

2018 NSW PARLIAMENTARY REVIEW OF THE COMPULSORY THIRD PARTY INSURANCE SCHEME

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HOW WELL IS THE SCHEME TRACKING IN TERMS OF ITS OBJECTIVES?

The parliamentary committee was established to review the Compulsory Third Party Insurance Scheme since legislative reforms were implemented to the *Motor Accident Injuries Act 2017* (NSW) on 1 December 2017.

The review focused on a range of matters which included how the new scheme is performing in relation to the New South Wales government objectives of:

1. Reducing the time taken to resolve claims;
2. Increasing the proportion of benefits provided to the most seriously injured road users;
3. Reducing the costs of Green Slip premiums; and
4. Reducing opportunities for claims of fraud and exaggeration.

The committee also looked more generally in terms of how the scheme was tracking in respect of the data and information provided by insurers and the effectiveness of two newly established services, namely CTP Assist and Dispute Resolution Service.

The general conclusion overall, was that it was too early to comprehensively assess the performance of the scheme, however, in the view of the committee, there were positive signs that the new scheme was enabling in particular a greater proportion of benefits to be paid for the seriously injured road users and that processes have been put in place to support the faster resolution of claims and disputes. There had also been a substantial reduction to the cost of Green Slip premiums for most road users.

BACKGROUND TO THE CHANGES

In March 2017, the New South Wales parliament passed the *Motor Accident Injuries Act 2017* which introduced a new CTP scheme in New South Wales. The scheme came into effect on 1 December 2017. Under the new scheme, an important change is that, injured people are now entitled to claim statutory benefits for up to 6 weeks (26 weeks) which includes a percentage of their pre-injury weekly income if they need time off work, reasonable and necessary

treatment expenses, and commercial and attendant care if they need help around the home whilst they recover.

Importantly, the statutory benefit is *regardless of fault*. There are, however, certain categories in which such benefits will not be payable, for example if the at fault driver of the vehicle or if the vehicle is uninsured.

Another important change is the introduction of “*minor injury*”. If a person’s injury is “minor”, such as a soft tissue injury or a minor psychological or psychiatric injury, they are entitled to statutory benefit for **up to 6 months only**. In the previous scheme, common law damages for soft tissue and minor psychological and psychiatric injuries where fault was established, contributed to a large proportion of the injuries and in turn the benefits that were paid out under the CTP scheme. Under the new scheme, no damages for economic loss or non-economic loss are payable to claimant if the only injuries sustained are “minor injuries”.

In relation to more serious injuries, the claimant’s may still be able to claim for benefits beyond the 6 month period and for those with catastrophic injuries such as spinal cord injury, brain injury etc. they may also be eligible for support under the *Motor Accident (Lifetime Care & Support) Scheme*.

EFFECTIVENESS OF THE NEW SCHEME

It is important to note, when assessing benefits and success rates, that the new CTP scheme has only been in operation for approximately one years. Therefore, it has not yet reached a stage of implementation where claim, premium profit and other key trends can be expected to be “reliably ascertained”. However, whilst SIRA advise that there are observed delays in anticipated claims and payments to date, it is still expected that the total payments when all claims for the current period (that was analysed) are finalised, there is confidence that the new scheme “*will lead to a greater proportion of benefits going to the most seriously injured road users*”.

In terms of assessing faster resolution of claims, it was found that the new online submission process, which allowed easy and fast access to claimants to the Service NSW website, where the insurer of the vehicle at fault is automatically matched for the claim, had been successful.

The committee also looked at the issue of reducing opportunities for claims fraud and exaggeration. This was a complex aspect of the scheme to assess for the committee. It is important to note that a multi agency task force was formed in 2016 to detect and prosecute fraudulent claims. SIRA worked in conjunction with the New South Wales Police Force and CTP insurers as well as other investigative bodies as part of this process which ultimately resulted in the establishment of the New South Wales Police Strike Force Team - Ravens. This led to the arrest of 18 offenders for claims totalling over \$13.5 million. These initiatives continue.

At this very early stage, there is unfortunately insufficient data available to examine as to whether there has been a significant reduction of claims which were fraudulent or exaggerated.

The objective of reducing the costs of Green Slip premiums clearly has been successful. SIRA advised that on 1 December 2017, the state wide average cost of Green Slip premiums soared by more than \$120 to an average of \$528. This is clearly an objective that has been realised.

EFFECTIVENESS OF THE CTP ASSIST AND DISPUTE RESOLUTION

SERVICE

In particular the committee wished to review the effectiveness of the two services offered by SIRA, namely CTP Assist and Dispute Resolution Service. CTP Assist provides claims support, advice and information both over the phone and online for injured people. Dispute Resolution Service facilitates a mutual resolution of disputes between claimants and insurers and arranges an independent and binding decision which is made by an expert assessor. The object of this service is to resolve disputes efficiently in an informal setting.

SIRA reported that the “client satisfaction results” of CTP Assist were at 67%. Overall, then, this was considered to be a success.

Insofar as the Dispute Resolution Service is concerned, it was more difficult to assess the success or failure of this service given the low number of disputes relating to the 2017 scheme that had been received and ultimately finalised. The committee expressed the opinion that it was premature to compare the costs of operation to that of the 1999 scheme and that overall it was too early to assess whether or not this new service was a success.

THE NEW DEFINITION OF “MINOR INJURY”

The committee also sought to examine the impact of an important change to the legislation, namely the definition of “minor injury” under the *Motor Accident Injuries Act 2017*. SIRA has commissioned a file review of the first 1000 claims since the new scheme commenced with a focus on minor injuries. The review has yet to be finalised and it is to be hoped that ultimately the review will provide insight into the injury management process, application of the minor injury threshold and data collection to improve ongoing monitoring of the scheme. The review findings will be crucial as the definition of minor injury and its application has wide ramifications including costs disputes, claim frequency, resolution rates and potentially fraudulent and exaggerated claims.

This was a difficult area for the committee to assess. The committee noted that there were differing views regarding the impact of the changes to the definition of minor injury in the new scheme.

It was recommended by the committee that SIRA expedite its work on the development and distribution of education resources on the definition of minor injury for the benefit of injured road users in New South Wales.

CONCLUSION

The overall conclusion of the parliamentary review must necessarily be that whilst the scheme is off to a reasonable enough start, it is too early to say with any confidence whether or not the scheme is likely to achieve its full objectives. Whilst it is clear that it has already achieved the objective of reducing the cost of Green Slip premiums, it is less clear whether there will be any serious impact on reducing opportunities for fraud and exaggeration claims or indeed how the new definition of minor injury will impact upon claim frequency and resolution rates. Both CTP Assist and the Dispute Resolution Service are in their infancy and it is too early yet to say whether or not these two services are effective.

What the review does make clear is that it is imperative for SIRA to expedite its work on the

development and distribution of educational resources regarding the definition of a minor injury and further for SIRA to develop comprehensive criteria to measure insurer performance and publicly report that data.

GET IN TOUCH



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