

## Online form - Providers and interested stakeholders

If you are a provider (legal, health or care services), CTP insurer, or other interested stakeholder please use this

Please provide specific examples relating to your experience with the minor injury definition, as we are targeting specific areas. You do not have to answer all the questions if they do not apply to your situation or experience.

Please confirm in what capacity you are submitting this feedback

- a) Medical or healthcare provider
- b) Care service provider
- a) Legal representative
- b) Insurer representative
- c) Other – please specify

Please specify what type of injury your experience and answers relate to:

Psychological      Physical      Both

Details of injury type (if applicable):

### Understanding Minor Injury

A 'minor injury' is defined in the Act as:

- A soft tissue injury; or
- A minor psychological or psychiatric injury

A "soft tissue injury" is defined as

- An injury to tissue that connects, supports or surrounds other structures or organs of the body (such as muscles, tendons, ligaments, menisci, cartilage, fascia, fibrous tissues, fat, blood vessels and synovial membranes), but not an injury to nerves or a complete or partial rupture of tendons, ligaments, menisci or cartilage.

A "minor psychological or psychiatric injury" is defined as:

- A psychological or psychiatric injury that is not a recognised psychiatric illness.

In your experience, is the definition of 'minor injury' clear?

Y       N

Is there enough information available to understand if an injury should be minor or nonminor?

Physical injury	<input type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> Unsure
Psychological injury	<input type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> Unsure

*Comment on understanding the minor injury definition (For example: what is easy or difficult to understand?):*

IAG considers that the minor injury definition within Motor Accident Injury Act 2017 (the Act) is clear and objective. Our experience indicates that most injuries sustained in motor vehicle accidents can be readily classified as minor or non-minor using the minor injury definition.

At the MAIA scheme inception, it was acknowledged that there would be a small number of injuries for which additional guidance would be required to determine whether they were minor or non minor injuries. These injuries included soft tissue injuries of the spine e.g. disc pathologies, concussion and skin abrasions.

IAG has sought clarity on the classification of these injury types via monitoring of minor injury determinations being made by the Dispute Resolution Service. Unfortunately, there has been some inconsistency between these determinations to date. IAG suggests that the creation of guidance material related to disc pathologies, concussion, dental injuries and skin abrasions and would provide further clarity around the minor injury definition for physical injuries for all stakeholders.

### **Insurer Communication**

Insurers are required to determine and communicate whether a person's injury is 'minor' or 'non-minor' within 3 months of the date of accident.

*In your experience, are the communication methods used by insurers to inform if an injury is a 'minor injury' appropriate?*

Y      N      Unsure

*In your experience are clear explanations and reasons provided by the insurer about why an injury is minor or non-minor?*

Y      N      Unsure

*Comment on insurer communication on 'minor injury' decisions:*

IAG has found that conversations with customers regarding a minor injury decision can be challenging. Many of our customers express dissatisfaction that their injuries have been defined as "minor" as they believe this trivialises their injury and the impact that it has had on their life.

An approach that IAG staff have used to address this issue is to communicate minor injury decisions by referring to a person's specific diagnoses rather than using the term minor injury e.g. advising a person that they have been diagnosed with a soft tissue injury or an adjustment disorder. A discussion is then held about how injury types have been categorised into severe and less severe injuries based on expected recovery timeframes. Although this approach has re-assured some injured people, IAG recommends that further consideration be given to the development of alternate terminology regarding minor injury and more importantly minor injury decisions.

## Understanding entitlements to access treatment, care and lost earnings

Under the *Motor Accident Injuries Act 2017* if an injury is determined to be a 'minor injury' a person is entitled to treatment and care and a percentage of pre-accident weekly earnings for up to 26 weeks from the date of the accident. People with non-minor injuries may continue to receive these entitlements beyond 26 weeks.

*In your experience, do you understand what the decision on minor injury means for a person's entitlements to access treatment, care and lost earnings after 26 weeks?*

Y    N    Partially

*In your experience, have injured people you have dealt with understood their entitlements?*

Y    N    Partially    Unsure

*Comment on understanding entitlements:*

N/A

## Access to treatment and care

*In your experience, is early and appropriate treatment and care made available to support recovery of people with a 'minor injury'?*

Y    N

*Comment on access to treatment and care:*

SIRA has recently published a *CTP Insurer Claims Experience and Customer Feedback Comparison*. In this publication it was highlighted that 71% of injured people have received pre-claim treatment and care services and a further 22% of injured people accessed treatment and care services within the first month after lodging a claim. These figures confirm that injured people are accessing early treatment and care within the MAIA scheme.

IAG's experience confirms these findings with 78% of our injured claimants accessing treatment and care services pre claim lodgement and an additional 17% having treatment and care services paid within the first month of lodging a claim

*In your experience has there been any examples where treatment and/ or care was not provided that you think would have assisted with recovery?*

Y    N    Type of treatment of care

## Recovery Outcomes

*In your experience, is access to treatment and care resulting in return to work and/ or usual activities in 6 months or less for people with a 'minor injury'?*

Y     N    Sometimes

A recent review commissioned by the Insurance Council of Australia found that less than 10% of people who sustained a minor injury (in an accident where they were not at fault) were still receiving weekly benefits 6 months after their accident.

Using return to work as a proxy for recovery, these figures would appear to indicate that the vast majority of people with a minor injury have recovered and returned to work in six months.

*If applicable, provide examples where treatment and care has not resulted in return to work of usual activities in 6 months or less.*

## Minor Injury Disputes

A dispute may occur if a person disagrees with an insurer's decision on whether their injury is a 'minor injury'. If this occurs the person may request an insurer review this decision through the internal review process.

If the dispute is not resolved by the internal review the dispute may be referred to the Dispute Resolution Service (DRS) for a medical assessor to make a determination.

*If you have been involved with a dispute in relation to a minor injury decision, how satisfied were you with the internal review process?*

N/A

1 Not at all satisfied

2

3

4

5 -Very satisfied

*Explain your satisfaction rating for the internal review process:*

Internal reviews provide an opportunity for insurers to affirm or overturn their minor injury decisions. IAG considers this is a valuable process as it provides an efficient mechanism for injured people to request their decision to be reconsidered by a person independent of the initial decision maker. It is IAG's experience that this process is timely, with a minor injury internal review typically taking 14-21 days to complete.

The internal review process also allows for the consideration of new medical evidence (that may not have been available at the initial decision timeframe of 13 weeks). It has been IAG's experience that it has been particularly challenging to obtain comprehensive information on psychological injuries at 13 weeks post injury. The internal review thus allows further time for this information to be obtained and considered.

The most recent internal review figures published by SIRA indicate that for 40% of cases, injured people accept the decisions made at internal review and do not seek further review at DRS. This would appear to indicate that the internal review process is resolving a significant proportion of disputes within the MAIA scheme.

*If you have been involved with a dispute that progressed to the Dispute Resolution Service (DRS) in relation to the insurer's minor injury decision, how satisfied were you with the DRS?*

N/A

1 – Not at all satisfied

2

3

4

5- Very satisfied

*Explain your satisfaction rating for the dispute resolution service:*

IAG has generally been satisfied with the operation of DRS in relation to its management of minor injury disputes. We have however noted two concerns regarding this service. The first of these relates to some inconsistency in minor injury determinations relating to soft tissue injuries of the spine. This was referred to in an earlier section of the survey.

The second issue has been with the amount of time it has taken for some minor injury decisions to be assessed by DRS. IAG has experienced some claims taking 3 to 4 months to be assessed. This has resulted in a poor customer experience for those people as their statutory benefits have often ceased and then if a decision is found in their favour they then had to be re-instated.

## Overall Experience

Considering your responses to the previous questions;

*How would you rate the overall performance of the minor injury definition in the CTP Scheme?*

- 1 – Poor
- 2
- 3
- 4
- 5 – Excellent

*Comment on the overall performance:* (include what works well and what are some challenges):

At IAG our experience of minor injury claims made under the Act, to date, has overall been positive. We have found the minor injury definition to be generally clear and objective and consider the minor injury definition is working as intended to manage scheme affordability and sustainability and to encourage early resolution of motor accident claims.

Although it has been our experience that the minor injury definition is largely working as intended, we consider that there are some operational changes that could be implemented to enhance the customer experience when making a claim involving minor injury. These changes are described in point form below:

- Review of the terminology regarding minor injury. As described previously, injured people often report that the term minor injury does not reflect the impact that their injury/ies has had on their life and thus trivialises their experience
- Additional guidance should be developed for stakeholders to provide clarity around the classification of specific soft tissue spinal injuries such as disc pathologies as well as dental injuries, concussion and skin abrasions
- IAG has found that, in some instances, it has been challenging to make minor injury decisions regarding psychological injuries within the legislated 13-week timeframe. This is due to several factors which include: the time taken for psychological injuries to manifest and to be accurately diagnosed and the time taken for injured people to seek treatment. IAG believes that some flexibility around this timeframe should be facilitated and documented within the Motor Accident Guidelines. This would provide insurers the option of negotiating an alternate minor injury decision timeframe for psychological injuries with the injured person. An extended timeframe would allow an injured person to access psychological services and be comprehensively assessed. Such a practice would minimise the risk of an injured person being misdiagnosed and directed to inappropriate treatment. It is also likely to reduce the number of disputes arising from minor injury decisions for psychological injuries.

*Please describe your experience interacting with insurers, doctors, medical providers, lawyers and SIRA's CTP Assist in relation to minor injury. Include any suggested improvements that can be made:*

**Objectives of the Act:**

The objectives of the Motor Accidents Injuries Act 2017 are:

- Focus on early and appropriate treatment to enhance recovery and returning to work or other activities (for those who are not working);
- Provide early and ongoing financial support;
- Encourage the early resolution of claims as well as quick, cost effective and just resolution of disputes;
- Continue to make CTP insurance compulsory for all motor vehicle owners in NSW and keep premiums for CTP policies affordable by preventing excessive insurer profits and limiting benefits for people with minor injuries; and
- Deter fraud in connection with compulsory third-party insurance

*Given the above, do you believe the current minor injury provisions are contributing to the objectives of the Act being met?*

Y     N

Please explain what you think works well:

See Overall Experience comments

Do you have any feedback on what can be improved to better meet these objectives?

See Overall Experience comments