Why do we have CTP?

When we had the first cars, they were required to have a man with a flag walking in front.

At that time if someone hurt you and it was their fault, you had to take them to court and prove negligence under the ‘common law’.

It was pretty difficult to prove negligence, but there was some bad driving, and some people won their court cases.

People who owned cars were generally pretty well off, but they didn’t like being sued.

As cars became cheaper and more common, more injured people were unable to get their compensation because the car owner didn’t have enough to pay.

By the early 1930s governments passed laws to require a vehicle owner to buy insurance – hence ‘compulsory’.

The insurance protects the vehicle owner from being sued, and thus ensures that a person with a successful claim would get their compensation.

The insurance contract between the vehicle owner (the ‘first party’) and the insurer (the ‘second party’) covers only the owner’s liability for injury to others (hence ‘third party’).

Not much has changed in a lot of states – and we still have CTP in broadly the same form.
How does it work?

- Compulsory to have insurance when you register (or renew) a motor vehicle.
- Paid along with the registration in a single amount – many people don’t realise they are buying a separate insurance policy.
- Since 2013 you have to choose an insurer – before that it was automatically with NRMA.
- You can never get anything back yourself from the insurance, but if you do cause injury to somebody the insurance company deals with the claim against you.
What happens if someone is injured?

1. Identify which vehicle was ‘at fault’ in the accident and claim against the insurer of that vehicle

2. Be able to demonstrate that the driver of that vehicle was negligent (you could be a passenger in that vehicle but not its driver)

3. Establish what damage you have suffered because of the accident

4. Negotiate a settlement of the claim with the insurer

5. If you can’t agree, take the insurer to court.
What is an Injured person entitled to?

The compensation is according to the ‘common law’ with some changes in the legislation (minor changes in ACT).

Treatment – hospital, medical, physio, prescriptions.

Some other ‘heads of damage’, mainly relevant to very serious claims.

General damages – for pain and suffering, loss of enjoyment of life.

Your legal and other costs of bringing the claim.

The inability for you to provide care for family members.

Care provided to you – commercially or by family or friends (gratuitous).

Loss of earnings or earning capacity.
## Overview of schemes nationally

<table>
<thead>
<tr>
<th>State</th>
<th>Common Law</th>
<th>Hybrid</th>
<th>No fault</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>Common Law</td>
<td>Private Insurers</td>
<td></td>
</tr>
<tr>
<td>QLD</td>
<td>Common Law</td>
<td>Private Insurers</td>
<td></td>
</tr>
<tr>
<td>NSW</td>
<td>Hybrid</td>
<td>Private Insurers</td>
<td></td>
</tr>
<tr>
<td>VIC</td>
<td>Hybrid</td>
<td>State Scheme</td>
<td></td>
</tr>
<tr>
<td>SA</td>
<td>Common Law</td>
<td>Private Insurers</td>
<td></td>
</tr>
<tr>
<td>WA</td>
<td>Common Law</td>
<td>State Scheme</td>
<td></td>
</tr>
<tr>
<td>TAS</td>
<td>Hybrid</td>
<td>State Scheme</td>
<td></td>
</tr>
<tr>
<td>NT</td>
<td>No fault</td>
<td>State Scheme</td>
<td></td>
</tr>
</tbody>
</table>
## Who is involved with the scheme?

### Service Providers

<table>
<thead>
<tr>
<th>Role</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Motorists</strong></td>
<td>Pay premiums along with registration – have no organised voice</td>
</tr>
<tr>
<td><strong>Injured People</strong></td>
<td>The beneficiaries of the scheme – little organised voice; legal profession has adopted this role</td>
</tr>
<tr>
<td><strong>Insurers</strong></td>
<td>Underwrite, set premiums, market to motorists, invest cash flow, manage and pay claims, take financial risk</td>
</tr>
<tr>
<td><strong>Lawyers (claimant)</strong></td>
<td>Act for claimants, usually on a ‘no win no fee’ basis</td>
</tr>
<tr>
<td><strong>Lawyers (insurer)</strong></td>
<td>Act for insurers, usually on a retainer or fee for service basis</td>
</tr>
<tr>
<td><strong>Treating doctors</strong></td>
<td>GP’s, specialists, psychologists – all fee for service including Medicare refunds</td>
</tr>
<tr>
<td><strong>Other treaters</strong></td>
<td>Physiotherapy, rehabilitation, home help, counselling, etc.</td>
</tr>
<tr>
<td><strong>Medico-legal</strong></td>
<td>Specialists who do examinations and reports for the claimant or the insurer</td>
</tr>
<tr>
<td><strong>Investigators</strong></td>
<td>Factual investigation, surveillance</td>
</tr>
<tr>
<td><strong>Other experts</strong></td>
<td>Crash investigation, engineering etc.</td>
</tr>
<tr>
<td><strong>CTP Regulator</strong></td>
<td>Lots of roles – hear from Lisa later</td>
</tr>
<tr>
<td><strong>Actuaries</strong></td>
<td>Financial analysis for insurers and regulators – risk analysis, premium setting, reserving</td>
</tr>
<tr>
<td><strong>Court system</strong></td>
<td>Receiving, case managing and determining cases – Magistrates, Supreme Court, Court of Appeal</td>
</tr>
</tbody>
</table>

### Court system

- Magistrates
- Supreme Court
- Court of Appeal
What are the trade-offs?

On one hand, how much premium does every motorist have to pay?

On the other hand, how good is the insurance cover provided?
Who is able to make a claim?
What can they claim for?
How much will they get?

In between, what are the costs of the insurance scheme and of determining the outcome of all the claims?
What else is relevant to the jury?

**Lifetime care scheme**
- Covers catastrophic injuries regardless of fault
- Spinal cord, serious brain injury and similar
- Covers treatment and care for life
- Does not cover loss of earnings or general damages

**Nominal defendant**
- What if you are injured by a car that is not insured for CTP?
- What if you don’t know the identity of the car (hit and run)?
- There is a ‘nominal defendant’ that you claim against instead of the insurer
- You can get the same entitlements
- The nominal insurer is funded out of premiums paid

**Interstate claims**
- A vehicle is registered in one state, but can crash anywhere
- Usually: the coverage and entitlements are according to the location in which the accident occurred but is covered by the insurer of the vehicle in its home jurisdiction

**The regulator**
- There is a ‘CTP Regulator’ in ACT
- Does anyone know who they are or what they do?

**The legislation**
- Road Transport (Third Party Insurance) Act – 259 pages
- Civil Law (Wrongs) Act – 305 pages
Finity Consulting Pty Ltd is a specialist actuarial and insurance consulting firm, wholly owned by its professional staff. Finity provides advice on a fee-for-service basis for many insurers, schemes and government clients, as well as others with a relevant interest in the insurance sector. You can learn more at www.finity.com.au

This presentation does not constitute actuarial or investment advice. While Finity has taken reasonable care in compiling the information presented, Finity does not warrant that the information is correct.

Any opinions expressed in this document or during the presentation are those of the author/speaker, not necessarily those of the firm or any of its clients.