

Guidance Note

Minor Injury

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This guidance note relates to the *Motor Accident Injuries Act 2017* (the Act) and the Motor Accident Guidelines made under that Act published by the State Insurance Regulatory Authority (SIRA). It provides general information and guidance on minor injury for insurers. This information is guidance only and cannot be used for legal advice.

Minor injury

A 'minor injury' is a legislative term (s 1.6 of the Act) which includes a soft tissue injury and/or a minor psychological or psychiatric injury. Most people who are assessed as having a minor injury will return to their pre-accident life and activities within 26 weeks after the motor accident. The definition is set out in [s 1.6](#) of the Act and cl 4 of the Motor Accident Injuries Regulation 2017 and further information about the assessment of minor injuries is set out in [Part 5](#) of the [Motor Accident Guidelines](#).

Making a minor injury decision

Based on all the clinical evidence available, an insurer must make a 'minor injury decision' to determine a person's entitlement to statutory benefits beyond 26 weeks.

The insurer must make this liability decision within three months after the date the claim is made on the insurer. The insurer must consider its decision if new evidence is subsequently received. Should the minor injury assessment change, a new decision must be re-issued in writing.

A minor injury decision is important

Statutory benefits claim

If a person is assessed as having a minor injury, their entitlements for statutory benefits (weekly compensation and/or treatment and care) will cease 26 weeks after the accident. In some circumstances, if treatment or care will improve recovery, or the person's capacity to return to work and/or usual activities or if the insurer delayed approval for the treatment and care, then treatment and care expenses incurred more than 26 weeks after the accident may be payable.

Damages claim

If a person's only injury is a minor injury, the person is not entitled to damages.

Making a minor injury decision

An insurer must undertake an evidence-based approach to assess and decide whether the insurer is of the view that the only injury suffered by a person is a minor injury by considering all relevant evidence including:

- Available medical evidence and whether any additional medical evidence is required;
- The treating health practitioner's diagnosis and description of injury;
- The treating health practitioner's clinical assessment findings;
- Any reports or records of radiculopathy (see cl 5.8 of the Motor Accident Guidelines);
- An assessment of the psychological/psychiatric diagnosis against the DSM-5 (except for acute stress disorder and adjustment disorder); and
- other relevant evidence (including pre-accident history).

Decision outcome

Insurers are encouraged to communicate the minor injury decision via telephone in order to answer any immediate questions.

Insurers must inform a person in writing of the decision.

The letter to the person must be:

- in plain English,
- include copies of all relevant evidence,
- explain the reasons why the insurer has decided that the only injury suffered by the person is a minor injury,
- explain what this decision means for the person in respect of the claim for statutory benefits and any future claim seeking damages,
- inform the person what the options are to seek a review of the insurer's decision and the relevant timeframes, and
- include SIRA CTP Assist contact details.

Disagreeing with a minor injury decision made by the insurer

A person may seek internal review of an insurer's decision by making an application for internal review within 28 days of receiving the decision (Divisions 7.3 of the Act and Part 7 of the Motor Accident Guidelines).

If a person does not agree with the outcome of an internal review, they may apply to SIRA's Dispute Resolution Service for the decision to be reviewed. Applications for a review by DRS must be made within 28 days of the claimant receiving the internal review decision.

Disagreement about a minor injury decision is considered a medical assessment matter so will be referred for assessment by a medical assessor at the DRS.

Contact may also be made with CTP Assist on 1300 656 919 for assistance in relation to any aspect of a claim

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