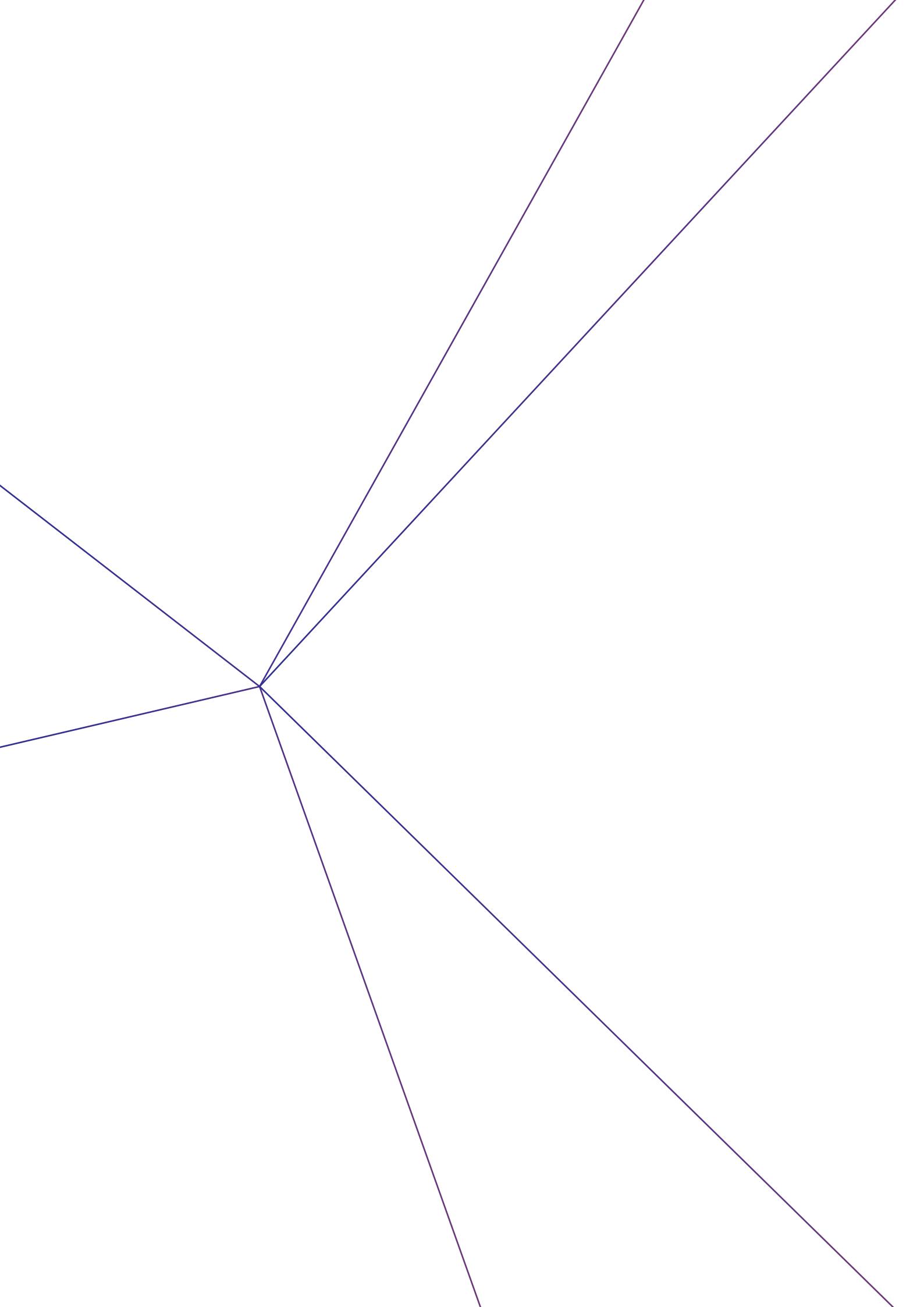




**ACT**  
Government

# UNDERSTANDING **COMPULSORY THIRD-PARTY (CTP) INSURANCE IN THE ACT**

August 2017



# CONTENTS

<b>What is CTP insurance and why is it important?</b>	<b>2</b>
<b>What does CTP cover?</b>	<b>2</b>
<b>How are CTP benefits determined?</b>	<b>3</b>
<b>How do you make a CTP claim?</b>	<b>4</b>
Early up-front payment for medical expenses	4
Claims for further treatment, lost wages, or other entitlements	4
<b>How much does CTP insurance cost?</b>	<b>5</b>
<b>How are your CTP premiums set?</b>	<b>6</b>
CTP Premiums are payable based on vehicle type	6
<b>CTP premium dollars – what do they go towards?</b>	<b>7</b>
Injury levels – minor, moderate, and severe to maximum injuries	7
<b>CTP premium dollars in detail</b>	<b>8</b>
<b>Still have questions?</b>	<b>8</b>

# WHAT IS CTP INSURANCE AND WHY IS IT IMPORTANT?

About 285,000 motor vehicles are registered in the ACT each year. If you own a motor vehicle, you are required by law to buy compulsory third-party (CTP) insurance every year as part of the vehicle registration process.

CTP insurance covers other people (including pedestrians, passengers, pillion riders, and cyclists) injured in an accident with a motor vehicle that is found to be your fault.

Without CTP insurance, if you were found to be at fault in a car accident and other people were injured, you would personally be responsible for the compensation costs arising from those injuries, which could amount to many thousands, sometimes hundreds of thousands, of dollars. If you could not pay, the injured people could be left without a way to recover their loss and manage their injuries. This is why CTP insurance is compulsory in every state and territory in Australia.

But not every CTP scheme in Australia is the same. Some people living in the ACT don't understand how the ACT CTP scheme works, and it is only in the unfortunate event of an accident that they find out.

A recent online quiz by the ACT CTP Regulator showed that some Canberrans are unaware of how CTP insurance works. This information aims to explain the ACT's CTP scheme, including:

- > who the CTP scheme covers and the benefits it provides;
- > how your premiums are determined; and
- > what happens with your premium dollars when you purchase CTP insurance.

# WHAT DOES CTP COVER?

CTP will only cover a person who suffers an injury in a car accident if someone else is found to be at fault.

To be able to claim compensation under the ACT CTP insurance scheme, a person has to be injured in a motor accident that was someone else's fault. Fault must be investigated and proven in every case. The CTP insurance you are required to buy covers other people who are injured (the "third party") because of an accident that is found to be your fault.

If you are in an accident that is found to be no one's fault (a 'blameless accident'), such as a collision with wildlife, you cannot claim compensation under the scheme, and neither can any of your injured passengers. (There is, however, a limited option available for early medical payments up to \$5,000 that may apply — see 'How to make a CTP claim' for an explanation). As such you will need to rely on Medicare or private health insurance to pay for your injuries.

Below are some real life examples of injuries that are not covered by CTP insurance. Some people take out personal accident or injury insurance to make sure they are covered for these kinds of accidents. Visit the ACT CTP Regulator's website for more information on the different types of insurance commercially available in addition to CTP.

## Real life examples of injuries not covered by CTP insurance

A kangaroo jumped onto the road and collided with a single vehicle. The accident caused the driver cervical spine and lumbar spine injuries. As it was a blameless accident, the driver was not able to claim CTP for his injuries.

A scooter rider ran into the rear of a vehicle, ending up underneath it and suffering multiple fractures and brain contusion. The rider was not entitled to make a claim for CTP insurance against the driver of the vehicle as the rider was found to be at fault for the accident. She relies on the public health system.

A motor bike rider lost control at road works and slammed into a concrete wall. He suffered a brain injury. He could not make a claim under the CTP insurance scheme because he was at fault and there was no other negligent party. He now relies on the public health system.

# HOW IS A PERSON'S CTP BENEFITS DETERMINED?

The amount of compensation an injured person receives, and the length of time taken to receive compensation, depends on the individual circumstances of the injured person. Final amounts are negotiated between insurers and injured persons, or determined by the Court.

If a person is injured in a motor accident and makes a claim against the at-fault person's CTP insurer, the amount of compensation they get will depend on their injuries; the treatment they require; the circumstances of the accident; and the impact of their injuries (e.g. if they have to take time off work). If they were partly at fault for the accident or their injuries (e.g. if they were not wearing a seatbelt), this will be taken into account and is likely to reduce the amount they will be paid for the claim.

Some people choose to use a lawyer to represent them in discussions with insurers although this is not required. If an agreement cannot be reached, the injured person and the insurer will go to court to have the claim resolved.

Injured people can claim for the following kinds of loss:

**Treatment and care costs** – compensates for past and estimated future costs of the treatment and care needed as a result of the injuries.

**Economic loss** – compensates for financial loss, which can include lost wages if the injured person can't work.

**Non-economic loss** – compensates for things like pain and suffering. Compensation for non-economic loss is also called general damages.

From 1 July 2014, treatment and care costs for people who suffer catastrophic injuries, such as serious spinal or brain injuries, is managed by the ACT Lifetime Care and Support Scheme (LTCS). Treatment and care costs in relation to those catastrophic injuries are not part of the CTP claim. For more information in relation to the scheme, visit the Lifetime Care and Support Scheme website.

How long it takes to receive compensation varies, depending on the circumstances of the accident and the severity of the injuries. Investigation into fault and the severity of injuries takes time. People may have to wait until their injury stabilises before a severity assessment can be made and compensation determined. The duration of a claim can also be affected by whether a person engages a lawyer or the claim goes to court.

The majority of claims are resolved within two years. Some claims can take well over three years. Most of these longer claims are for more complex cases with on average higher associated amounts of compensation.

# HOW DO YOU MAKE A CTP CLAIM?

In addition to understanding your eligibility, and what benefits you might be able to claim, there are procedures and forms that must be used to make a claim. Importantly, all accidents are required to be reported to police in the ACT and time limits may apply to your claim.

## Early up-front payment for medical expenses

You are likely to be eligible to claim an early payment for medical expenses up to \$5,000 using a joint Motor Accident Notification Form/Motor Accident Medical Report (MANF/MAMR). The form provides early, convenient access to treatment and rehabilitation payments for up to 6 months after an accident. This can be a good way to ensure you get treatment and care as soon as possible after an accident, to support a better health outcome.

The payment is generally available to any person who has sustained personal injury as a result of a motor accident and is payable regardless of who is at fault.

A MANF/MAMR needs to be lodged with your CTP insurer within 30 working days after the motor accident. If you don't have a CTP insurer (for example you were a pedestrian or cyclist in the accident), you can lodge your form with the at-fault driver's CTP insurer or the Nominal Defendant. The MANF/MAMR requires details of police attendance/notification of the accident. The MANF/MAMR provides more information to help you understand where to lodge your form.

## Claims for further treatment, lost wages, or other entitlements

Additional forms will be required, including a Notice of Claim form (NOC), if you intend to claim losses beyond those covered by a MANF/MAMR.

You can lodge a NOC if you have sustained personal injury as a result of a motor vehicle accident in the ACT that was someone else's fault. You can make a claim for treatment and care costs; economic loss and non economic loss (general damages).

If you are partly at fault, you can still claim but your compensation will be reduced by the extent of your contributory negligence.

You must submit the NOC form to the CTP insurer of the at fault vehicle within 9 months after the motor vehicle crash or from the time when your injury symptoms first appear. A MANF/MAMR are also required to be attached to the NOC.

If the at fault vehicle cannot be identified or is not insured for CTP, then provide the completed NOC form to the Nominal Defendant<sup>1</sup> within 3 months.

Your claim may be settled with the insurer of the at fault driver without the matter going to court. However, if you cannot prove that the other driver is at fault, then a court proceeding may need to be progressed. You may also need to go to court if a settlement cannot be reached.

If you decide to hire a lawyer and lodge your claim through them, the lawyer must give the insurer written notice of your claim within 1 month of your first consultation. This applies in addition to the general 9 month time limit for notifying claims.

It is important to recognise that you may have to wait to receive your entitlements. This is because under the ACT's system, most payments are only made when a settlement is reached between you and the CTP insurer.

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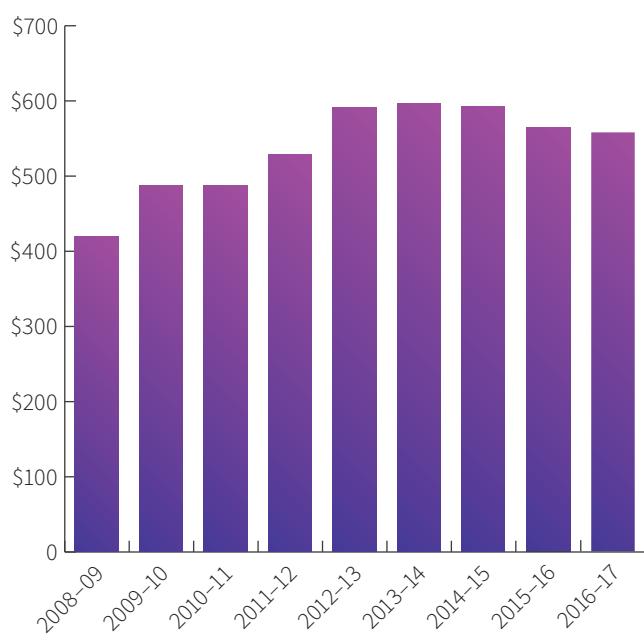
<sup>1</sup> The Nominal Defendant is a statutory office which exists to enable persons injured by unregistered vehicles without CTP insurance or by unidentified vehicles (e.g. hit and run accidents) to be compensated. The Australian Capital Territory Insurance Authority (ACTIA) is the Nominal Defendant.

# HOW MUCH DOES CTP INSURANCE COST?

The benefits available under the CTP scheme are paid for through your CTP insurance premium. Each year when you register your vehicle, you are required to pay premiums to fund the scheme.

Average premiums for passenger vehicles in the ACT increased between 2008-09 and 2012-13 by \$162.20. Since the introduction of new insurers to the ACT Market on 15 July 2013 and through to 30 June 2017, average premiums for passenger class vehicles have reduced by \$34.50 or 5.8%.

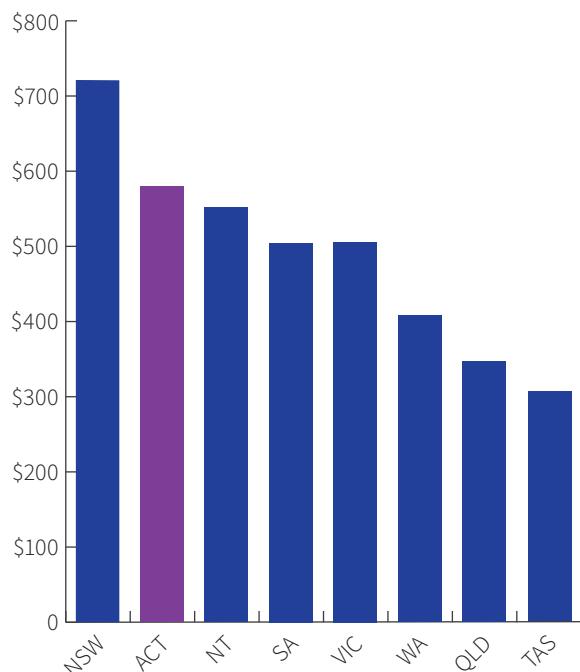
**Figure 1: Average CTP premium for ACT passenger vehicles**



*Note: Based on average premiums. To accurately compare across years, figures exclude the LTCS Levy, introduced in 2014 and the CTP Regulator levy.*

As of 1 July 2017, the ACT's CTP average passenger class premium is still the second highest in Australia (see figure 2 below). The average CTP insurance cost for a passenger class vehicle in the ACT costs \$591.20 (based on a CTP premium of \$555.20 and including the \$35 Lifetime Care and Support Levy and the CTP Regulator Levy of \$1), compared to the average CTP passenger class premium across all Australian States and Territories (with equivalent LTCS, CTP and related levies) of \$495.51. This is a difference of \$95.69 or 19.3%.

**Figure 2: Comparison of CTP premiums across Australia (passenger vehicles)<sup>2</sup>**



The reason ACT residents pay different premiums to other jurisdictions is largely because of the benefits structure, and court-based model of resolving claims. The benefits structure in each jurisdiction has a significant impact on the premium necessary to fund the scheme. For example, some other jurisdictions allow only people with severe injuries to take court action and claim damages for non-economic loss.

<sup>2</sup> NSW: These are the actual average rates for Sydney Metropolitan passenger vehicles (Class 1 - cars and station wagons) for the most recent quarter available Jan to Mar 2017. The June 2017 quarter update will be available in August 2017. Sydney Metro passenger vehicle (Class 1) premium from 1 July 2017 will range from \$587 to \$911. VIC: This is the "standard" CTP rate (i.e. standard vehicle registered in the Melbourne metro area). ACT & QLD are the average premiums for the Class 1 vehicle.

# HOW ARE CTP PREMIUMS SET?

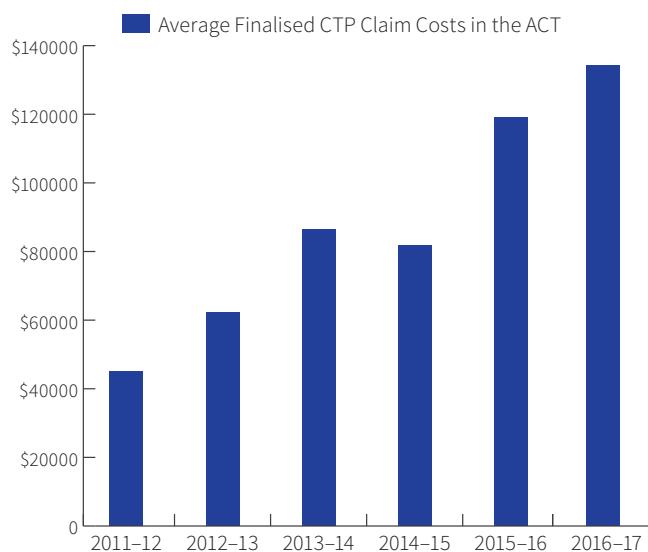
Premiums are set to ensure that the benefits each injured person is entitled to claim are fully funded, as is required by law.

Insurers must seek approval from the ACT CTP Regulator for the amounts they wish to charge for premiums. In order to be approved by the Regulator, premiums must be enough to fully cover all likely current and future claims; however, they must not be excessive.

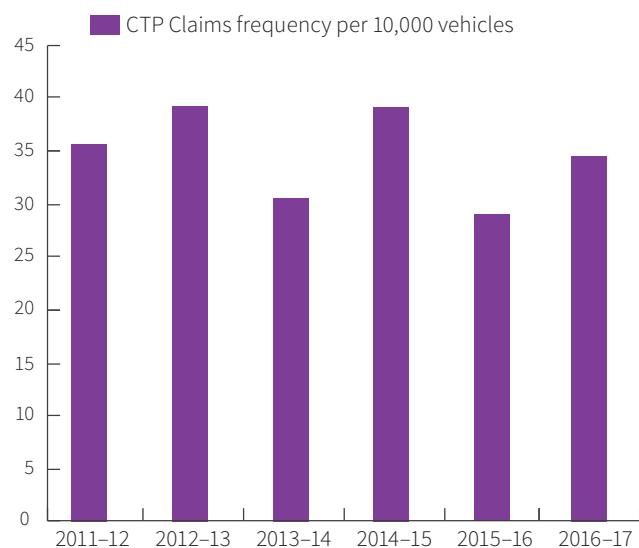
In setting premiums insurers consider the estimated claims cost for the year (the average claim cost), the estimated number of claims (claim frequency), and their own costs to administer the policies.

Figure 3 shows how average claims cost has trended over the past six years and figure 4 shows how claim frequency (number of claims in every 10,000 vehicles) has trended over the past six years. Changes in these trends over time can affect your premium, as they are used as a basis for estimating future costs.

**Figure 3: Average Finalised CTP Claim Costs in the ACT**



**Figure 4: CTP Claims Frequency per 10,000 vehicles**



*Notes: In deriving claims frequency, the number of claims added in the quarter are converted to a yearly basis and divided by the number of ACT registered vehicles.*

## CTP Premiums are payable based on vehicle type

In the ACT everyone pays the same premium for the same class of vehicle (such as passenger vehicle) with the same insurer. Insurers cannot charge different premiums based on personal information, or based on anything other than the vehicle class applicable to the vehicle registration.

# CTP PREMIUM DOLLARS – WHAT DO THEY GO TOWARDS?

Your CTP premium dollars are used to pay for treatment and compensation of injuries for all claims against the CTP scheme.

Over \$108 million dollars were paid out as benefits for 819 claims finalised in 2016-17.

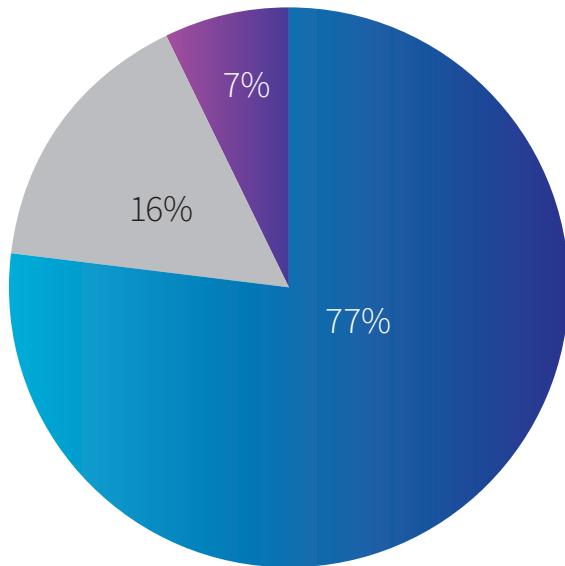
## Injury levels – minor, moderate, and severe to maximum injuries

The majority of CTP claims in the ACT are for minor injuries. Figure 5 shows that of the claims finalised in 2016-17, over three quarters were for minor injuries, such as whiplash.

The main type of motor accident injury in the ACT is whiplash. In 2016-17, whiplash claims represented 436 out of 819 total finalised claims (53%).

Figure 6 shows the proportion of scheme payments between different levels of injury. A large proportion of payments to injured people were in relation to minor injuries, including whiplash. The average whiplash claim cost just under \$90,000 in 2016-17, amounting to over \$39 million of the total \$108 million in claims payments in that year.

**Figure 5: Finalised claims by injury level in 2016-17**



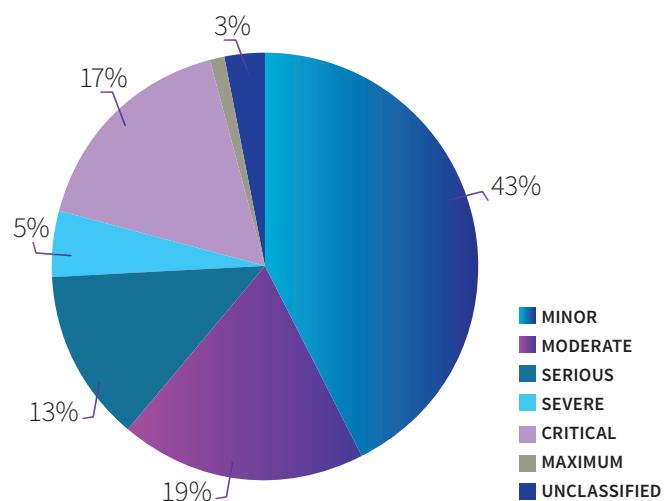
- Serious, severe, critical or maximum
- Moderate injuries
- Minor injuries

Where injury severity was recorded – claims with insufficient data to allocate to a category have not been included in these figures.

The main type of motor accident injury in the ACT is whiplash. In 2016-17, whiplash claims represented 436 out of 819 total finalised claims (53%).

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**Figure 6: Total finalised scheme payments by injury level in 2016-17**



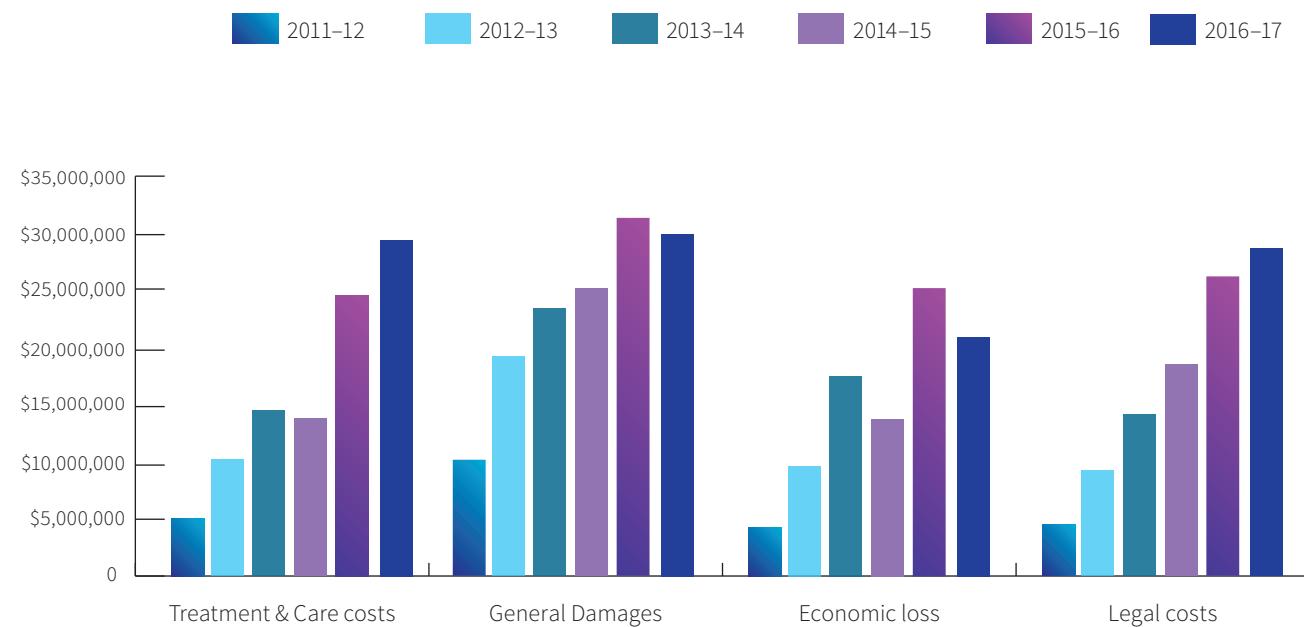
Unclassified injuries are those where there is insufficient data to classify as one of the other categories.

# CTP PREMIUM DOLLARS IN DETAIL

Although many motorists might think that the majority of scheme payments are paid out for medical expenses, the single largest component of payments is for general damages, commonly known as “pain and suffering” damages. These payments do not cover losses or bills, but rather provide compensation for intangible losses like the experience of pain over time, or lost enjoyment of a person’s time.

Twenty-seven per cent of finalised scheme payments went to treatment and care costs in 2016-17, with almost as much going to legal (defendant and plaintiff party to party costs) and investigation costs<sup>3</sup> (26%). In 2014-15 and 2015-16, legal and investigation costs amounted to more than treatment and care costs. Of the claims finalised in 2016-17, nearly three quarters of claimants chose to be legally represented by a lawyer. Figure 7 shows the distribution of claims payments over the last few financial years.

**Figure 7: Distribution of Finalised Claim Payments by Financial Year**



*Note: Legal costs comprise insurer legal costs and claimant legal costs, but do not include solicitor-client fees*

<sup>3</sup> This figure includes only payments made between insurers and claimants — fees paid by a claimant to their own lawyers are not included.

## STILL HAVE QUESTIONS?

More information about CTP coverage and the ACT's CTP Scheme is available on the CTP Regulator's website. You can also visit the Lifetime Care and Support Scheme website for information about no-fault, catastrophic injury coverage.

Insurance companies often provide extra cover or rebates to encourage motorists to buy their brand of CTP cover. It is important to understand how any incentives or additional particular coverage provided by insurers might apply to you. For that information, you should consult your CTP insurer directly. Links to each licensed insurer in the ACT are maintained on the CTP Regulator website.

There are insurance products available in the market to cover you for personal injury when you are found to be at fault or no one is at fault. There are also products available that provide coverage for property damage. Visit the CTP Regulator's website for more information on the different types of insurance commercially available.



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