

Options for reforming Green Slip insurance in NSW:

Submission of the Council of Social Service of NSW
(NCOSS)

June 2016

About NCOSS

The NSW Council of Social Service (NCOSS) works with and for people experiencing poverty and disadvantage to see positive change in our communities.

When rates of poverty and inequality are low, everyone in NSW benefits. With 80 years of knowledge and experience informing our vision, NCOSS is uniquely placed to bring together civil society to work with government and business to ensure communities in NSW are strong for everyone.

As the peak body for health and community services in NSW we support the sector to deliver innovative services that grow and evolve as needs and circumstances evolve.

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Overview

The Council of Social Service of NSW (NCOSS) welcomes the opportunity to comment on the NSW Government's *Options for reforming Green Slip insurance in NSW*.

Motor vehicle accidents can have a dramatic impact on people's lives. Incurring a serious injury or disability can not only cause considerable economic loss to individuals – in many cases, it can bring about long-term or permanent lifestyle adjustments for both accident victims and their carers. At the same time, the need to provide ongoing care and medical support to those who incur serious injuries can generate ongoing costs to the taxpayer.

Compulsory Third Party (CTP) insurance has, by and large, been a successful means of ensuring that those who are injured as a result of a car accident are provided with just compensation and, if required, ongoing care and support.

However, as a mandatory insurance product, financial support for the scheme rests squarely on the shoulders of motorists. Individuals and families across the state rely on motor vehicle transport to get about their daily lives – to get to work, take children to school, and enjoy family activities. It is therefore fundamental that access to a motor vehicle be as affordable as possible. Accordingly, it is highly desirable that compulsory insurance costs be kept low.

The CTP scheme must therefore achieve a delicate balance. On the one hand, the scheme ought to provide sufficient and just compensation to those who are injured as a result of car accident, especially those who suffer serious injury and may need ongoing care and support. But on the other hand, premiums need to remain affordable so as to not exclude low-income people from being able to own and use a motor vehicle.

It is the view of NCOSS that in recent years, the scheme has become too unaffordable for low income people. As such, reform is well overdue. But as is noted throughout this submission, reform must occur in a way that access to sufficient and just compensation is maintained for those who incur serious injuries.

Cost impacts of Green Slip insurance

As the NSW Government's options paper, *On the road to a better CTP scheme: Options for reforming Green Slip insurance in NSW*, outlines, Green Slip premiums have, and are continuing, to rise dramatically. As the paper notes, the average CTP price for the Sydney metropolitan area has increased from \$379 in June 2008, to \$637 in December 2015. We further note that Sydney metropolitan passenger vehicle owners are now paying the highest premiums in the country, with prices as high as \$886 per annum. Whilst the Motor Accident Authority's most recent *Review of Premium Relativities from 1 February 2016* would suggest that premiums are slightly lower in areas outside of the Sydney metropolitan region, prices in outer metropolitan Sydney, Newcastle, the Central Coast and Wollongong remain higher than the rest of Australia.

The options paper further suggests that prices could increase even more over the coming year, by up to 20% or \$100. Such an increase would see Sydney metropolitan car owners paying an average of \$764, and a maximum of up to \$1063.

These prices are particularly problematic for people on lower incomes. The nature of the Green Slip scheme is such that, like any insurance scheme, premium prices do not make allowances for a person's income. As the table below details, those on low incomes who wish to own and operate a motor vehicle can find themselves having to devote an increasing proportion of their annual income to paying their Green Slip premium.

Income group (after tax)	Average annual income (after tax)	% of income at average 2016 premium price (\$637)	% of income at forecast 2017 average premium price (\$764)
Full-time minimum wage ¹	\$31,127	2.1%	2.5%
Age and Disability Support Pension ²	\$20,201	3.1%	3.8%
Newstart allowance ³	\$14,841	4.3%	5.1%

¹ Source: Fair Work Ombudsman (2016), *Minimum Wages*; and Australian Taxation Office, Tax calculator available at <https://www.ato.gov.au/Calculators-and-tools/Simple-tax-calculator/>

² Maximum allowance for single age pensioner (2016). Source: Centrelink (2016), *Payment Rates for Age Pension*. Available at <https://www.humanservices.gov.au/customer/services/centrelink/age-pension>; and Australian Taxation Office, Tax calculator available at <https://www.ato.gov.au/Calculators-and-tools/Simple-tax-calculator/>

These amounts are significant when considered alongside of other cost essentials that low income people are struggling to meet. For example, a recent survey of Centrelink benefit recipients undertaken by the Australian Council of Social Services (ACOSS) found that:

- More than a quarter of respondents receiving the Newstart Allowance are in ‘housing crisis’: spending more than 50% of their incomes on housing costs;
- More than one in four respondents relying on the Newstart payment spends more money than they receive each week, with another 48% reporting to ‘break even’;
- A similar proportion of respondents receiving the Disability Support Pension and Parenting Payment report spending more than they receive each week (25% and 24% respectively);
- Nearly half of all respondents receiving the Newstart and Youth Allowances and more than a third of respondents receiving the Disability Support Pension have unsustainable levels of personal debt; and
- The top five most common items that respondents had gone without in the last 12 months due to lack of finances were: 1. Buying Christmas presents⁴ (31%); 2. Dental appointments or procedures (30%); 3. Car Service (27%); 4. Buying presents for a loved one’s birthday (22%); and 5. Medical appointments or procedures (19%).

Low income people’s concerns about Green Slip prices

NCOSS recently commissioned public research firm Essential Media Communications (EMC) to undertake a detailed and properly-weighted survey of the needs and priorities of people on low incomes. The research sought responses on a range of different issues, which included asking respondents to:

- Select their three most important state-government related issues;
- Select policy proposals that would make a “big difference” to their life and that of their family.

In relation to the first question described above, around 25% of respondents nominated “reducing the cost of running a car, including green slips, insurance and rego” as one of their top three issues. This made it the third-most nominated issue, with only “ensuring we have a quality health system in NSW”, and “helping people on low and fixed incomes meet the cost of living generally” scoring higher.

³ Maximum allowance for single person with dependent children. Source: Centrelink (2016), *Payment rates for Newstart allowance*. Available at: <https://www.humanservices.gov.au/customer/enablers/payment-rates-newstart-allowance>

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In relation to the second question above, 63% of respondents stated that making green slips more affordable would make a “big difference” in their life and that of their family. This score ranked second across a variety of different propositions, which included health, transport, and school-related proposals. Indeed, the only proposition that scored higher than making green slips more affordable was the idea of a state-wide dental health scheme for concession card holders.

Respondents were also asked about the following:

Thinking now about the cost of compulsory third party motor vehicle insurance, also known as Green Slips. The NSW government estimates that green slip prices will go up by as much as \$100 in the coming year. The government has proposed changes to the green slip scheme to reduce prices. This will mean that people who have minor injuries like whiplash will receive a set amount of compensation and will no longer be able to have their claim heard in court. The scheme will also become a “no fault” scheme, meaning that all injured drivers can access compensation without having to prove their case in court.

38% of respondents said they supported the proposed change, while only 11% opposed. The remainder (51%) stated that they needed more information about the proposal.

Options for reform

As noted above, the NSW Government has proposed four reform options for the CTP scheme. Of those, NCOSS favours Option 3 – a hybrid, no-fault, defined benefits scheme with common law benefits retained in parallel. We note that as indicated above, there is strong support amongst low income people for such a change.

The above research indicates that there is a strong appetite for change amongst low-income people and their families. This is hardly surprising, given the growing cost of green slip insurance, and the increasing proportion of lower incomes which are being devoted towards meeting such costs. It is therefore imperative that change occur, and so the idea of simply retaining the current system (Option 1 of the proposed reform options) is strenuously opposed by NCOSS.

We further suggest that moving towards a no-fault scheme will remove the fundamental unfairness surrounding the current fault-based system. People rarely, if ever, deliberately cause car accidents to occur. While there are circumstances in which a driver might drive in a negligent manner, we suggest the vast majority of accidents occur as a result of, albeit costly, one-off mistakes. Indeed, few if any drivers intend to injure either themselves or another person in a car accident. It is therefore fundamentally unfair that any individual can find themselves unduly punished and seriously disadvantaged if they are legally at-fault in a motor vehicle accident. With no access to compensation,

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such individuals can find themselves facing enormous medical costs, or unable to obtain appropriate medical treatment, given the lack of financial support available to them. We further suggest that an at-fault scheme increases legal expenses for both insurers and individuals. This in turn increases the overall cost of the scheme, placing upward pressure on the price of green slips.

Consequently, NCOSS does not reform options that maintain existing at-fault arrangements. As such, NCOSS does not support Option 1 or 2.

Of the remaining reform options, NCOSS believes that the “hybrid” Option 3 best achieves the “delicate balance” described above. It is the Option that best provides sufficient and just compensation to those who are seriously injured as a result of car accident, whilst enabling CTP insurance to become more affordable.

We suggest that Option 3 best achieves this balance by, firstly, removing growing cost pressures on the existing scheme, including at-fault arrangements, as well as the introduction of defined benefits, both of which will minimise legal costs and end exorbitant compensation expenses for relatively minor injuries. Furthermore, we suggest that a no-fault, defined benefits scheme will enable those who require access to compensation to finalise their claims much more quickly.

Secondly, the proposal maintains access to common law benefits for the most seriously injured. We suggest that such access is warranted in circumstances where a person’s injury will subject them to significant and ongoing costs as a result of an injury. It is precisely because Option 4 proposes removing such access entirely that we do not support it.

Other considerations

The ability to pursue common law damages ought not to exclude a seriously injured person from first accessing compensation through the proposed no-fault scheme. In other words, seriously injured claimants who are eligible for benefits or compensation under both a statutory scheme and common law ought to be able to pursue both options. However, if a claimant is successful in pursuing common law damages at a later date, then the quantum of compensation awarded by a court ought to take into account any statutory benefits already received or awarded.

The introduction of a multi-tiered scheme does, however, present the potential for confusion, uncertainty and unnecessary costs for those who are seriously injured in motor vehicle accidents.

For example, it may be unclear or difficult for a seriously injured person to navigate a system in which they can pursue compensation and/or ongoing support through multiple schemes, including the Lifetime Care and Support scheme, a defined no-fault benefits scheme and/or the common law courts.

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The need to make such decisions can be particularly difficult for those who are experiencing significant lifestyle changes as a result of a serious injury caused by a motor vehicle accident.

It is therefore vital that seriously injured people, particularly those who face living with an ongoing disability following a motor vehicle accident, have access to proper information and advice about their options so they can make informed choices. It is essential that such information and advice be readily available such that seriously injured people do not need to incur costly independent legal expenses in order to make an informed decision about their rights and options.

Information and advice ought to be available to seriously injured claimants in a way that is simple and straightforward to access. We suggest the following:

- The establishment of an independent agency to assist potential claimants with information and advice about how to pursue a claim and the different options available to them – we suggest that the Workplace Independent Review Office (WIRO) might provide a potential model for such a service, with an independent legal advice service similar to the Independent Legal Assistance and Review Service (ILARS);
- An alternative may be to establish an independent advice and referral hotline for potential claimants or to provide specific assistance officers at Service NSW offices;
- The availability of simple-to-read information on a stand-alone website, insurers' websites, the National Disability Insurance Agency phone line and at hospitals, with such information provided to hospital social workers who have initial contact with injured accident victims; and
- The provision of funds from the existing Lifetime Care and Support Levy (through either existing revenues or a minor increase in the levy) to disability support, rights and advocacy services so they can provide advice and information to a wide range of people who incur a disability as a result of a serious injury from a motor vehicle accident (a comprehensive list of such organisations is available at https://www.adhc.nsw.gov.au/__data/assets/file/0016/234250/Advocacy_Information_Print_Disability.pdf).

We also suggest that the State Insurance Regulatory Authority (SIRA) consider the impact of the National Disability Insurance Scheme (NDIS) and its potential interrelationship with the CTP scheme as part of this review. We suggest that SIRA should – if it has not done so already – consult with the National Disability Insurance Agency (NDIA) and the NDIS transition team in the NSW Department of Family and Community Services (FACS) as part of this consideration.

Conclusions

As outlined above, NCOSS believes there is a fundamental need to reform the CTP scheme to make it more affordable. Increasing premium costs are making it much harder for low-income people to own and maintain a motor vehicle, and it is our submission that access to this form of transport is fundamental to enabling individuals and families lead productive, healthy, and fulfilling lives. This view is reflected amongst lower-income people themselves who, through research commissioned by NCOSS, have indicated that reducing green slip costs, and reforming the system, is one of their key priorities.

NCOSS, however, recognises the need for reform to properly strike the right balance between affordability and adequacy in terms of the compensation available to seriously injured people. We suggest that Option 3 best achieves this balances by proposing a hybrid no-fault, defined benefits scheme with common law benefits retained for seriously injured people.