



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SERVICES  
Ms Elizabeth Lee MLA (Chair), Ms Bec Cody MLA (Deputy Chair)  
Mr Michael Petterson MLA

## Submission Cover Sheet

Inquiry into Motor Accident Injuries Bill 2018—Exposure Draft and Guide to the  
Motor Accident Injuries Bill 2018 Exposure Draft

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The Committee Secretary  
Standing Committee on Justice and Community Safety  
Legislative Assembly for the ACT  
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### **Motor Accident Injuries Bill 2018**

Dear Committee Members

Suncorp Group (Suncorp) welcomes the opportunity to provide a submission to the Committee on the draft *Motor Accident Injuries Bill 2018*. Suncorp Group currently provides CTP insurance to approximately 115,000 customers in the ACT, through our GIO, AAMI and Apia brands. We are proud ACT residents with claims staff and senior leaders based in our Woden office.

The proposed legislation is an accurate reflection of Model D chosen by the Citizens' Jury and will fundamentally change, for the better, how ACT motorists are looked after by their CTP scheme.

As Australia's largest private CTP insurer, Suncorp has consistently advocated for people injured on our roads to be provided statutory benefits on a no-fault basis, with common law damages available to those with serious injuries. This model:

- ensures everyone injured is adequately covered by CTP insurance
- provides early treatment, care and income support as required by injured people
- maximises scheme efficiency (proportion of premium directed to injured people) and minimises fraud
- addresses the issue of the profit levels of insurers, lawyers and medico-legal professionals
- keeps premiums affordable for motorists.

The Citizens' Jury has selected a model that will provide people injured on ACT roads with all the above characteristics.

### **Response to the Terms of Reference**

In reference to the specific questions raised by the Committee's Terms of Reference, please see below:

#### 1(a)(i) – Early access to medical treatment, economic support and rehabilitation services

The new scheme will provide treatment and support immediately after a motor vehicle accident. Allowable expenses, prior to a liability decision, will include GP consultations and allied health treatments. This will ensure claimants can get the support they need, quickly, to aid their recovery. Claimants will also have access to income replacement benefits from the time an insurer accepts liability for their application (28 days), which is not available under the current scheme.

#### 1(a)(ii) – Equitable cover for all people injured in a motor vehicle accident

All motorists will now have access to defined benefits for up to five years regardless of who caused the accident. In the current scheme, you have to be able to 'blame' another motorist to receive support (except for the provision of care to those with catastrophic injuries). This system is inequitable and unfairly punishes people who have common accidents such as hitting a kangaroo or a momentary lapse of judgement which causes harm. Hundreds of ACT families will now be better off because they will get the support and care they need after an unfortunate accident.

#### 1(a)(iii) – A value for money and efficient scheme

For years ACT motorists have been paying some of the most expensive CTP premiums in Australia, due to the poor design of the scheme. The new scheme chosen by the Citizens' Jury will reduce the average premium from \$556 to \$385 - \$465. This will provide much needed cost of living relief.

In addition, under this scheme more of each premium dollar will go directly to claimants through care and support, instead of legal fees and insurer profit. It will be important to track the efficiency of the scheme. However, based on the modelling we expect a significant improvement in scheme efficiency and value for money for ACT motorists.

#### 1(a)(iv) – Promoting broader knowledge of the scheme and safer driver practices

The new CTP scheme will be a significant change for all stakeholders: motorists, the Regulator, insurers and lawyers. It will require a fundamental shift in how we deal with motor vehicle accidents and how we treat those who are injured. It will be a shift away from an adversarial scheme to one focussed on rehabilitation and support. To achieve this structural change, it is important for all stakeholders to play their part in communicating the benefits of the new scheme.

Specifically, we believe it will be important for the Government to run a campaign to educate motorists of their rights under the new scheme, specifically those who are at-fault. It has been our experience in other jurisdictions that the community is slow to fully understand the extra benefits available. Further, in the case of Suncorp, we will be making important changes internally, such as increased training to ensure our staff are well equipped to assist customers in the new scheme.

#### 1(a)(v) – Implementing a support system to better navigate the claims process

The introduction of statutory benefits for five years on a no-fault basis provides a clear indication of the support insurers are required to provide to people injured on ACT roads. The proposed legislation is relatively prescriptive, which will assist both insurers and injured people to have clarity with regard to entitlements. When the rules are clear and well designed, it's easier for them to be understood and communicated to injured people as they progress through their claim. The new scheme will, through its design, be easier for injured people to navigate than the current system because insurers are required to provide support, and they are able to do this directly rather than via a legal intermediary.

Whilst the primary responsibility for assisting claimants through the claims process rests with insurers, it is important that claimants are able to access information and support from an independent source. This serves to provide claimants with reassurance that their insurer is abiding by the legislation and guidelines, and providing all benefits to which the injured people is entitled. It is appropriate that the Motor Accident Injuries Commission ensure that this independent information and support is available.

#### 1(a)(vi) – A system that strengthens integrity and reduces fraudulent behaviour

The new scheme's removal of lump-sum financial compensation for minor injuries can be expected to substantially deter the lodgement of fraudulent claims. This will mean a cheaper and fairer scheme for everyone. Further, the draft legislation has strong reporting provisions requiring industry participants to report key metrics such as profit, injury statistics and legal fees. Full transparency is key to ensuring the scheme remains efficient and fraudulent behaviour is minimised.

1(b) – The draft bill's consistency with the model chosen by the CTP Citizens' Jury and the detailed design documents underpinning this model

The draft legislation is consistent with Model D chosen by the Citizens' Jury and the design documents socialised during the process. The drafters of the legislation have taken the design principles advocated by the Jury and also applied learnings from other jurisdictions to create legislation that properly reflects the intent of the Jury.

1(c) – The draft bill's consistency with other relevant insurance schemes operating in the Territory

The draft legislation for the new scheme is consistent with other major insurance schemes in the Territory, principally workers compensation. The key feature of the new scheme is the inclusion of injured motorists regardless of fault, similar to workers compensation where a no-fault scheme is in place. This key provision provides a stronger safety net for all ACT residents. In addition, like the workers compensation scheme, the draft legislation is focussed on recovery and rehabilitation through early access to care and support. There are also some similarities between the two schemes around timeframes. For instance, the insurer having to make a liability decision within 28 days.

1(d) – The most suitable avenues for external review of matters arising between parties under the proposed new Motor Accident Injuries scheme

The draft legislation provides strong provisions for motorists to seek internal and external review. Importantly the associated timeframes are tight to ensure a decision is conveyed to the claimant in a timely fashion. For example, when an internal review is requested by the customer the insurer must make a decision within ten business days.

With regard to the external review process, Suncorp has a long-held position that this service could be provided by a statutory ombudsman, which is independent, transparent and non-adversarial. This would provide a dispute resolution mechanism that avoids unnecessary delays and excessive costs.

**Further feedback on the draft legislation**

The draft legislation accurately reflects the intent of the Citizens' Jury. Suncorp suggests the following would enhance and streamline the operation of the proposed new scheme:

1. Prescriptive legislation and regulation – As has been highlighted in other jurisdictions around Australia the design of the legislation and regulation is essential in ensuring the scheme remains stable and affordable. To achieve this, timeframes and benefits need to be clearly defined. This includes who can access which benefits and for how long. In other jurisdictions legislators have introduced provisions like a 'narrative test' for injured claimants. Measures such as this increase volatility in the scheme and can place upward pressure on premiums, threatening the long-term stability of the scheme.
2. Monitor and Review – The nature of motor vehicle accidents and technology are rapidly changing which means the CTP scheme will need to adapt into the future. It would be prudent to set clear timeframes for a scheme review. This would ensure the scheme is appropriately supporting injured motorists and facilitating a stable and affordable scheme. Specifically, it would be appropriate to track the progress of the small number of not-at-fault claimants who do not reach the 10% Whole Person Impairment (WPI) threshold and are still receiving statutory benefits five years after their accident, in order to assess how the cessation of statutory benefits impacts their wellbeing.
3. MAI Injury Register – Section 411 of the draft legislation outlines a requirement for the MAI Commission to keep a register of all motor accident claims and applications for defined benefits. While this is an important measure to track the performance of the scheme, Suncorp recommends that, where appropriate, its design align to other jurisdictions in order to create consistency and reduce the administrative burden.
4. Annual Indexation – In the current draft legislation payments, thresholds and caps will be indexed in line with adjustments to Average Weekly Earnings (AWE) on a six-monthly basis. Suncorp believes this indexation frequency is unnecessarily high. We would recommend an annual adjustment which is more consistent with other schemes and reduces administrative costs for scheme participants.

## Own insurer (first party) claims management

The strong focus on health and recovery outcomes in the draft legislation has the potential to be further enhanced by the introduction of an 'Own Insurer' (or 'first party') claims management model, whereby the insurer of a particular vehicle manages the statutory benefits claims of all people injured in that vehicle. The extensive provision of no-fault statutory benefits contained in Model D provides an ideal opportunity to implement an Own Insurer scheme.

To illustrate, if car A hits car B and the driver of car A is at fault, the driver and passengers of car B have their personal injury claims managed by the insurer of car B. Under an 'At-fault insurer' (or 'third party') scheme, the insurer of car A (the at-fault vehicle) manages all claims, including the people injured in car B.

An Own Insurer model substantially strengthens the link between a customer and their insurer, allowing a motorist to choose the CTP insurer they wish to manage their claim if they (or their passengers) are injured in their vehicle. It has the potential to promote competition, enhance early treatment and deliver significant benefits to customers and the scheme. It will mean the high levels of insurer accountability and service currently enjoyed by Motor (property) insurance customers will be extended to those injured on ACT roads.

A key benefit of a competitively underwritten scheme is that it provides customers with choice. An Own Insurer scheme results in customer choice having consequences when it matters – when there's an accident and insurance claim. If a motorist chooses a particular CTP (bodily injury) insurer, they are guaranteed their chosen insurer will manage the claims of everyone in their vehicle, regardless of how the accident happened. The insurer is directly accountable to their policy holder. Insurers are therefore incentivised to compete and market their product based on the quality of their personal injury claims management and customer service – something that does not occur in an At-fault Insurer scheme.

In the ACT, CTP claims are lodged on average 59 days after the accident. By comparison, Motor (property) claims are lodged on average 3.6 days after the accident, with 46% lodged on the same day and 73% within two days. An Own Insurer scheme would provide the opportunity for insurers to integrate Motor and CTP (bodily injury) claims lodgement, meaning a CTP claim could be created when a Motor claim is lodged (assuming the vehicle's Motor and CTP insurance were with the same insurer). Treatment could then be *proactively* provided by the insurer, reducing delays and hastening recovery, which reduces claim costs.

Suncorp recommends that the legislation be amended to provide a head of power to provide the Regulator the option to convert the CTP scheme, through regulation, into an Own Insurer claims management model at a later date.

## Next Steps and Implementation

With reform of this magnitude all stakeholders will need to make significant changes to facilitate the new scheme. The following outlines areas where the Government can assist in a smooth transition.

1. **Timeframes** – To implement this scheme insurers will need sufficient lead time to review the final legislation and redesign claims and pricing systems to account for the new scheme. In our view, a minimum of nine months is required from assent to ensure a stable and workable scheme is in place. Further guidance on timelines from the Regulator following the passage of this legislation will be required.
2. **Premium Refund** – As is contemplated by the legislation, unearned premium will need to be refunded to motorists following the introduction of the new CTP scheme. The refund will reflect the different costs associated with the old and new scheme. A premium refund is a fantastic consumer outcome but should be done efficiently to reduce administrative costs and confusion.

In NSW, motorists were required to actively apply for a refund through Service NSW. This model was difficult to administer, had quite high transaction costs and a significant proportion of the community failed to apply for the refund. A preferred model is that the refund occurs automatically, without a customer having to do anything. In the ACT, we recommend providing a discount on the customer's next renewal (regardless of which insurer they choose) and communicating the refund very clearly on policy documents. This would minimise administrative costs and the inconvenience to customers.

If you wish to discuss further, please do not hesitate to contact Jonathan Davies, Senior Manager – Government, Industry and Public Policy on 0467 707 697 or [jonathan.davies@suncorp.com.au](mailto:jonathan.davies@suncorp.com.au)

Yours faithfully



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