



29 September 2017

Citizens' Jury on CTP
c/o Financial Framework Management and Insurance Branch
Chief Minister
Treasury and Economic Development Directorate
GPO Box 158
Canberra ACT 2601

By email: YourSayonCTP@act.gov.au

ACT Compulsory Third Party Insurance

Thank you for the opportunity to provide feedback to assist the Citizens' Jury in their consideration of the ACT Compulsory Third Party Insurance Scheme (the Scheme).

The Insurance Council of Australia (ICA) is the representative body for the general insurance industry in Australia¹. ICA members provide a range of insurance products including compulsory third party (CTP) insurance in a number of jurisdictions in Australia, including the ACT.

To assist the Citizens' Jury, the ICA wishes to outline some of the key characteristics of the the Scheme as well as the role of insurers within the Scheme.

The role of the ACT CTP Insurance Scheme

The Scheme is part of an important social support framework for ACT road users.

It provides many road users with a source of financial support should they be injured in a motor vehicle accident.

The Scheme also plays an important community role as it provides financial protection for motorists that have caused personal injury to other road users. At-fault motorists are protected from incurring substantial financial loss, as they are covered (indemnified) by their CTP insurer against personal liability to pay compensation to an injured road user.

Without CTP insurance, there would be enormous financial consequences for both those injured in motor vehicle accidents and for road users who have caused injury to others.

¹ Our members represent more than 90 percent of total premium income written by private sector general insurers. ICA members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance). ICA members are also involved in statutory insurance schemes such as workers' compensation and compulsory third party motor vehicle injury insurance (including the ACT CTP Scheme) as both underwriters and scheme agents.

A third party CTP scheme

The Scheme is a 'third-party' insurance scheme. This means that ACT CTP insurance policies are designed to insure the policy holder against liability for any personal injury they cause to other road users (third parties).

ACT CTP insurance policies provide limited personal injury cover or compensation to the actual policy holder in the event they themselves are injured in a road accident.

Coverage under the current ACT CTP Scheme – an 'at-fault' insurance scheme

State and Territory CTP schemes in Australia are often described as being either 'at-fault' or 'no-fault' insurance schemes. The terms "at-fault" and "no-fault" refer to whether or not an injured must establish fault on the part of someone else to access to benefits.

The ACT CTP Scheme is an at-fault insurance scheme. This means that, in most circumstances, a person injured on ACT roads will only be able to receive compensation under the Scheme if someone else (eg. the driver of another vehicle) is found to be at fault.

Therefore, where a road user sustains injuries in a 'blameless' motor vehicle accident where no one is found to be at-fault, they are not entitled to compensation under the Scheme.

For example, in a situation where a motorist collides with a kangaroo through no fault of their own, the driver and their passengers would not be eligible to receive compensation under the ACT CTP Scheme.

Also, where an injured road user is found to have been at-fault for the motor vehicle accident they will only have access to very limited compensation under the ACT CTP scheme. This applies even in cases where the injured person has merely made an innocent mistake or where there are other factors that contributed to the accident that were out of their control.

In these two examples above, these injured people would only be eligible to receive payment for medical expenses up to \$5000 and only for those expenses incurred in the first six months following an accident. If they were catastrophically injured, they may also be able to access treatment and care support under the ACT Lifetime Care and Support Scheme but would not be able to claim other damages. Examples of catastrophic injuries covered under the LTCSS include a traumatic brain injury, spinal cord injury and permanent blindness.

To this extent, the at-fault design of the ACT CTP Scheme does not provide universal coverage for all road users injured on ACT roads and can produce unfair outcomes.

By contrast, in no-fault CTP insurance schemes, such as the Victorian scheme and the recently reformed NSW scheme (scheduled to begin on 1 December this year), any person injured in a motor vehicle accident is eligible to receive benefits for injuries sustained in a motor accident, regardless of whether they were found to be at-fault. Benefits are also available to people injured in blameless motor accidents where no one was at fault.

There are strong public policy arguments that no-fault insurance schemes provide greater benefit to injured road users and to the community more broadly as they cover a greater proportion of people injured in motor vehicle accidents. No-fault schemes arguably produce fairer outcomes for

all injured road users as the primary focus of these schemes is to address the health and care needs of all injured road users rather than focussing on who is liable for an accident.

The role of insurers in the ACT CTP Scheme

Insurance companies undertake a number of roles within the ACT CTP Scheme, including:

- **Setting CTP premiums**

Premiums are calculated by insurers but approved by the ACT CTP Regulator. This process ensures premiums are sufficient to cover the cost of current and future claims, while remaining affordable for motorists.

- **Managing claims**

When an injured person makes a claim, the process is managed by an insurer. This includes investigating the circumstances of an accident and determining which person, if any, was at fault.

- **Determining compensation**

When an injured person is eligible for compensation, the insurer will assess the amount of compensation they are entitled to and negotiate a final settlement (often with the involvement of lawyers).

Common law access and defined benefits

Unlike other CTP schemes, another characteristic of the Scheme is that all injured road users that are eligible to receive compensation can access common law damages.

This broad access to common law damages is a unique characteristic of the Scheme. Other CTP schemes in Australia have either incorporated additional rules that limit access to common law damages compensation to those injured road users who have sustained a certain minimum level of injury/impairment (as occurs in South Australia, WA, Queensland and, from 1 December, NSW) or only allow the most seriously injured road users to access to common law damages (as occurs in the Victorian CTP scheme).

In these schemes, broad access to common law damages have been replaced by systems of defined benefits for less injured road users. This has helped shift the focus of these schemes from an adversarial court process and more towards providing care and rehabilitation.

Thank you for the opportunity to provide this information. We hope the Citizens' Jury will find it useful.

Yours sincerely



Robert Whelan
Executive Director and CEO

From: John D Holmes
Sent: Saturday, 9 September 2017 2:39 PM
To: YourSayonCTP
Subject: CTP jury - another example of the ACT Government being unable to govern!

Follow Up Flag: Follow up
Flag Status: Completed

I was recently invited to participate in "the first Citizen's jury on CTP".
I would joyfully participate, but I will be overseas for the first session.
Nevertheless as I understand it we employ politicians at considerable expense to represent the views of the electorate.
Perhaps we should now seriously consider replacing elected politicians with statistically selected juries.
The ACT government is probably the single worst government I have experienced in 70+ years of life so far. It makes faddish and inappropriate decisions on a daily basis.

In the mid 1950's to my horror, politicians removed the trams from Sydney. Stupid, and an obvious mistake.

But the idea of a tram from nowhere to nowhere else (and I don't mean the town of Nowhere Else in NW Tasmania) in Canberra is ludicrous.

Might have been OK, smart even in 1912 and it might have been later removed in the 1950's as we celebrated universal motoring, but perhaps you haven't noticed its 2017 now and a retro fit of century old technology no matter how much you might like trains isn't going to work now!

If the idea is to get some carbon off the streets then they have trolley buses all over the world.

If overhead wires are seen to be a planning problem change the planners! Have you seen Northbourne Avenue anyway recently?

Around the world there are systems where you can call up a pod to take you to the backbone line.

Even tiny Darwin has an autonomous 10 seat electric bus running about. That was where the money should have been spent on technology not on tram lines.

As to CTP

Well for a start it needs to be CTP plus TPPD.

The bells and whistles of upfront advances and lifetime cover need to be dealt with by the Commonwealth via Medicare and the NDIS.

Legislate to separate injury treatment from compensation.

If you want private treatment you had better have private health insurance.

If you are rendered brain dead by accident or election to political office, seriously isn't that what the NDIS is for?

Funnily after a life time in consumer protection (in the TPC as it then was) I have learnt that any and all representations made by any insurance company to government or policy holders are always/ always an expression of the insurer's self interest. Get them out of any and all discussion!

The insurer's job is to collect the beans, count the beans and re-distribute the beans no more no less. Certainly not to advise Government on how to best serve the insurer's self interest.

Of course it's your job to control the size of the pool of beans in the first place.

If you are worried about the legal costs create a "Legicare" scheme with a common fee schedule, perhaps even limit taxed costs to a maximum 10% of the compensation awarded and 0% of any medical fees or charges.

Good Luck

John D Holmes

PS It took ten years for my ACT CTP claim to be paid. The other vehicle was a NSW registered vehicle owned by a sailor living and working in the ACT. It took the ten years for the NRMA as ACT nominal insurer to get the GIO NSW as the NSW CTP insurer of record to accept liability. When liability was finally accepted it took a Statement of Claim, filing costs, one and only one reasonable offer made on the court house steps and the matter was settled.

The legal expenses were largely the administrative costs of the insurer's writing letters to one another (most of which would have been written a thousand times before - only the names and dates and locations changed) to warm and lubricate the legal clerical heartland of the two insurers involved. In short they paid their administrative costs by padding the inter company correspondence!

I am not entirely sure what I think about computerised legal decision making, but I would give it a go at first instance on CTP, TPPD and "Comprehensive" insurance disputes. There must be enough data out there now to write the algorithms!

Have fun.

From: Karen Hookway
Sent: Thursday, 28 September 2017 2:26 PM
To: YourSayonCTP
Subject: Improving the CTP scheme in the ACT - feedback

Dear Citizen's Jury,

I understand that the Government has chosen to pilot a citizens' jury to consider with the community and other key stakeholders how to improve the CTP scheme in the ACT.

As an innocent victim of a motor vehicle accident, I would like to speak up about the importance of preserving the rights of the victims of motor vehicle accidents and highlight to you some of the important aspects that should be considered:

1. **The rights of innocent victims of road traffic accidents should be preserved.** They should not be eroded for the benefit of the people who have caused an accident. If the Government intends to introduce compensation entitlements for those who are at fault, that should not be done at the expense of innocent victims.
2. **Even minor and whiplash injuries can have a devastating effect on the individual victims and their families, especially for low-income families.** Time off work, treatment expenses, pain and suffering, and domestic assistance needs can all result in losses to an individual which seriously disrupt their life. These losses and damages should be compensable. The Government should not consider introducing thresholds as a minimum requirement of all compensation claims.

Some minor and whiplash injuries can be initially under diagnosed or not fully understood, resulting in more pain and suffering. Not all whiplash injuries are simple and can take years to see any improvement. In my case, the at fault driver crashed into my stationary car as I was waiting to merge with traffic. My body and head were turned and my head was thrust into the door jam, forcing my head and neck into an over extension, concussion and short unconsciousness. That was nearly 3 years ago, I am in pain everyday with no resolution in sight and it impacts every aspect of my life.



3. **The CTP fees paid by road users in the ACT also benefit a wide range of Canberrans who do not pay the fees, such as pedestrians, children, bicycle users, etc.** The small reduction in premiums which might flow to households will be greatly outweighed by the loss in compensation benefits for all family members available in the event of an accident. Further, research in other jurisdictions suggests that changes of the type supported by the Government do not usually result in a significant reduction in premiums. In fact, in NSW, premiums have continued to rise despite the very large reduction in benefits to injured people. Now, those premiums are amongst the highest in the country.

4. **If the government proceeds with a citizens' jury, the process must be open and transparent, and the jury members must be informed about the rights which ordinary Canberrans would lose in the event of changes.** The jury should be presented with models based on amendments to the current scheme in the interests of innocent victims of road accidents, not limited to types of CTP schemes from other jurisdictions in which the bulk of rights have been slashed.

5. **The Government should investigate ways to make the current system fairer and more efficient.** For example, the current complicated rules for the recovery of costs in court for small claims put too much negotiating power in the hands of the insurers. These rules are arbitrary. They make it unfair, expensive, and difficult for innocent victims to recover proper compensation for their injuries. This aspect of the current scheme should be reviewed, with the view to creating a fairer playing field between claimants and insurers.

Regards,

Karen Hookway

From: Laura  
Sent: Tuesday, 26 September 2017 9:31 PM
To: YourSayonCTP
Subject: CTP

Good Evening

I am writing as a person who has a current claim as a result of a motor vehicle accident that was not my fault. I register and pay for insurance if my vehicle and drive with are and respect for the road rules. Yet, due to another drivers error, I ended up being sideswiped and injured as a result.

Seeking compensation for the results of this injury appear to be at stake as a result of proposed changes by the ACT Government. This current labour government representatives has always had my vote and support. However these plans to create a citizens jury are ill thought out and lack any kind of expertise in the area of CTP claims. I would urge the ACT government to take on board what drastic changes this would result in for people simply seeking the compensation they are entitled too. The following points are of particular concern to me:

1. The rights of innocent victims of road traffic accidents should be preserved.

They should not be eroded for the benefit of the people who have caused an accident. If the Government intends to introduce compensation entitlements for those who are at fault, that should not be done at the expense of innocent victims.

2. Even minor and whiplash injuries can have a devastating effect on the individual victims and their families, especially for low-income families.

Time off work, treatment expenses, pain and suffering, and domestic assistance needs can all result in losses to an individual which seriously disrupt their life. These losses and damages should be compensable. The Government should not consider introducing thresholds as a minimum requirement of all compensation claims.

3. The CTP fees paid by road users in the ACT also benefit a wide range of Canberrans who do not pay the fees, such as pedestrians, children, bicycle users, etc.

The small reduction in premiums which might flow to households will be greatly outweighed by the loss in compensation benefits for all family members available in the event of an accident. Further, research in other jurisdictions suggests that changes of the type supported by the Government do not usually result in a significant reduction in premiums. In fact, in NSW, premiums have continued to rise despite the very large reduction in benefits to injured people. Now, those premiums are amongst the highest in the country.

4. If the government proceeds with a citizens' jury, the process must be open and transparent, and the jury members must be informed about the rights which ordinary Canberrans would lose in the event of changes.

The jury should be presented with models based on amendments to the current scheme in the interests of innocent victims of road accidents, not limited to types of CTP schemes from other jurisdictions in which the bulk of rights have been slashed.

5. The Government should investigate ways to make the current system fairer and more efficient.

For example, the current complicated rules for the recovery of costs in court for small claims put too much negotiating power in the hands of the insurers. These rules are arbitrary. They make it unfair, expensive, and difficult for innocent victims to recover proper compensation for their injuries. This aspect of the current scheme should be reviewed, with the view to creating a fairer playing field between claimants and insurers.

As someone who is continuing to suffer as a result of a motor vehicle accident, where I was not at fault, I implore the ACT Government to listen to reason reconsider their proposed changes. Should this plan go ahead, many people's lives will be adversely affected, and many more in the future.

Regards

Laura Jennings

Sent: Wednesday, 20 September 2017 7:26 PM
To: YourSayonCTP
Cc:
Subject: My sat on CTP

Dear Sir/Madam

My wife and I have been residents of the ACT for the past 12 years. We are both professionals in the Finance and Project Management fields with decades of experience. We love living in Canberra. It is a beautiful city, and many of its laws are fair and just for the public. We are both law abiding and tax paying Australian citizens living in the ACT.

However, today I feel the need to express my vehement concern in relation to a law that is being considered that would create unjust and unreasonable compensation for innocent people involved in a motor vehicle accident.

My wife and I both have been involved in motor vehicle accidents in the last 2 years. I have had 3 separate incidents of rear end collisions in the ACT in the last 2 years. These accidents were caused at no fault of ours whatsoever.

The first incident was when I was on my lunch break and had stopped at a stop light. The car behind me was not paying attention to the road, and rear ended me very badly. I hit my head against the steering wheel and lost consciousness. The ambulance and police arrived at the scene. Exactly 2 weeks later, I got rear ended again. This time when I was driving a rental car, as my car was in the repair shop. A p-plater was not observing traffic backing up, and rear ended me when we were relatively at low speed. Unfortunately, this time I also had my wife in the passenger seat with me. The third time was when I was heading back home from work and a car rear ended me at a slip lane when I was giving way to a vehicle already on the main road.

These accidents have caused my wife and I lots of pain and suffering. The pain related to simple tasks and keeping fit inability such as walking to not compromising my way of life in having social activities, as well as not being able to perform my job at my full capability. We have undergone numerous physio sessions, massage sessions, lack of ability to concentrate, countless headaches, back pain, neck and shoulder pain and sleep apnea. These accidents have also contributed to a lifestyle change for me and my wife. I have gained 10 kg in the past couple of years, as a result of not being able to exercise and keeping fit.

We have suffered and are still suffering from the ill effects of the accidents.

Thanks to our lawyers who legally assisted us to rightfully and professionally deal with the insurance companies, we were compensated fairly for the pain and suffering caused. Our insurance claim settlement was for a reasonable amount that reflected the pain and suffering in quantified terms.

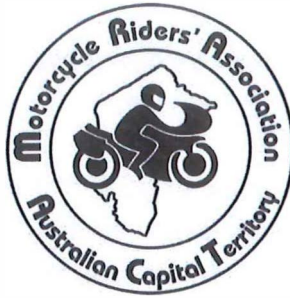
We urge that you consider the ramifications of the proposed changes where individuals, with no understanding of the pain and suffering caused to the victims, will have the powers to

decide on what they get. There is also no consideration of what would be fair and justified in making that assessment.

It questions the objectivity and fairness in the entire process. It also questions the existence of a CTP insurance policy, which has limitations on liabilities for insurance companies, which effectively renders the insurance policy as almost useless. This would be highly beneficial for insurance companies bottom lines - not the people who they are meant to insure.

Again, we ask that you consider the effects on the innocent victims as a result of this change. As victims ourselves, we strongly ask that you revoke this action and maintain the current process of compensation.

Regards



**The Motorcycle Riders Association of the
Australian Capital Territory Incorporated
(MRA ACT)**

**Response to the ACT Government call for Response to Feedback for inclusion
into Jury's deliberations – CTP Insurance**

Introduction

The MRA ACT is recognised as the representative body of the motorcycling community of the ACT.

The MRA ACT participates in government decision making and is called upon to provide views and raise concerns. The ACT and federal governments, opposition and other parties recognise the MRA ACT as the representative body for motorcyclists in the ACT and surrounds irrespective of the type of motorcycle or single track vehicles, gender, age or club affiliation.

Our Objectives

To represent all riders of the ACT and immediate surrounds irrespective of gender, age, club affiliation, or type of motorcycle or single track vehicles they ride by

- Raising the profile of motorcycling in the broader community
- Keeping the rights and needs of riders before government authorities regarding the use of roads in the ACT and surrounding regions
- Improving road safety for riders but not by undermining a riders right to choose
- Engendering motorcycling as a safe, efficient and greener alternative form of sustainable transport.

Our Activities

Improving Road Safety outcomes

- Organising Motorcycle Awareness Week each year to promote Rider Awareness and highlight Road Safety
- Representing riders at the ACT Chief Minister's Road Safety Round Table voicing the concerns of the rider to sub-standard roads and road side furniture
- Being an active member of the Australian Motorcycle Council
- Representing riders on the Black Spot Committee; Motorcycle User Group and the peak advisory body of the Road User Working Group
- Voicing concerns of riders to the media
- Reviewing proposed changes to road rules and developing strategies that create a safer environment for motorcycle and scooter riders in the ACT

The MRAACT Committee appreciates the opportunity to present a submission and offers the following comments in response to the ACT Government call for Response to Feedback for inclusion into Jury's deliberations – CTP Insurance.

The Motorcycle Riders Association of the ACT is committed to ensuring that ACT motorists have the best compulsory third party (CTP) insurance scheme possible.

However we are concerned that any overhaul of CTP in the ACT that moves towards a no fault scheme will reduce the entitlements of innocent motor accident victims, as well as their legitimate right to access to lawyers, as has been the case in other states.

Access to justice is a fundamental human right and a dispute resolution system does not fulfil its function unless it is accessible by the people with the dispute and unless the users receive the help they need to prepare and present their position.

We have seen this in the work capacity decision review process in the workers compensation scheme, which shows how difficult it can be if claimants to present their claims when legal assistance is not available.

It is important for the ACT Government to understand the ramifications of any proposal under which many innocent victims would receive substantially less compensation than is currently available in order to subsidise the costs of the claims of negligent parties.

It is important to understand that a no fault model can only be achieved by significantly reducing the current rights of innocent victims and the Motorcycle Riders Association of the ACT is concerned that aspects of such a model could have significant adverse and unfair impacts on innocent victims.

We will oppose in the strongest possible terms any measures that would lead to the cutting of benefits to injured motorists or placing time limits on access to wage loss and treatment expenses. We would regard any such move as shifting responsibility away from insurers to the public purse or the welfare net. This is not an acceptable outcome for any ACT CTP reform process.

The Motorcycle Riders Association of the ACT is also concerned that people in rural and regional areas are likely to be those who are the most disadvantaged by any changes to the scheme. Proximity to medical health providers and access to emergency care and emergency treatment is often more limited in rural and regional areas. Retraining opportunities and education facilities are also less accessible and there are fewer employment and reemployment opportunities than in urban and city areas. Any changes to

the CTP scheme should not add to the already significant challenges faced by motor accident victims in regional areas.

We are also concerned that only limited material has been made available to the public in what is a complex matter, and that which has been released is misleading and very much open to debate. We need a fair, transparent and thorough reform process, in which we have an opportunity to come up with a quality scheme that delivers value for money for motorists.

Reform of the CTP scheme is a complex issue and rushed timelines and a lack of proper consultation will not deliver a scheme that is fair for all. The ACT Government must ensure that there is informed and broad public debate and the opportunity for expert scrutiny of the options it puts on the table.

We note that as part of the ACT Government's proposed a "citizen jury" as part of decision making process. Whilst very little information has been release about how this will work in practical terms, we are concern that current CTP claimants and their families are to be excluded from this process.

Whilst we are committed to working constructively with Government to improve the ACT CTP scheme, the Motorcycle Riders Association of the ACT will continue our advocacy in this area to ensuring that:

1. there is a fair and sustainable system of compensation under which injured people are entitled to adequate benefits
2. injured people will have the practical means to pursue the benefits to which they are legitimately entitled through reasonable access to legal advice or representation, and
3. the policy debate is reasoned, consultative and transparent and that the community is aware of the consequences of the proposed reforms.

The Motorcycle Riders Association of the ACT will make itself available to the Stakeholder Reference Group or to the Citizens Jury if called upon to do so.

Contact: Ms Jen Woods
Vice President, Motorcycle Riders Association of the ACT
G. P.O. Box 1768
Canberra City A.C.T. 2601
Mobile: 0448 336 111

ACT Compulsory Third Party insurance scheme

Pedal Power ACT is the community group for Canberrans who cycle for transport, recreation and fun. As well as our 7,600 members, 26% of Canberrans ride a bicycle in a typical week and 46.5% rode in the past year. Pedal Power ACT makes this submission to place before the Citizens Jury the perspective of a significant portion of the ACT population: the people who cycle on our roads, paths and elsewhere.

As a community group that reflects such a broad cross-section of the Canberra community Pedal Power ACT does not seek to advocate for a particular solution to compensating fairly people who are injured on our roads. Rather, we ask Citizens Jury members to take into account and give appropriate weight to the matters that are particularly relevant for people who are injured whilst cycling.

Summary

Pedal Power ACT asks the Citizens Jury:

- if the Jury considers it appropriate to recommend the removal of fault as a keystone for CTP coverage, the Jury should recommend other effective mechanisms that ensure people who drive exercise particular care towards those who are more vulnerable to injury and death on our roads
- to include in the CTP scheme people injured in a single or multiple bicycle crash (i.e. a crash that does not involve a motor vehicle)
- to consider that the cheapest CTP scheme is not the best; and that the ACT community with the highest national average earnings, has the capacity to provide a CTP scheme that provides appropriate and similar compensation to people with a similar type and severity of injury.

The Citizens Jury is being asked: What should the objectives of an improved CTP scheme be to best balance the interests of all road users?

A preliminary question to ask is: What societal need does a CTP scheme seek to address? This suggests the first objective for a CTP scheme should be to compensate fairly people who are injured on our roads.

As ACT's CTP scheme is funded from premiums levied on motor vehicle owners a question which follows is: what form of benefits/compensation is it fair to require motor vehicle owners to pay.



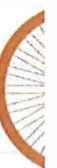
More Canberrans cycling, more often, for a better community

*Cycling Advocacy
Recreational Rides
Five Peaks Challenge*

*Centenary Trail Blaze
Fitz's Challenge
Amy's Big Canberra Bike Ride*

*Ride to Work
Ride or Walk to School
Ride Safe to School Day*

*Cycle Facilities Rating
New Horizons
Bicycle Maintenance*



Fault

The keystone to the ACT's CTP scheme which locks in place those who benefit from it and locks out those who don't, is the concept of fault. The scheme benefits only people who can show that another driver was at fault. It is based on the principle that a driver has a duty to take sufficient care to ensure that what they do, or don't do, does not cause injury other persons on the road. This means that drivers who do not take sufficient care and do cause injury must compensate the person they injure. At its simplest: you should pay for your own mistakes.

The fundamental weakness here is that drivers at fault pay no more than their annual premium, while all motor vehicle owners contribute the balance of compensation paid to the injured person.

If, as the Citizens Jury riding instructions require, the scheme is to be based on a common pool of funding to which all motor vehicle owners contribute, then there appears to be less justification for giving the concept of fault 'keystone' importance.

That does not mean that fault, or responsibility should be disregarded entirely. The road rules impose a range of duties on people who use our roads, and impose significant penalties for not complying with those duties. It seems anomalous to require people to be accountable for their actions under the road rules and yet have no responsibility under a CTP scheme.

This is of particular significance for the members of our community who are more vulnerable on our roads: people who walk, cycle and build and repair our roads. The 2014 ACT Legislative Assembly's Vulnerable Road Users Inquiry made 28 recommendations to help reduce these people's vulnerability. Recommendation 21 states:

The ACT government examine the introduction of a strict liability scheme in the ACT. This examination should assess the impact of the scheme and include an analysis of alternative approaches, such as cascading rebuttable presumption.

To remove completely component of the CTP scheme that in theory at least imposes a level of responsibility on people who drive would be to send the wrong message to the community.

If fault is to be removed from the CTP scheme, the Citizens Jury should consider other means of reinforcing the principle that people who are in control of large fast moving steel objects (motor vehicles) owe a particular duty of care those who are more vulnerable to injury and death on our roads. It would be regrettable if the Citizens Jury's instructions prevent it from recommending measures that send a price signal to motorists that it is in their interests to exercise care to those who are more vulnerable on our roads.

A community rating approach might be appropriate to pricing health insurance where people have less control over their health needs and consequent expenses. People have much greater ability to control their driving habits (avoiding distractions such as phones, and controlling speed) that can have a significant effect on the likelihood and severity of road injuries.

Pedal Power ACT suggests the Citizens Jury ask the Stakeholder Reference Group to identify the measures that address this deficiency in the current system.

The extent of coverage

The current ACT scheme compensates certain people for their full loss. They are compensated provided they can show that another driver was at fault. Not only are people involved in, for example, single vehicle crashes excluded (other than the catastrophically injured); people injured in a single or multiple bicycle crash are also excluded.

Given that people who cycle are amongst the most vulnerable of people who use our roads, there is a case for including them in the CTP scheme where they are injured on the road in a crash that does not involve a motor vehicle. If the object is to provide similar compensation for all people who are injured on the road with a similar type and severity of injury then it would be appropriate include them all in the CTP scheme. A relatively small number of people injured in a single or multiple bicycle crash compared to the number injured in motor vehicle crashes suggests that this would not result in a significant increase in CTP claims or premiums and would be a small price to pay for protecting the more vulnerable.

The cost of the scheme

Much is being made of the raw statistic that ACT CTP premiums are higher than other jurisdictions, with the blame attributed to higher damages payouts and legal costs.

Many things are higher in the ACT, from participation in physical activity to the level of education. Of particular relevance to a CTP scheme however, is the level of earnings. The ACT has the highest level of average weekly ordinary time earnings¹. Victoria, NSW and Queensland whose CTP schemes are touted as providing lower premiums than the ACT all have lower average earnings than the ACT. This suggests not only a higher capacity to pay in the ACT, but also suggests an indication of a willingness to pay more for a better product. It is analogous to Scandinavian countries where higher income tax levels are accepted in return for higher levels of state expenditure on social goods.

¹

<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6302.0Main%20Features5May%202017?opendocument&tabname=Summary&prodno=6302.0&issue=May%202017&num=&view=>