

**From:** [REDACTED]  
**Sent:** Thursday, 21 September 2017 5:22 PM  
**To:** YourSayonCTP  
**Cc:** BARR; BERRY; RAMSAY; LE COUTEUR; COE; JONES; HANSON; RATTENBURY; mparton@canberraliberals.org.au; gai.brodtmann.mp@aph.gov.au  
**Subject:** Submission to Proposed Changes to the Compulsory Third Party (CTP) Scheme by the ACT Government - I WANT MY VOICE HEARD!

As the wife of an innocent victim involved in a motor accident in 2015, I would like to impress upon the importance of retaining the current CTP Scheme.

Without the rights of innocent accident victims being preserved as they should be, injured victims, through no fault of their own would be left without the necessary medical, psychological and physical support required to enable them to recover from their injuries in order to return to a normal life.

Some victims never recover from injuries sustained, and the impact on them and their families can be devastating. They experience loss of income, as my husband and I have, unable to return to work, as is the case for both my husband and I.

This can have an enormous impact on the victims and their families whereby the stress levels can become so high, that it can severely impede the victims recovery.

This is the reason why I want my voice heard.

My husband's vehicle was T-boned in [REDACTED] on a roundabout, on a wet road by a speeding motorist who had bald tyres. As a result, my husband's vehicle rolled on impact, was spun around on its roof, hit again, spun around again on its roof and slid 50 metres down the road still on its roof from the first point of impact.

My husband was knocked unconscious, trapped in his upturned vehicle, strung up by his seatbelt with his head jammed hard against the crushed roof until he was cut loose and dragged from his vehicle. He suffered permanent injuries to his head, neck and abdomen. No surgery can fix any of his injuries. He also has and still suffers from stress, anxiety and high levels of depression due to his horrific accident. His anxiety levels escalate when he travels in a motor vehicle and when the roads are wet. On top of this, he was unable to return back to his work due to the extent of his injuries that he sustained. He has suffered loss of earnings, pain and suffering, sleep deprivation and massive medical, physio and counselling expenses which will be ongoing.

Our life has changed dramatically for the worst, as I have had to give up my job in order to look after him. This has placed us in financial hardship. It is now Sept 2017, and my husband has not received any compensation. Due to hardship cases, it should never take years for victims of accidents to get compensation.

For those who are at fault by causing such accidents, what do they get in comparison? A couple of fines and a loss of demerit points! Life changing versus a slap on the wrist! This is why innocent road accident victims rights should NOW and ALWAYS be protected and preserved.

To date my husband continues to suffer constant headaches, pain and neck grinding, short term memory loss, constant tiredness, constant confusion on a regular basis. His injuries has also caused sleep deprivation and physical restrictions due to his permanent abdominal injuries. He needs assistance on a

daily basis. He can no longer mow lawns, trim trees or do any physical activity which requires him to bend down due to his abdominal injuries. This is why he could no longer do his job.

No Government should introduce thresholds as a minimum requirement of any compensation claim. Each accident victim will be, and is different, in each circumstance, and therefore should be taken into consideration.

There is a wide range of Canberrans that are also currently supported by the road user in the ACT who pay the compulsory third party (CTP) fees. What is the Government proposing to change in respect of pedestrians, children and bicycle users who currently benefit from the CTP fees paid?

I don't believe that by making any changes to the CTP by a review, or eroding innocent victims rights will reduce CTP fees. We all know that bills and expenses always increase without fail and will never be reduced, particularly when Government is involved in any of these decisions. Effectively we will be paying more for innocent accident victims who will suffer a loss in compensation benefits. This is wrong on every level! Innocent accident victims need all the support they can get, in particular, financial support.

If the Government proceed with a citizen's jury, I have absolutely NO faith that it will be transparent particularly if the Government appoints the facilitator and controls the information provided to the panel. I also believe that excluding jury members who have experience in the area of CTP would lead to unfair decisions and be very detrimental and unethical to all innocent accident victims rights. Clearly the plan by the Government for this review or changes to the CTP scheme is for innocent accident victims to receive less or no compensation at all. How is this fair, when road users will still be paying as much or if not more for the CTP?

What will the Government be doing with all the revenue that they plan to take away from all innocent accident victims if this review/change proceeds?

It is the Government's responsibility to investigate ways to make the current system fairer and more efficient, particularly when there are years of delay before an accident victim receives any compensation. The process should be more efficient, in particularly with the most serious accidents.

The Government should also be looking at more effective ways to combat ice and drug induced drivers from being on our roads. This would be a positive step in preventing road accidents. It would certainly help if we had more police, not less!

The Government should be putting more resources, not less into road safety. It is common knowledge that the Canberra population has grown, particularly on the Northside of Canberra but unfortunately the rate of police has dropped considerably. The force numbers are not keeping up with the population rate, therefore not enough police presence on our roads to keep drivers in check or following up on incidents of crime.

It is no secret that the ACT police force has become a "phantom" police force due to budget restrictions of late (all going to fund the "expensive tram project").

ACT road users want to see more police on our roads and we certainly want to see them pulling over cars for drug testing frequently! Given that we have an ice epidemic, it is a natural assumption that all road users are at more risk of being involved in a road accident due to the levels of drug taking by other irresponsible drivers. This fact alone begs the question, why in god's name would the Government be thinking to reduce compensation to any innocent accident victim, when there is plenty of evidence that we need to have the current system kept in place. This absolutely does not make sense as there are more risks now than ever before for all innocent drivers who do the right thing. Attacking or eroding innocent accident victims of less or no compensation, is NOT a fair or responsible outcome for any road user injured by someone else's negligence.

The Government really needs to think again and think very carefully.

Yours sincerely

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**From:** Sebastian Marquez [Sebastian.Marquez@canberralegal.com.au]  
**Sent:** Wednesday, 6 September 2017 4:32 PM  
**To:** YourSayonCTP  
**Subject:** Concerns about moving towards a system resembling the NSW system

Dear Members of the Jury,

I am a personal injury lawyer that has dealt with personal injury claims daily (including motor vehicle accidents) for almost two years. In this time I have worked with claims in the ACT, NSW and QLD. I like to think that this gives me some insights that most people won't have, which I would like to put forward (briefly).

The language examined by me to date, does not make it clear what changes will be explored in this consultation, but if there is any risk of us going down the road of NSW or QLD then I have several concerns to voice (discussed below), that can be summarized as:

1. It would be unfair for everyone if general damages are made less accessible by imposing caps such as those in NSW and QLD;
2. The real cost of motor vehicle claims does not appear to be presented in a clear and neutral fashion to you, and it may not be .

#### **The benefits of the ACT system for general damages**

The motor vehicle accident laws in the ACT are some of the most compassionate laws for victims in Australia. We are fortunate to have a progressive system that accepts that anyone of us can be a victim and that it is desirable to have a fair and equal standard of compensation for all victims.

Perhaps the best way to illustrate the value of our system is through an example. Picture yourself safely driving on Northbourne. You stop at a red light, as you should, when the driver behind you, who happens to be texting, rear-ends you at 60km/h. A not so farfetched proposal. You come out with whiplash and a permanent neck injury. Fortunately, it's not too severe, but you will have ongoing pain for the rest of your life. You will receive the costs of treatment and any lost income (if you are employed; god forbid you are a student or unemployed).

Fortunately you are in the ACT, this means you will also be compensated for your pain and suffering through 'general damages'. If you were in NSW or QLD, an injury like this could potentially not be considered awful enough to entitle you to compensation. In the ACT we accept that every injury is an awful thing and believe the person responsible should compensate for the pain and suffering. This isn't a fixed sum, it depends on how bad you've had it, but it is always there.

Introducing any sort of cap to general damages would go against a fair system of compensation.

#### **CTP premiums and legal costs**

Public documentation makes it clear that CTP premium prices are at the center of this debate; and they should certainly be a factor. But I would like you to consider what is causing the real rise in CTP premiums, and whether axing benefits to victims is really the way our government should deal with what are clearly problems on our roads.

I would also like to note that if you consider page 8 of the public document titled 'Understanding Compulsory Third-Party Insurance in the ACT' you will see a graph with a section titled 'legal costs'. This seems to suggest that legal costs are increasing at an alarming rate. You may be interested to know that legal costs that lawyers for claimants can charge are restricted to up to \$10,000 if a person recovers less than \$50,000 in general damages. You might also note that 'legal costs' in the graph is defined to include the costs the insurer pays to itself in 'legal costs'. This means that the more insurers fight claims, the higher the legal costs will go.

There is one final point I would like to illustrate. Looking at the graphs provided that indicate increasing costs over the last 5 years, it appears that we are suffering from more (and/or bigger) accidents on our roads. It is worth pointing out that bigger accidents cost more because insurers fight them hardest. I would suggest the fault for

increasing costs does not lie in the victims that make claims for compensation, but in the steps taken to secure the safety of our roads. Perhaps what we need are stronger incentives to prevent people from engaging in risky behaviors on the road in the first place instead of the overhaul of a fair system of compensation. After all, there can be no motor vehicle claim, if there is no motor vehicle accident.

Thank you for taking the time to read my concerns. I hope you will consider them in making your decision.

Yours sincerely,



**SEBASTIAN MARQUEZ | LAWYER**

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**ACT**  
Government

# COMPULSORY THIRD - PARTY INSURANCE CITIZENS' JURY FEEDBACK FORM

The Government believes our CTP scheme could be improved to better protect Canberrans. The government will use a citizens' jury to consider this issue with the community and other key stakeholders to improve the scheme so it reflects the priorities of Canberrans.

A jury of 50 Canberrans will come together to understand the scheme and the trade-offs involved. The jury will be asked to develop the priorities for a scheme which reflect the views of Canberrans.

## **They will consider the question:**

*“What should the objectives of an improved CTP scheme be to best balance the interests of all road users?”*

To assist them in their deliberations, all interested people and organisations are invited to provide feedback for the Jury to consider. It is vital that your feedback is clear, to the point and easy to understand. Most importantly your feedback should help the Jury to answer the question that they have been asked.

It is suggested that your feedback be **no longer than 3 pages**. Clearly outline your view and provide examples to support your feedback. Please send your feedback prior to **29 September 2017** via email to [YourSayonCTP@act.gov.au](mailto:YourSayonCTP@act.gov.au), or mail to:

Citizens' Jury on CTP - Insurance Branch  
CMTEDD  
GPO Box 158  
Canberra ACT 2601

Details about you (this information will not be published):

1. **Name**

Shaynee Dennis

2. **Organisation (if applicable)**

Click here to enter text.

3. **Contact details (include an email and telephone contact in case the Jury wishes to call on you for further evidence)**

You can include your name or your organisation's name on the next page if you want that information to be published.

**SUBMISSION NAME:**

[Click here to enter text.](#)

*Note: It is suggested that your submission be no longer than three pages. (You may include links or attachments)*

### **What do you think the objectives of an improved Compulsory Third Party Insurance Scheme should be? Why?**

In answering this question, you might like to reflect on what level of coverage and benefits are desirable, balanced against the costs of the scheme. This might involve considering a range of issues and trade-offs on issues such as:

- o who is covered;
- o timeliness of access to benefits;
- o how to best support injured people return to health;
- o certain and equitable outcomes for injured people;
- o efficiency of the scheme (how much of the total payments are provided to support the injured person); and
- o affordability of premiums – noting that premiums cannot rise as a result of this process.

The overarching purpose of CTP is to ensure that people who are injured in a car accident are properly looked after and put back into a position they would have been, but for the accident. I think most citizens are all for reducing premiums but if they were in a position where it was their life that had been adversely affected by a car accident, they would be grateful for a scheme will looks after them.

#### **Who is covered?**

There is a lot of discussion about extending CTP coverage to at fault drivers, while this may be seen as beneficial, there are current insurance providers who provide this "service" already. In practice however the service is junk insurance. Largely it excludes the injuries that are likely to occur as a result of a motor vehicle accident, such as whiplash. I think it would be beneficial for single vehicle "not at fault" drivers (such as those involved in accidents due to wildlife or similar) to derive a benefit under the scheme, but those that are "at-fault", especially speeders and drunk drivers, should not be covered. The system should not reward non-compliance with the road rules.

#### **Timeliness**

In my experience a major barrier to timely resolution is not something that can be tightened up. If a person's injuries are not stabilised it is premature to resolve their claim.

Another issue is insurers generally insist on receiving the police file before determining liability, even where the circumstances of the accident are not in dispute and/or their insured has admitted fault. I can see their reasoning for this but it does put significant pressure on the AFP FOI department which are under resourced and it can take some time to obtain these records.

#### **Support**

The early access to treatment scheme works incredibly well and I believe that victims' prognosis is greatly improved as a result. Although there is room for improvement, for those that do not have leave entitlements such as casual workers, not having access to wage reimbursement can cause undue financial pressure.

#### **Efficiency of the Scheme**

I believe what this category is getting at is the legal fees involved. Legal representation is expensive. It would be interesting if data could be reviewed reflecting how much insurers themselves spend disputing claims vs how much



money is actually saved as a result. There is a lack of transparency in this area. I strongly believe that some claims officers in the industry generally approach each claimant as a liar at the first instance, when it should be presume honesty unless there is a reason why. The vast majority of claimants would rather be in good health than be disabled with money.

#### Affordability of premiums

I think it is important to note that we have only had market competition in this industry for a few years, NRMA having 100% market share for so many years has had a significant impact on ACT residents paying the high premiums.

Since market competition has been brought in, premiums have been coming down so continued market competition is likely to impact on the affordability of premiums in the future.

#### Other models

If other schemes are being looked at for inspiration regarding amending our scheme, it should be noted that the severe restrictions to general damages as part of the NSW scheme would be difficult for most citizens to swallow. In my experience explaining to a NSW accident victim that yes the doctors say that are 10% whole person impaired for the remainder of their lifetime, unfortunately as they are under the threshold for pain and suffering so the damages awarded for that category is \$0.00. As is 6 hours per week for 6 months for provision of domestic assistance, I don't know anyone who thinks 5 hours of assistance per week for 5 months isn't a significant portion of time.



**Of the objectives that you have identified, what is the most important thing to you about the CTP scheme?**

Compensation that provides restiution for people who have suffered injury as a result of a motor vehicle accident

**Before providing your feedback, please ensure that you:**

- > have read and understood the information collection statement on [www.yoursay.act.gov.au/ctp](http://www.yoursay.act.gov.au/ctp);
- > understand that the feedback will be provided to the Jury for consideration;
- > understand that the feedback will be hosted for public comment on the internet; and
- > understand that you may be invited by the Jury to present the ideas within this feedback to the Jury.

**Please protect and preserve the rights of innocent victims and not change Compulsory Third Party**

I have read and I am concerned about the proposed changes to the Compulsory Third Party (CTP) scheme.

During 2016 and 2017 I was very unfortunate to be the innocent victim in three motor vehicle accidents. The first was a rubbish truck driver not paying attention and hitting my car, the second was a young driver again not paying attention and half asleep hitting my car at a roundabout and the third was a driver on drugs hitting my car at high speed when I was stopped waiting for the red traffic lights to change to green. In this third accident I thought I was, and we were all going to die. I thought surely this couldn't be happening again.

I realise and trust that my situation is incredibly rare however, they did occur and in all instances, I was the innocent victim (age 54) along with my passengers (age 70, 80 and 3).

Since these I have suffered along with my innocent passengers.

Thank fully and gratefully I am back at work on a return to work program and this is due to the medical and allied health treatment and support I have received. Support has been from my GP, my family and friends, my workplace, my physiotherapist, my pain specialist, my naturopath, my pharmacist and my pain psychologist. Prior to the accidents I was pain and injury free and seldom required the assistance of my GP. Prior to the accidents I did not require other medical or allied health and no pharmacist and no mental health assistance.

Prior to the accidents I had some personal leave credits at work however, over 3 accidents these have been used up and my work then let me take most of my annual leave instead of personal leave, otherwise I am sure as a family my husband and I could not afford our house repayments, we would have lost our home, little own not been able to support our family with basics such as food and clothing etc.

Years ago, we did used to have our own income protection insurance however, with family commitments, our age increasing and ever increasing large payments for this insurance we no longer could afford it. It is difficult enough to pay for health insurance these days as the cost of everything is going up.

Due to these accidents I have lost income from not having enough personal leave or annual leave to cover the leave required for me to recover including, not being able to work my normal hours and days of work. I have also lost income from not being able to work additional shifts, from not being able to work some public holidays and I have lost the ability for an increased income from not being well enough to apply for a promotion.

Due to these accidents my life has been filled with constant pain and headaches, some days better than others, loss of concentration, loss of enjoyment of life, loss of myself as a caring person and as a mother, wife, and Grandmother. I am not the person I was.

I am grateful to say that at last I am improving albeit slowly.

My life has been filled with the stress of wondering when another driver will hit me/my car and injure me or anyone else who may be a passenger at the time and will I/we survive.

Luckily I had car insurance and so my totalled car has been replaced however, this also caused a great deal of stress along with a financial cost to my family.

My life has also been filled with medical, allied health and mental health appointments. The stress of me being able to have these is also apparent. They have not always been readily approved by CTP Insurers although I did not require any of them prior to the accidents, they are because of these accidents. I have had to pay for some out of these necessary care and investigations out my own pocket as well as much needed pain medications. My credit card is suffering and my household budget as well, financial predicaments adds stress to my husband and my family.

Because of the motor vehicle accidents over 2016 and 2017, I have been a burden and a worry to my family. Of course they support me, however they shouldn't have all of these concerns, and they wouldn't if I wasn't the innocent victim.

The same goes for my passengers whose families have had to be concerned and provide support due to the accidents and they wouldn't if they hadn't also been innocent victims.

Domestic care and assistance have been required by all of us both internally through our families or externally by cleaners, personal care and domestic care workers etc. None of this is cheap and sometimes we have had to forgo them as we simply cannot afford them.

Home modifications have been required, thus far at a cost to us, additionally adding to our financial stresses.

If there was less or no compensation then I am not sure how we or others would cope.

It's not fair that we or future Canberrans will receive less or no compensation for expenses and losses if there are further changes to CTP.

I hope you do listen to my concerns and protect the rights of innocent victims such as myself and others who would rather be leading a happy normal life and would certainly not want to be a victim of another drivers' negligence.

Submitted for your consideration and assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephanie Turkich', with a stylized, flowing script.

Stephanie Turkich

Email:

1. **Name** Stephen Esdaile
2. **Organisation (if applicable)** None (although I am a member of Motorcycle Riders Association of the ACT and several social motorcycle rider networks)
3. **Contact details (include an email and telephone contact in case the Jury wishes to call on you for further evidence)**

**Submission Name:** CTP: A Rider's Perspective

**What do you think the objectives of an improved Compulsory Third Party Insurance Scheme should be? Why?**

In answering this question, you might like to reflect on what level of coverage and benefits are desirable, balanced against the costs of the scheme. This might involve considering a range of issues and trade-offs on issues such as:

- who is covered;
- timeliness of access to benefits;
- how to best support injured people return to health;
- certain and equitable outcomes for injured people;
- efficiency of the scheme (how much of the total payments are provided to support the injured person); and
- affordability of premiums – noting that premiums cannot rise as a result of this process.

I believe CTP costs should be borne commensurate to the risk and cost to the insurer against the insurance risk of the registration (or licence) class. I do not believe that the current system treats motorcyclists equitably in the charges applied against riders for CTP.

In August last year, I submitted a Freedom of Information request to the ACT government for statistics on CTP incidents related to motorcycle riders as compared to the rest of the vehicle fleet. The statistics they provided were only for the period 2013/14 to 2015/16 (two years) to protect prior NRMA commercial data.

In this two year period there were 2301 successful CTP claims made - of these only five were the result of a rider being at fault; 0.2% of the at-fault population.

Due to the (generally) solo nature of riding, the lower weight of the vehicle, the smaller size and manoeuvrability of bikes and the fact that many riders will not ride in adverse conditions (eg. over winter, or on windy, rainy or high heat days) the likelihood of a rider being at fault where a third party is injured or killed is significantly lower than any other registered vehicle on the road, yet riders continue to pay a high CTP cost. Additionally, riders of motorbikes with an engine capacity of 300 cubic centimetres (300cc) or larger pay the second highest registration costs in Australia, largely due to CTP costs.

The cut-off engine capacity of 300cc for lower cost rego is both arbitrary and illogical. The legal limit for learner and provisionally licenced riders is the 'LAMS' system that rates motorbikes on a power to weight ratio. This would be a more sensible approach than a 300cc cut-off, which excludes larger learner-legal bikes, but includes smaller super-sports bikes (which potentially carry significantly higher risks).



Pros: This would be a simple and inexpensive change to make as the list of LAMS bikes is maintained by the ACT registrations office. It would encourage more people to take up riding as the choice of bikes would increase, while the risks would decrease, for the same, lower registration cost.

Cons: This would still not reduce the excessive costs borne by riders, particularly owners of multiple bikes and/or cars. It also gives a lower CTP cost to learners and new riders who are arguably the most likely to have an accident.

Four other jurisdictions around Australia (NSW, SA, Vic and WA) use more granularity in the application of costs against engine size, with some offering four classes of registration, penalising only those with the largest bikes. A similar approach could be considered in the ACT, although a power to weight ratio may be the better option.

Pros: Higher performance (riskier) bikes pay more based on risk

Cons: Implementation would require a more comprehensive list of models than the current LAMS list.

Many riders are enthusiasts with more than one motorbike and most drive as well. This means that riders are being charged multiple times for insurance while only being able to operate one of these vehicles at a time. On this basis, I would suggest that CTP should be applied against the licence holder, with the rate being a matrix of risks associated with the various vehicle classes allowed by the licence.

Pros: This would be a fair way to spread the liability and would lower costs for riders.

Cons: This is obviously a complex solution and will not advantage drivers of heavy vehicles, or people who have a licence but do not drive (although I would argue that infrequent drivers are probably a higher risk anyway).

Governments and motoring bodies advocate motorcycle use as both beneficial in reducing traffic congestion and in their lower environmental impact, yet motorcyclists continue to pay excessive fees which acts as a disincentive to getting people out of cars and on to motorbikes. To realise the benefits that motorbikes provide in a road-oriented environment like the ACT, it would make sense that riders are subsidised for their choice of transport, not penalised. Lower CTP costs for all classes of bikes (especially those in the LAMS category), recognising the significantly lower CTP insurance risk would be a good start.

Pros: more people using lower impact transport options.

Cons: less revenue drawn from riders.

**Of the objectives that you have identified, what is the most important thing to you about the CTP scheme?**

The equitable sharing of CTP costs based on the statistical likelihood of a rider being the at-fault party in an insurance claim.





# CTP: Protecting you on the road

Canberrans pay some of the highest CTP premiums in Australia, but the level of cover doesn't match the price tag.

You expect Compulsory Third Party (CTP) insurance to provide cover if you are injured in a car accident, but this is not always the case.

CTP was originally introduced to make sure innocent people (including passengers, pedestrians and drivers of other vehicles) are legally compensated if they are injured because of someone's negligent driving.

The ACT's current CTP scheme is based on blame. If there is no insured driver at fault, no CTP insurance policy will pay out. This leaves hundreds of people injured in car accidents without cover every year.

When you're designing a CTP scheme, there are three main questions to answer:

1. **Who is covered?**
2. **What benefits are covered?**
3. **Who manages the claim?**

## Who is covered?

- Should CTP cover everyone injured in an accident?
- Should people deemed "at-fault" or who cannot identify an at-fault driver be excluded, or should all injured people be covered for their injuries ("no-fault")?

## What benefits are covered?

- How will support and compensation be provided to injured people?
- Should injured people get medical care and income support as needed, or receive compensation as a lump sum at the end of a long claims process?
- Is the court system (common law) the best place to

resolve disputes, or should you receive treatment and support as needed to help you recover as soon as possible (defined benefits)?

## Who manages the claim?

- Should you have the choice of who manages your policy and looks after you if you're injured in an accident?
- Should the at-fault driver's insurer manage claims (third party) or the insurer chosen by the injured person (first party)?

## Suncorp believes a good CTP scheme should:

- Cover everyone who is injured in an accident (a no-fault scheme).
- Provide the right support, rehabilitation and compensation for a person's injuries, with compensation focused on those with life-changing injuries (defined benefits).
- Allow people to choose which insurer will manage their policy and claim (first party).

**It's not about our profits – they are dictated by the pricing of the scheme, which is set by the regulator. We fundamentally believe everyone injured in a motor accident should receive the care and support they need to recover.**

It's possible to create a scheme that offers better cover and service, makes premiums more affordable, and provides more of every dollar in premiums back to injured road users. Now is the time for the ACT to step up and make the change.



## Mind the gap

Every year, hundreds of people (including children) are injured in accidents on ACT roads but can't make a CTP claim, even if they have done nothing wrong.

This is because of the rules defining who is labelled "at-fault" – and it isn't always who you might think.



### An "at-fault" driver may not have done anything wrong.

For the purpose of CTP insurance, a driver is "at-fault" in any situation where no other driver can be blamed, including single car accidents.

You can be legally considered "at-fault" even if you have not been driving recklessly. You might have a minor lapse in concentration or simply be a victim of circumstance. Most of the time, an accident, is just that – and that's when insurance should take care of you.

Not having cover can be devastating for injured people and their families, particularly if their injuries are severe.

Other states have, or are moving to, no-fault schemes that provide better cover. The care required following catastrophic injuries is already covered on a no-fault basis under the National Injury Insurance Scheme. It's time to bring the whole ACT scheme up to speed.

## Are you more at fault than you think?

### Accidents will happen. What if...



A kangaroo darts in front of your car when you're not doing anything wrong



Driver not covered



Passengers (including children) not covered



A driver has a heart attack and causes an accident



No injured person covered



A child steps in front of your car, but you did nothing wrong



Child is not covered



Driver is not covered



Your motorcycle hits an oil spot and has an accident, but you did nothing wrong



No injured person covered



You're involved in a rear-ender because the car in front brakes suddenly



All passengers covered



Front driver covered



Rear driver not covered



Any single-vehicle accident



Driver not covered



## The system is broken

Currently, all CTP claims in the ACT go through the legal system. The injured person effectively sues the “at-fault” driver (represented by their insurer) to seek a lump sum. Most claims are settled outside the courts, but it’s still a lengthy, complex and often adversarial process.

This is a slow and expensive way of settling claims, with high legal fees and medical costs, and longer recovery times.

### By the numbers



**20-35%**

Average amount of lump sum taken up by legal fees



**Less than 50c**

Amount of every dollar in ACT CTP premiums that is returned to injured people



**\$120**

Average annual saving for NSW motorists following recent CTP reforms

In theory a common law process provides each individual claimant with the amount of money that matches their individual circumstances. At best, it encourages people to delay recovery to increase their payout. At worst, it creates an incentive for some people to embellish, exaggerate or even fabricate injuries to maximise their payout.

We’ve seen this kind of CTP exaggeration increase, particularly for minor injuries like whiplash and other soft tissue injuries that can generate contradictory medical reports.

## Defined benefits – putting you on the road to recovery



There is a proven way to get better outcomes for injured road users while reducing CTP premiums. It’s called a “defined benefits” model, because it gives you certainty that you will get exactly the benefits you need to manage, and recover from, an injury.

This model replaces lump sum compensation with the right to have your medical and care expenses paid for, as well as being reimbursed for any lost income on a needs basis.

If you make a claim, your costs are paid as you go – you don’t have to wait months (or even years) to be paid a lump sum for the wages you’re losing right now, and rehabilitation support is maximised immediately after your injury.

Payments for ‘pain and suffering’ are standardised so everyone with the same kind of injury knows exactly what they will receive.

We know that shifting the focus away from adversarial battles between lawyers and insurers and toward care and rehabilitation leads to better health outcomes.

As an insurer, we’d rather spend time and resources getting you back to your life and work as quickly as possible. It’s better for you, your family, your employer, and the economy. It’s also cheaper in the long run, which helps keep premiums down even if cover is expanded.



## Scheme efficiency – where do your premiums go?

Right now, less than half of every dollar you pay in CTP premiums ends up being paid in claims. The rest pays for legal fees, scheme administration and insurer profits.

However, we don't know exactly how much of the money paid in claims actually ends up in the pocket of people injured in accidents.

This is because lawyers will often take a significant portion of someone's lump sum, on top of the legal fees paid as part of the claim settlement.

Officially, insurers pay 24.3% of each claim in legal costs. However, solicitor-client fees are then taken

from the injured person's payout – and this can be up to 35% of their compensation amount. When you add these fees together, lawyers can end up earning close to half the final payout amount.

Once the cost of managing claims and insurer profits are factored in, less than 50% of premiums end up in the pockets of injured people.

We know it's possible to do better. Before recent scheme changes, the NSW CTP scheme was returning just 45% of premiums to people injured in accidents. This is expected to increase to 60% once no-fault cover is expanded and defined benefits are introduced.

## From third party to first party – who manages your claim?

Currently, you can choose which insurer you buy your CTP policy from. If you are injured in an accident, though, you have no choice about who manages your claim.

For all CTP claims, the insurer of the "at-fault" driver manages all claims from people involved in the accident.

This reform process provides an opportunity to change the way we think about managing claims. Under a first-party system, the insurer you choose to buy CTP from is guaranteed to manage your claim.

This means you can choose the insurer you trust to look after you if you or your family are injured on the road, just like you choose a car or home insurer knowing they will manage your claims.

It also removes the need to establish fault before a claim can be processed. This can add weeks or even months to a claim under the current system, delaying compensation and treatment for injuries.

We know that early intervention speeds up recovery time and improves overall outcomes for people injured in accidents. A first party scheme helps insurers focus on getting treatment for their customers, rather than fighting legal battles.

## The opportunity – Making a difference for ACT road users

Everyone involved in this process has the opportunity to make a difference for people injured on ACT roads.

Accidents happen, and you should have confidence that you and your family are covered every time you get into the car.

Suncorp has been a vocal advocate for CTP changes that benefit the community. A no-fault scheme with clearly defined benefits will provide more cover and better service at a more affordable price.

We look forward to working with the ACT community to build a CTP scheme we can all be proud of.

**From:** Greg McConville (UFU ACT) [Secretary@ufuact.asn.au]  
**Sent:** Friday, 29 September 2017 4:42 PM  
**To:** YourSayonCTP  
**Subject:** UFU Concerns on Compulsory Third Party Insurance

Dear Madam / Sir

The United Firefighters' Union A.C.T Branch represents the industrial, professional and welfare interests of career firefighters employed by ACT Fire and Rescue. Our members have a professional interest in compulsory third party insurance, insofar as they perform road accident rescues and provide medical assistance to those suffering road trauma. In addition, our members' are frequent road users in travelling to and from work, and between work locations when required. This travel is carried out almost exclusively by driving.

The UFU 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 UFU 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 UFU 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 UFU ACT will continue our advocacy in this area to ensuring that:

there is a fair and sustainable system of compensation under which injured people are entitled to adequate benefits  
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  
the policy debate is reasoned, consultative and transparent and that the community is aware of the consequences of the proposed reforms.

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

Sincerely

Greg McConville  
Secretary  
United Firefighters Union of Australia ACT Branch  
PO Box 120  
Dickson, ACT, 2602

[secretary@ufuact.asn.au](mailto:secretary@ufuact.asn.au)

ABN: 90 662 922 325





**ACT Government**

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Following



Have your say on the future of compulsory third-party insurance in the ACT  
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Did you know that if you hit a kangaroo, you're not covered by CTP if you're injured? Help improve our CTP scheme [#yoursayonCTP](#)  
<https://www.yoursay.act.gov.au/ctp>



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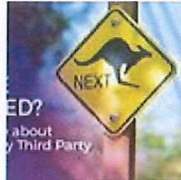


**Pamela Gonzalez** How do we participate

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**ACT Government** <https://www.yoursay.act.gov.au/ctp>



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**Peter Hunter** Third Party means just that, a third party, being the people in the other car or your car. Not the driver.

And the Nominal Defendant covers people (us) from those who use our roads without vehicle registration and insurance (TPI). We had a valuable employee at work, his wife was tee boned by an unregistered, unidentifiable other vehicle and as no witness could identify the other driver or car they were denied the nominal defendant payouts or medical costs.

So the majors (incl NRMA) would have you drive an unregistered uninsured vehicle and get away with it. This needs to be the main area to fix up the mess.

Also now just need to align to non metro NSW costs.

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**Adeline Gibson** Regardless of your level of insurance, you're never covered if you hit an animal as you are at fault. Would be great if this can change 😊

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**Paul Thomas** bugger, does comprehensive insurance cover that? ..What about a Wombat or Bunyip to?

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**Adeline Gibson** You're at fault if you hit an animal and have to pay your excess

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**Samantha Buchanan** Daniel did you know this?

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**Sue Stanic** Laura Markcrow

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**Belinda Heycox** Lincoln Heycox

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