NSW CTP scheme performance report 2020-21

Motor Accidents Compensation Act 1999

July 2022

NSW Government
State Insurance Regulatory Authority

Contents

Introduction

The State Insurance Regulatory Authority's (SIRA) is pleased to publish the 2020-2021 performance report for the '1999' NSW Compulsory Third Party (CTP) Motor Accidents ('Green Slip') Scheme.

The 1999 scheme was established on 5 October 1999 under the *Motor Accidents Compensation Act 1999* (1999 Act) and is a modified common law scheme where lump sum payments are received by not-at-fault injured road users once their injuries have sufficiently recovered.

This report concerns policies sold prior to 1 December 2017 under the 1999 Act. From 1 December 2017 policies have been sold under the '2017 scheme', established under the *Motor Accident Injuries Act 2017* (2017 Act). SIRA regulates both schemes.

The regular lodgement of claims for people in the 1999 scheme ended on 31 May 2018, six months after the last accident. The 1999 scheme will continue to operate until all claims for accidents before 1 December 2017 are finalised.

The purpose of this report is to report on matters related to the remaining open claims in the 1999 Scheme as it continues in run-off. This includes for example, finalisation rates and average claim size

Ernst & Young has contributed actuarial data for this report with SIRA providing claim and benefit payment information.

Background

SIRA is a statutory body established under the *State Insurance and Care Governance Act 2015*. It regulates the CTP insurance scheme, or Green Slip insurance, for motor vehicles registered in NSW along with other mandatory state insurances including the workers and home building compensation schemes.

SIRA licenses and regulates private insurers that underwrite the 1999 and 2017 CTP schemes which provide benefits for pedestrians, passengers, cyclists, motorcyclists, drivers of other vehicles and, to a limited extent, the driver at fault.

SIRA's functions with respect to stewarding the scheme are set out under section 206 of the 1999 Act, and section 10.1 of the 2017 Act.

SIRA continues to monitor the 1999 scheme to ensure injured people are treated fairly in accordance with the legislation and are assisted through the claims process.

SIRA's support and information service, CTP Assist, will continue to answer telephone and digital inquiries from injured people and other stakeholders in both the 1999 and 2017 schemes.

SIRA's Dispute Resolution Service (DRS) encouraged the early resolution of motor accident claims through the quick, cost effective and just resolution of disputes under the 1999 and 2017 CTP schemes. From 1 March 2021 disputes arising from the 1999 and 2017 schemes are now dealt with by the Personal Injury Commission.

Claim numbers, payments and scheme efficiency

As the 1999 scheme continues in run-off, SIRA is reporting on metrics related to the remaining open claims in the scheme. These matters are listed in the table below.

SIRA expects that the average claim size in each payment year will increase as more complex and higher cost claims usually settle later.

Topic	Metric
New (ANFs and full claims)	95 injury notifications (ANFs and full claims) in 2020-2021 compared to 221 in 2019-2020.
Open claims	There are 4,526 open claims (including ANFs, full claims and workers compensation recovery claims under section 151z of the *Workers Compensation Act 1987*) as at 30 June 2021.
Finalised claims	There were 3,660 finalised full claims in financial year 2020-2021.
Finalisation rates all claims	Finalisation rates were two percent lower than expected over the year. The average payment per claim was slightly lower (minus four percent rounded) than expected across all claim types.
Legally represented minor severity claims	The total payments for legally represented minor severity claims were lower than expected by approximately one percent.
Nominal defendant	18 nominal defendant claims compared to 35 claims during 2019-20.
Forecast payments	Claim payments for financial year 2020-2021 were six percent (or $52 million) lower than expected. Of this amount, $24 million represented lower than expected payments for serious severity claims and $18 million represented the lower-than-expected payments for moderate severity claims. There were also lower than expected payments for minor severity claims, both legally represented and not legally represented.
Benefits paid	The Scheme paid $812 million in benefits in Financial Payment Year 2020-2021, for claims arising from accidents occurring up to 30 Nov 2017. This compares with a total of $1.2 billion in benefits paid in financial year 2019-2020.
Average payment – full claims	The average payment on all claims finalised in financial year 2020-2021 was $220,363. This is an increase in average payment of about 34 percent compared to the financial year 2019-2020.
Outstanding estimates	As at 30 June 2021, the outstanding claims estimate is $1.33 billion.
Legal and investigation costs per policy	Legal plaintiff and contracted out costs, as a percentage of claim size, remained consistent with previous years. Scheme experience is that legal plaintiff and contracted out costs are 22 percent of the claim costs as at June 2021, with approximately half of this relating to contracting out legal costs.

Topic	Metric
Superimposed inflation	At a Scheme level, superimposed inflation has been relatively benign since the 2010 payment year and generally negative. However, considering the result at a Scheme level masks the impact of changes in the claims mix that have occurred over this time. Superimposed inflation increased artificially for the 2019 payment year and onwards. The increase is due to the changing mix of claims finalising as the Scheme develops further in the run-off phase and the higher cost claims remain outstanding.
Efficiency	The projected average efficiency for the latest five accident years to 2018, as well as over the lifetime of the Scheme, is estimated to be 44 percent. Non-legally represented claims have approximately 54 percent efficiency across all claim sizes, while efficiency for legally represented claims ranges from 34 percent (<$100k) to 48 percent (>$1m). Legally represented claims consistently have lower efficiency than non-legally represented claims.

Glossary

Item	Description
Accident Notification Form (ANFs)	This form provides for the early payment of reasonable and necessary medical expenses and/or lost earnings up to 6 months after an accident and a maximum of $5,000. ANFs can be lodged by at-fault and not-at-fault injured parties up to 28 days after the date of accident.
Accident year	The year in which the motor vehicle accident giving rise to the claim occurred.
Claims (including full claims)	The claims in the NSW CTP 1999 scheme are split into full claims, ANFs and workers compensation recovery claims.
Compulsory third party (CTP) insurance	CTP insurance protects a person (the first party) who buys the policy from an insurer (the second party) against claims made by someone they injure (the third party).
Contracted out legal costs	Costs payable to the legal practitioner representing the claimant, by the claimant, under an agreed private arrangement i.e. those costs in excess of those specified in the SIRA Cost Regulation. These costs are not transparent to the insurer or in the data they submit to SIRA. Information on these costs are directly submitted by legal practitioners to SIRA's claims costs disclosure database.
Full claims	See Claims above
Green Slip	Another name for a CTP policy that dates to the start of the NSW CTP scheme in 1989 when the CTP insurance invoice was a green piece of paper.

Item	Description
Run-off	Run-off means that the insurer ceases to take on board any new business but will continue to fulfil (payout) existing claims.
Scheme efficiency	Scheme efficiency, measures how much of the premium dollar goes to claimants as benefits.
Superimposed inflation	Superimposed inflation is the increase in claim costs over time, over and above wage inflation. It is a regular feature of compensation schemes and is usually caused by a combination of legal, judicial, social, medical and other external factors. Superimposed inflation tends to be volatile over time.
Underwrite	The process of assessing risk and ensuring the cost and conditions of the cover consider the risks faced by the individual concerned.
Workers compensation recovery claims	Section 151Z of the *Workers Compensation Act 1987* enables an employer or insurer who has paid compensation to take action to recover the compensation payments from negligent third parties.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident compulsory third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

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

SIRA, Level 14-15, 231 Elizabeth Street, Sydney NSW 2000

Website www.sira.nsw.gov.au

Catalogue no. SIRA09163 | ISBN 978-0-7347-4674-0 © State of New South Wales through the State Insurance Regulatory Authority NSW. This copyright work is licensed under a Creative Commons Australia Attribution 4.0 license, http://creativecommons.org/licenses/bynd/4.0/legalcode