

Our reference: 2022/002950  
Your reference: 360005786603, 360006274501 & 36005762701

To: Mr Todd Campbell  
Head of NSW CTP Claims  
QBE Insurance (Australia) Limited

[REDACTED]

Dear Mr Campbell,

**Letter of Censure –failing to determine the claimant’s request for treatment within 10 days of receipt of the request**

I refer to the investigations conducted by the State Insurance Regulatory Authority (the Authority) into 3 claims where there was an alleged delay and failure to determine the claimant’s request for treatment within 10 days of receipt of the request by QBE Insurance (Australia) Limited (QBE).

I am writing to advise you that the Authority has finalised its investigations into the 3 allegations and is satisfied that QBE has on each occasion contravened Section 1.3 (2) and Section 10.7 of the Motor Accident Injuries Act 2017 (the Act) and principles 4.5, 4.6 and 4.99 of the Motor Accident Guidelines - Version 7 or Version 5 (the Guidelines). In doing so, QBE has also breached clause 10 of the standard licence conditions. For the reasons outlined below, the Authority has decided to issue QBE with a letter of censure, pursuant to section 9.10(1) of the Act.

Section 9.10(1) of the Act provides:

- (1) If the Authority is satisfied that a licensed insurer has contravened its licence or this Act or the regulations or the Insurance Industry Deed, the Authority may, instead of suspending the insurer’s licence –*
- (a) impose a civil penalty on the insurer not exceeding \$110,000, or*
  - (b) issue a letter of censure to the insurer.*

The investigations established that QBE failed to determine and process the claimants’ requests for treatment within 10 days of receipt of the request because of the following:

1. [REDACTED]

The request for surgery was received by QBE on 19 November 2020. QBE approved the request on 19 April 2021, after a delay of 5 months.

2. [REDACTED]

The request for surgery was received by QBE on 18 March 2021. QBE approved the request on 25 June 2021, after a delay of 69 Days.

3. [REDACTED]

The request for surgery was received by QBE on 4 March 2020. QBE approved the request on 12 March 2021, after a delay of almost 12 months.

In failing to determine and respond to the claimants' treatment request within 10 days of receipt, the Authority is satisfied that QBE's conduct is not consistent with the objects of the Act including the following:

1. 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*

2. 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.*

3. Clause 4.5 of the Guidelines (version 7)

*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. Clause 4.6 of the Guidelines (version 7):

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

*(a) principle to proactively support the claimant to optimise their recovery and return to work or other activities.*

*(b) make decisions justly and expeditiously.*

5. Clause 4.99 of the Guidelines (version 7):

*Where the insurer determines the claimant's request for treatment, rehabilitation, vocational support and attendant care services, it must: advise the claimant and service provider in writing as soon as possible but within 10 days of receipt of a request, and*

*(a) if approved:*

- state the costs the insurer has agreed to meet,*
- pay the account as soon as possible but within 20 days of receipt of an invoice or expense*
- advise the claimant of the insurer's obligation to pay all reasonable and necessary costs and expenses – including travel expenses to attend approved treatment, rehabilitation*

6. 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.*

On 10 November 2022, the Authority issued a Show Cause Notice for each claim to QBE, to provide a final opportunity to make submission or provide any further relevant information in respect of the proposed findings of fact and the imposition of the appropriate enforcement action available to the Authority.

In a response letters dated 17 November 2022, QBE confirmed its acceptance of the Authority's proposed findings of fact for each claim. QBE further advised that they have undertaken appropriate remediation and performance management actions to address the performance of specific individuals in relation to compliance requirements (this includes the contraventions mentioned above). QBE also stated that they have introduced a treatment, rehabilitation, vocational support and attendant care (TRAC) audit process/control which is conducted and monitored by the Healthcare team.

The Authority recognises QBE's actions to meet its obligations with the TRAC requirements of the Guidelines and therefore for this reason has issued a letter of censure instead of imposing a civil penalty.

This matter will form part of QBE's compliance history and will be considered when determining the appropriate regulatory or enforcement response if future matters of non-compliance indicating a pattern of behaviour are brought to the Authority's attention. Whilst in this instance a letter of censure has been considered appropriate, in the event that the Authority becomes aware of ongoing non-compliance of a similar nature, these 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 QBE.

I remind QBE 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] Senior Enforcement Officer, Enforcement & Prosecutions [REDACTED]

Yours sincerely,

[REDACTED]

Dr. Petrina Casey  
Executive Director  
Motor Accidents Insurance Regulation

Date: 18 April 2023