of the following obligations of the Act and NRMAL's standard licence conditions -

7. Section 1.3 Objects of Act

(2) For that purpose, the objects of this Act

- (a) to encourage early and appropriate treatment and care to achieve optimum recovery of persons from injuries sustained in motor accidents and to maximise their return to work or other activities,*
- (b) to provide early and ongoing financial support for persons injured in motor accidents*
- (g) to encourage the early resolution of motor accident claims and the quick, cost effective and just resolution of disputes*

8. Section 10.7 of the Act:

It is a condition of an insurer's licence under this Act that the insurer comply with relevant provisions of Motor Accidents Guidelines.

9. Clause 10 of the standard licence conditions provides:

(Compliance with laws) The Licensee must establish and maintain compliance measures to ensure that it complies at all times with its obligations under the Act and the regulations and guidelines made under it.

Details of the above contraventions were advised in the individual show cause notices issued for each matter on 13 December 2022.

NRMAI responded to the Authority on 13 January 2023 accepting the contraventions and the facts of the matter. NRMAI also provided further explanation regarding the delays in some matters, however, this did not alter SIRA's findings.

Therefore, pursuant to section 9.10 (1)(b) of the Act the Authority is issuing NRMAI with this letter of censure.

Please note, this matter will form part of NRMAI's compliance history and will be considered when determining future regulatory or enforcement responses. Whilst in this instance a letter of censure has been considered appropriate, in the event that the Authority determines ongoing non-compliance of a similar nature, it may result in a more serious outcome, such as the imposition of a civil penalty.

In addition and as specified under section 9.15(1)(a) of the Act, SIRA may choose to publish the outcome of this investigation focussing on the level of compliance by NRMAI.

I remind NRMAI that, as a licensed insurer, it must comply with all Compulsory Third Party (CTP) licence conditions and legislative obligations. I trust that the Authority's expectations of compliance with legislative obligations is clear.

Should you wish to discuss this matter, you may contact [REDACTED], Manager, Enforcement & Prosecutions at [REDACTED]

Sincerely



Dr Petrina Casey
Executive Director
Motor Accidents Insurance Regulation

Date: 29 March 2023