



20 April 2016

CTP Review
State Insurance Regulatory Authority
Level 25
580 George Street
Sydney NSW 2000

Email: CTP_review@sira.nsw.gov.au

Submission on CTP scheme review

The Actuaries Institute welcomes the opportunity to submit comments in respect of the State Insurance Regulatory Authority's (SIRA's) review of the NSW CTP scheme.

Background

A 2013 Government review of the NSW CTP market led to scheme reform recommendations to create a fairer, more affordable scheme for road users.

In March 2016, SIRA released a discussion paper setting out the following four key objectives of a CTP scheme reform:

- increasing the proportion of benefits provided to the most seriously injured road users;
- reducing the time it takes to resolve a claim;
- reducing opportunities for claims fraud and exaggeration; and
- reducing the cost of Green Slip premiums.

The discussion paper also outlines four reform options being considered, which are:

- retain the current common law, fault-based scheme with process improvements;
- retain the current common law, fault-based scheme with process improvements and adjustments to benefit levels;
- move to a hybrid no-fault scheme, with both common law and defined benefits; and
- move to a fully no-fault, defined benefits scheme with caps, thresholds and no common law.

SIRA is seeking feedback on these reform options.



Actuaries Institute Comments

Soundness of review objectives

We fully support the scheme objectives outlined and consider the following to be the most important aspects of a sustainable CTP scheme:

- certainty and adequacy of benefits that meet the expectations of injured motorists;
- building a system that allows injured motorists to return to health and independence as quickly as possible; and
- affordability and fairness of premiums.

Relative advantages and disadvantages of options being considered

The discussion paper outlines the relative merits of both fault and no-fault schemes, as well as those of common law and statutorily defined benefit schemes.

While we broadly agree with the arguments raised in the discussion paper, we make the following comments:

- The discussion paper refers to common law schemes providing more certainty for insurers than defined benefit schemes. We would argue that this is not necessarily the case. In practice, a defined benefit scheme with tight caps and thresholds can provide just as much certainty to insurers as a common law scheme where benefits are paid several years after the injury and are subject to negotiation and court decisions. For example, a defined benefit scheme that limits income replacement to, say, 2 years post injury (except for the most severely injured) could provide just as much certainty for insurers as a common law scheme where settlements may not be reached within the first 2 to 3 years of accident.
- The discussion paper raises the argument that statutorily defined benefits are less flexible in allowing for an individual's circumstances than an individually negotiated common law settlement. However, it could also be argued that while a common law settlement needs to make significant assumptions about an individual's future economic and care needs, statutorily defined benefits are payable for an individual as the need arises over time, and can therefore be more flexible in accommodating changes in an individual's future requirements.

With recent significant increases in fraudulent and exaggerated claims and high levels of scheme costs and provider fees, any successful reform option will need to provide strong market signals to effect significant enough change to ensure that the four key objectives of the scheme reform are met.

As Options 1 and 2 largely maintain the status quo for the CTP market, and will therefore be subject to the same market forces that have led to the need for significant scheme reform, they are unlikely to meet the long term sustainability objectives of the scheme.



The Productivity Commission's Report into the National Disability Insurance Scheme addressed the impact of adversarial claim processes on the health outcomes for injured persons. In Appendix J, they summarised:

"While the literature is flawed, the balance of evidence based on primary studies and meta-analyses suggests that exposure to a variety of fault-based compensation processes is generally linked to poorer health outcomes than alternative systems (table J.1; Harris et al. 2008 and 2005; Cameron and Gabbe 2009; Cameron et al. 2008; Bhandari et al. 2008; Cassidy et al. 2000 and 2003; Carron et al. 1985; Katz et al. 2001; Dichraff 1993; Taylor et al. 2000; Klekamp et al. 1998; Pietrzac et al. 2009)."

This finding further supports moving away from a fault-based common law system and towards one with statutorily defined benefits.

It is therefore our view that the benefits of a no-fault scheme, such as avoiding the adversarial nature of a fault-based scheme, providing faster paths for compensation and therefore ultimately improving long term health outcomes make Options 3 and 4 more likely to achieve the desired changes in the CTP scheme.

We recommend that under any option pursued, eligibility criteria and benefits payable are well defined. We also recommend a full actuarial costing of the options be undertaken in order to assess the affordability of each option for NSW motorists.

The Actuaries Institute would be pleased to discuss this submission with SIRA. Please contact our CEO David Bell on [REDACTED] or via email [REDACTED].

Yours sincerely,

[REDACTED]

John Evans
Vice President