



ACT
Government

Motor Accident Injuries Act 2019

Three-Year Review Report
(Under section 493)

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Special Minister of State

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Executive Summary

This is the first review report into the operation of the Act that is required every three years under section 493 of the *Motor Accident Injuries Act 2019* (MAI Act). The report focuses on the extent the MAI legislation is working in practice, within the context of the policy objectives and policy framework for the MAI Scheme. It does not consider the case for changes to the policy objectives and overall design of the MAI Scheme, which is based around the outcomes of the Citizens' Jury on Compulsory Third Party (CTP) Insurance (Citizens' Jury).

Overall, the MAI Scheme is achieving its purpose, providing early access and support to all people regardless of fault. The transition from the previous scheme occurred smoothly, with licensed insurers having systems and processes in place on day one. In addition, the MAI Commission established 16 regulations and guidelines; seven forms; and the industry deed in the lead up to commencement of the new scheme. After commencement, an additional six guidelines and regulations were made for those scheme elements that did not impact early operations or need to come into effect on 1 February 2020.

One of the objectives set by the Citizens' Jury was for injured people to be supported in navigating the new scheme. The MAI Commission established the Defined Benefits Information Service (DBIS) by funding CARE Inc to provide this support. The DBIS has provided 508 services up to 30 June 2023. Awareness of the services of the DBIS is increasing, with 74 services provided in the June quarter 2023, compared with only 34 in the initial months of the service being available.

Since the start of the MAI Scheme, MAI Insurers and the Nominal Defendant have received 1,249 complete applications relating to ACT accidents, with a 97 per cent acceptance rate. The number of applications has been lower than expected at the commencement of the MAI Scheme, partly reflecting the impact of lower traffic volumes during and following the COVID-19 restrictions.

The MAI Scheme is supporting injured people, with defined benefit payments usually occurring within four weeks of application and the first treatment and care payment usually within two weeks. The income replacement benefit is providing income support as intended and where needed, particularly focusing support for lower income injured people. Within two weeks of a complete application 23 per cent of applicants received their first income replacement payment, with 50 per cent receiving their first payment within four weeks. Complaints and disputes are low in proportion to the total number of applications managed by the insurers.

The affordability of the MAI Scheme has continued to improve, with passenger vehicle premiums falling by nearly \$53 or 12 per cent between 1 February 2020 to 30 June 2023. Competition between insurers is strong and contributing to lower premiums, particularly for passenger vehicles. Average passenger vehicle premiums are also affordable when compared to premiums in other states and territories, with the ACT's premium as a share of average weekly earnings (AWE) equal to the state average of 24.7 per cent of a week's

average earnings¹. The expected cost of claims accounts for around 65 per cent of the premium and profit margins, as contained in insurer filings, is broadly consistent with profit margins achieved in other states. Importantly, MAI premiums are meeting the 'fully funded' and 'not excessive' scheme requirements. However, there is potential for significant divergence between the expected number of claims (assumed by insurers in premium filings) and actual claims experience, as the MAI Scheme matures.

Trade-offs in the design of the MAI Scheme are assisting with keeping premiums affordable. These include providing low-income people greater support through a higher percentage for income replacement compared to the percentage paid to others. This is balanced by a MAI insurer paying for treatment and care expenses, including medical assessments. The quality of life benefit is paid to those who are five per cent or more permanently impaired because of a motor accident.

While the MAI Scheme is operating as intended, there are areas that could be improved. This includes providing additional information that explains more clearly how to apply to the MAI Scheme and the features of the benefits provided under the MAI Scheme. Submissions to the review identified issues with processes, including approvals for treatment and care and the development of recovery plans.

The report identifies 15 actions in response to some of the matters identified during the review (see Appendix B). The actions centre on the MAI Commission:

- refreshing information material on its website and developing information booklets to assist people to navigate the MAI Scheme more easily;
- considering changes to the forms and investigating the feasibility of providing a notification to a MAI insurer through an online process;
- considering other evidence to inform an uplift in the capped amount for costs from legal assistance able to be awarded by the ACT Civil and Administrative Tribunal for external reviews; and
- developing the process that will allow the Commission to assess the actual profit achieved by insurers and the action to be taken if excess profit has occurred.

¹ This represents 0.474 per cent of average annual earnings in the ACT.

Introduction

The Special Minister of State is required under section 493 of the MAI Act to review the operation of the Act every three years. This is the first review of the Act since the Motor Accident Injuries (MAI) Scheme commenced on 1 February 2020.

The MAI Scheme's defined benefits are available for up to five years and the MAI Scheme has been in operation for just over four years. In addition, there are a few elements of the MAI Scheme that have not been reached yet. As a result, the scheme is still in its infancy and the focus of the review is to report on the extent the MAI legislation is working in practice.

The terms of reference for the review were set by the Minister in July 2023 (see Appendix A). The Minister tasked the Insurance Branch, Economic and Financial Group, Chief Minister, Treasury and Economic Development Directorate to undertake the review in accordance with the terms of reference.

How we consulted

A discussion paper was released with consultation open from 3 August 2023 to 29 September 2023. The discussion paper was designed to provide guidance to individuals and organisations interested in making a submission to the review. It included a series of questions, intended as prompts, focused on the matters within the scope of the review.

A letter was sent to key stakeholders from the Deputy Under Treasurer, Economic, Revenue and Insurance advising of the consultation process. The discussion paper was placed on the website of the MAI Commission and the Canberra Times published an article on 6 August 2023 that noted the review.

The Canberra community was able to provide feedback:

- by making a submission directly to the Insurance Branch; and/or
- by completing a short survey that was sent to 1097 MAI Scheme applicants who were over the age of 18 years of age.

The Insurance Branch received 17 submissions with seven received from individuals; six from professional associations; and a submission each from Victim Support ACT, CARE Inc, an insurer and a law firm. Appendix C contains the list of submissions, with the submissions available on the MAI Commission's website (under the consultation tab). There were 151 completed responses to the survey (a 14 per cent response rate), along with feedback from five individuals who wished to supplement their response to the survey.

The submissions covered operational aspects of the MAI Scheme, as well as broader policy and legislative matters outside the scope of this review. This review focuses only on the operational aspects of the MAI Scheme and opportunities for improvement within that context. It does not consider feedback that proposes changes to the MAI Scheme's primary legislation or its overarching policy settings that are based around the outcomes of the Citizens' Jury process. A range of topics arising from the implementation and operation of the MAI Scheme, including the practical effects of the application process on people

navigating the new scheme, were identified in the submissions, and will be discussed in section two of the report.

The Insurance Branch consulted with the MAI Commission during the review, seeking data, clarifications, and background on recent initiatives to improve its operation.

Structure of the Report

The report focuses on three key themes - the Operation of the MAI Scheme; Financial Aspects of the MAI Scheme; and Activities of the MAI Commission.

Section one provides a high-level overview of the MAI Scheme, including participant characteristics. Section two reviews the operation of the MAI Scheme, and reports on six areas that have been grouped from the feedback topics as follows:

- the application process;
- access to treatment and care and out of pocket reimbursements;
- the quality of life benefit process;
- income replacement benefits;
- dispute resolution and access to legal assistance; and
- navigating the MAI Scheme and accessing information.

Each section outlines the feedback received, the reviewers' findings or comments, and any outcomes or actions.

Section three assesses the financial aspects of the MAI Scheme including the components of insurance pricing; premiums and affordability; competition; and claims experience. The report of the Scheme Actuary on the financial performance of the MAI Scheme is an attachment to this section (Attachment A).

Section four discusses and assesses the activities of the MAI Commission, including the administrative and licensing arrangements for the MAI Scheme, and the road safety initiatives supported by the MAI Commission.

The data contained in this report is to 30 June 2023.

Key survey insights

The survey results reflect a diverse range of experiences from respondents across most measures. However, due to the low response rate of 14 per cent, the responses may not be representative of all applicants' experiences in the MAI Scheme.

When first accessing the MAI Scheme, most people identified as needing little or no help to apply (70 per cent). The top three ways people discovered the MAI Scheme were via website searches (17 per cent), family/friends (16 per cent) or health professionals (15 per cent). The most common defined benefit accessed was treatment and care (83 per cent) followed by income replacement (42 per cent). When accessing information about the MAI Scheme, many felt at least slightly confident in accessing information on the

MAI Commission's website (60 per cent) and getting help from the Defined Benefits Information Service (50 per cent).

When asked to reflect on their experience with other key elements of the MAI Scheme, respondents' views were more mixed. Most people agreed that their MAI insurer communicated clearly (54 per cent). However, slightly less than half of injured people agreed the MAI insurer understood their recovery needs (47 per cent) with only slightly more agreeing their defined benefits supported their recovery (50 per cent). This is despite 83 per cent of respondents having received treatment and care benefits under the MAI Scheme. In addition, just over half of the responding injured people lacked even slight confidence in disputing a MAI insurer's decision (54 per cent) (on a scale of very confident, somewhat confident, slightly confident and not at all confident).

The insurer of the at fault vehicle is the managing insurer for an application under the MAI Scheme. Where a blameless accident occurs, the managing insurer is the insurer for the involved vehicle. A blameless accident is where no person is at fault, for example, avoiding a kangaroo. This means a person generally does not select their MAI insurer; however, respondents were asked which MAI insurer managed their MAI application, and if they would recommend their MAI insurer (by answering very likely, likely, neutral, unlikely, or very unlikely)². Overall, less than half (42 per cent) indicated they were very likely or likely to recommend their managing MAI insurer. More specifically:

- 48 per cent of respondents had NRMA as their managing MAI insurer, and of this cohort, 35 per cent were very likely or likely to recommend NRMA.
- 35 per cent of respondents had GIO as their managing MAI insurer, and of this cohort, 57 per cent were very likely or likely to recommend GIO.

The question also listed the Nominal Defendant, the last-resort insurer for an at fault vehicle that was unregistered or uninsured. The Nominal Defendant also manages two interstate insurers defined benefit applications on their behalf and their applicants were included in the survey invitation.

- 9 per cent of respondents (noting this only represents 13 out of the 151 total responses collected) indicated the Nominal Defendant was their manager, and of this cohort, 38 per cent were very likely or likely to recommend the Nominal Defendant (this result should be interpreted with caution given the small sample size).

The survey did not include a follow-up 'why' question to probe on the reason for their likelihood to recommend rating; there may be benefit in the next three yearly review considering this question.

² AAMI had a fewer than 3 per cent response rate and APIA nil. Given this small sample size, the responses are not included in the analysis.

Section One – Features of the MAI Scheme

The MAI Scheme is a privately underwritten personal injury insurance scheme for motor accidents that is subject to government regulation. MAI premiums are collected as part of the ACT's one-stop registration process and are paid in full to the motorist's selected insurer. There are four licensed MAI insurers – AAMI, APIA, GIO and NRMA. In addition, the Nominal Defendant provides insurance for unregistered vehicle permits issued by Access Canberra and for vehicles that were unregistered or uninsured for MAI insurance at the time of the motor accident. The MAI Commission is the regulator of the MAI Scheme, and funds the DBIS provided by CARE Inc. The DBIS provides information and assistance with navigating the MAI Scheme.

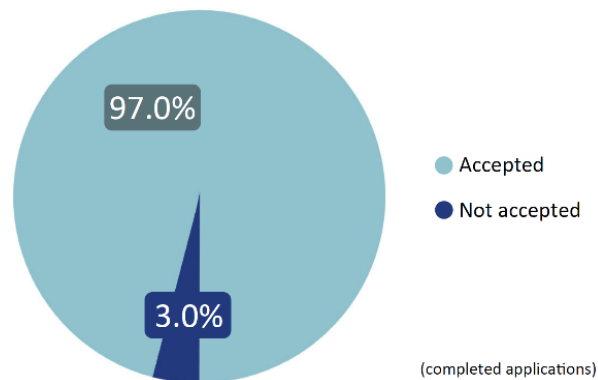
The MAI Scheme is a new model for personal injury insurance, based on the outcomes of the Citizens' Jury on CTP Insurance (a deliberative democracy process). The *Motor Accident Injuries Act 2019* (the MAI Act or Act) provides the framework for the regulation of insurers, premiums and the benefits that are provided under the MAI Scheme. The Act established an entitlement to defined benefits for injuries or death caused by a motor accident in the ACT on a no-fault basis. These benefits are for:

- treatment and care;
- income replacement;
- loss of quality of life; and
- funeral expenses and death benefits.

There are some exclusions and limitations to the entitlements to defined benefits, including where an injured driver has been convicted of specified offences. Defined benefits are payable for up to five years after an accident. More seriously injured people who were not at fault may also make a common law claim if they meet the threshold requirements specified in the Act. The MAI Scheme, consistent with the previous CTP Scheme, does not provide cover for property damage arising from a motor accident.

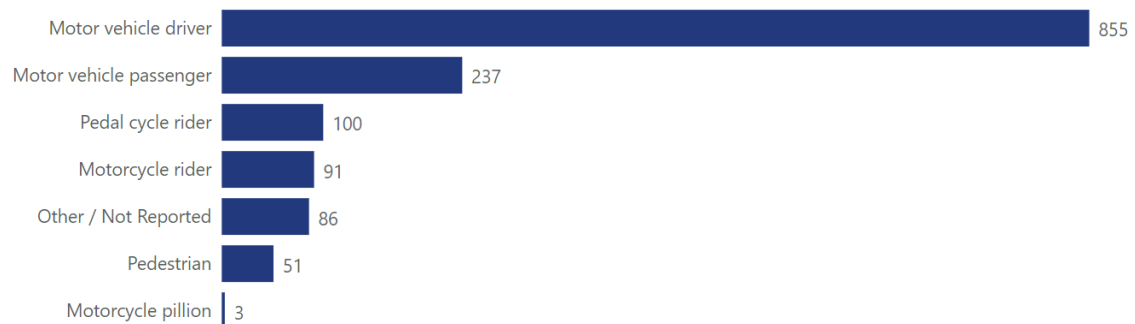
Since the start of the MAI Scheme to 30 June 2023, MAI insurers and the Nominal Defendant have received 1,249 complete applications related to ACT accidents. An application is complete when all required information is provided. In addition, there were 121 applications for accidents in the ACT in progress at 30 June 2023, and there were also 143 interstate accident applications. The acceptance rate for applications has been 97 per cent (Figure 1). Lower traffic volumes during and following the COVID-19 restrictions is likely to have impacted the number of applications received to date. Changes in traffic patterns have also been observed in response to changes in work arrangements.

Figure 1 – Application acceptance rate to 30 June 2023



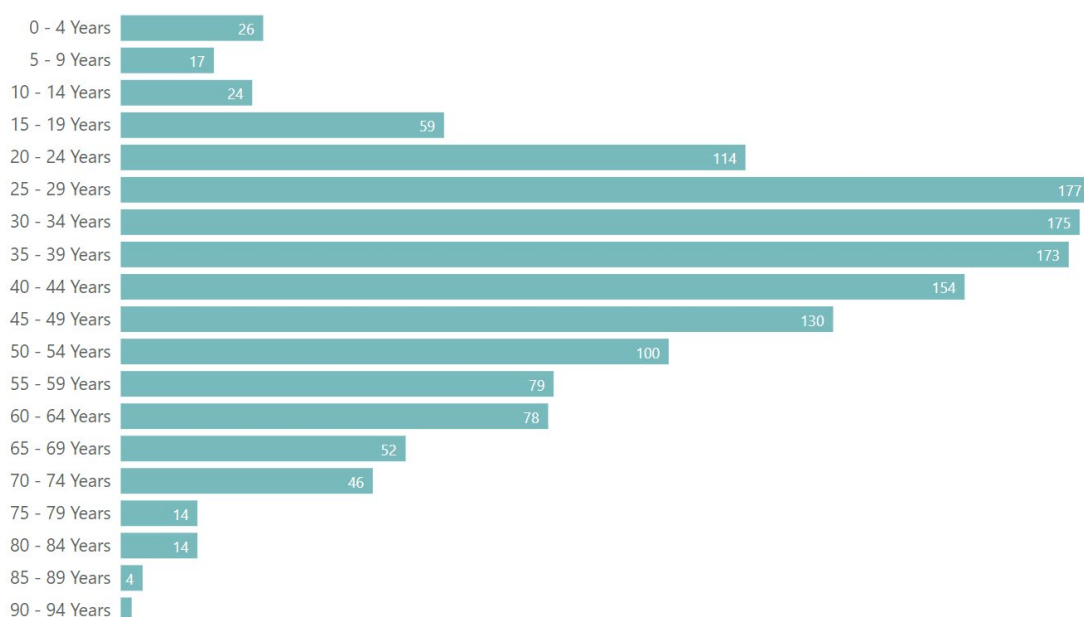
Most people applying to the MAI Scheme for assistance were drivers of a motor vehicle involved in the accident (855), followed by passengers (237) (Figure 2). The largest group of applicants by age range were between 25 and 39 years of age. For the age ranges of 25 to 29, 30 to 34, and 35 to 39 the number of applications made is 177, 175, and 173 respectively (Figure 3).

Figure 2 – Applicants by role



All accident locations, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers.

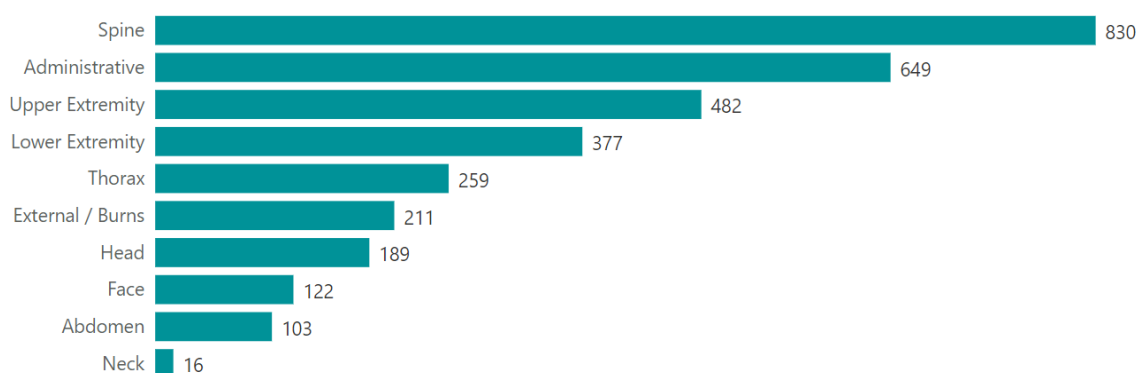
Figure 3 –Applicants by age



All applicants including for accidents that occurred interstate, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers.

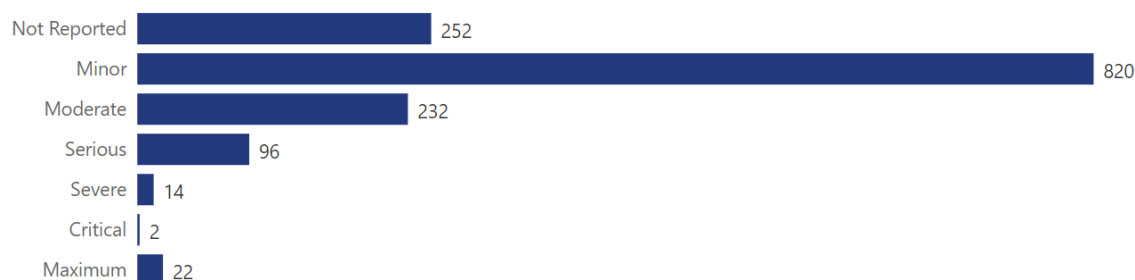
The most commonly injured body region for people applying to the MAI Scheme was the spine (Figure 4); however, most of the injuries incurred were further classified as minor injuries (Figure 5).

Figure 4 - Applicant injuries by body region



All applicants including for accidents that occurred interstate, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers. Applicants may have reported injuries to one or more body regions. The "Administrative" category incorporates injuries not otherwise specified, including psychological injuries.

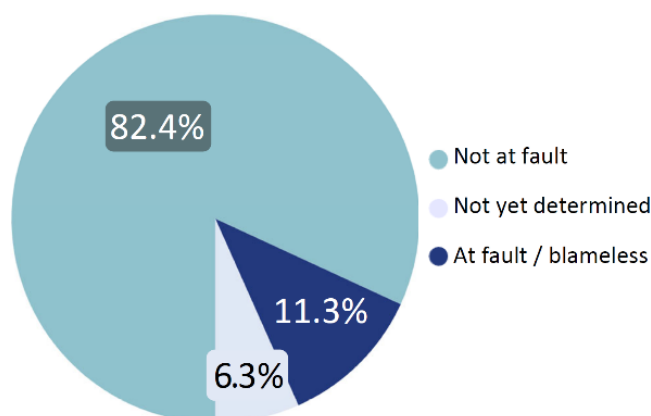
Figure 5 - Applicant highest injury severity



All applicants including for accidents that occurred interstate, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers. The category, "Not Reported" indicates an applicant with injuries that have not yet been given a severity category, or those for which a severity category is not applicable.

To 30 June 2023, 82.4 per cent of applications have been from not at fault applicants (Figure 6). As the number of at fault / blameless applications is low, this suggests further time is required for people to understand they can apply to the MAI Scheme regardless of their role in the accident.

Figure 6 – Applicant fault status to 30 June 2023



Section Two – Operation of the MAI Scheme

This section focuses on the operation of the MAI Scheme following its introduction on 1 February 2020. Most of the feedback received through submissions and survey responses focused on these aspects of the MAI Scheme.

The MAI Scheme flows from the principles and model chosen by the Citizen's Jury, including to provide fairer and faster access to support, equitable cover, value for money and an efficient system. In addition, the Citizens' Jury said that a larger share of the scheme's resources should go to those who were more seriously injured. The Jury also recommended an increased focus on road safety and that an independent methodology be used to assess Whole Person Impairment (WPI) to neutralise bias. The Jury stated that it

was incumbent in the scheme’s implementation that sufficient information and assistance be provided to individuals in accessing benefits and moving through the processes.

As a result, the MAI Scheme changed the way compensation is provided for motor accident injuries, with a focus on recovery that was lacking from the previous CTP Scheme.

Unfortunately, that scheme had shifted to a focus on maximising a lump sum payment primarily negotiated between insurers and lawyers. The negotiation would often occur years after the accident, with few considerations given to the social costs and the impact on the injured person, particularly immediately after the accident.

Under the MAI Scheme, early support for injured people is now provided through defined benefits, with payments made much earlier than under the previous CTP scheme. The main category of defined benefits paid to date has been for treatment and care and income replacement benefits; however, payments against all categories of the MAI Scheme’s defined benefits have been paid by the MAI insurers. As at 30 June 2023, the MAI insurers have paid \$33,823,057 for all applications received (not referenced to the accident year) (see Figure 7). Common law payments are also now occurring.

Figure 7 - Payments by type through 30 June 2023

Payment Type	Total through 30 June 2023
Treatment & Care Benefits <i>(includes allowable expenses)</i>	\$15,833,318
Income Replacement Benefits	\$11,836,648
Quality of Life Benefits	\$172,951
Funeral Benefits	\$229,697
Death Benefits	\$277,560
Applicant External Review Legal Costs Awarded	\$27,754
Common Law *	\$1,105,798
Insurer Investigation	\$925,215
Insurer Legal	\$458,211
Insurer Medico Legal <i>(includes the cost of WPI assessments)</i>	\$595,446
Recoveries	-\$419,417
Interstate accidents	\$2,779,878
Total	\$33,823,057

* For reporting purposes, this includes economic damages repayments to another insurer, and has been grouped here for convenience.

The Application Process

Under the MAI Scheme, there are two forms required to be completed to commence a personal injury application – the personal injuries application form and the medical report. To claim funeral expenses, a funeral benefits application form is required and there is a separate form to claim dependant benefits. An injured person generally needs to identify the MAI insurer for the vehicle most at fault. If the injured person is unclear or does not know the vehicle most at fault, then they can submit the application to their own MAI insurer. The MAI Act then allows the transfer of the application to the relevant insurer.

The application period for defined benefits is within 13 weeks of the date of the motor accident. A similar timeframe of 13 weeks was adopted for funeral and dependant benefits applications, and for selecting an insurer where two schemes may apply, to limit the potential for confusion with different application periods. The application period can be extended by late application provisions of two years for a personal injury application and one year for funeral and dependant benefits.

What we heard

From the information received through the consultation process, the application process is generally working effectively, with 70 per cent of survey responses indicating they needed little or no help to apply to the MAI Scheme. However, some of the submissions provided feedback that it was not obvious or clear how to apply or the information that was required³. Submissions also raised concerns with the 13-week timeframe contained in the legislation to make applications from the date of the motor accident, where someone has died, because the individuals felt they were under considerable emotional stress during this period⁴. No submission identified an alternative reasonable application timeframe. Instead, it was suggested more information and assistance be provided.

Feedback received also suggested that the 13-week timeframe to select the relevant scheme for journey claims (a motor accident while at work, and so could also make a workers compensation claim) did not provide sufficient time for a person to obtain information and advice on the most suitable scheme⁵. This matter was considered by the government previously and not considered further in the review.

Reviewers' comments and findings

The 13-week timeframe contained in the MAI Act is considered reasonable for all application processes. This is because it encourages early access to treatment and care and other support. In addition, there are late application provisions to support people who may have been unaware of the MAI Scheme or people who may be grieving the loss of a family member. The loss of a loved one under normal circumstances itself requires navigation through many unfamiliar processes. For many, applying to the MAI Scheme may seem an additional burden as forms and coronial processes require the details of the accident and have the potential to traumatise the individual. In the case of selecting the relevant scheme for journey claims, the 13-week timeframe balances timely access to support while limiting costs in duplicated claim management.

The MAI Commission advises it has made improvements to forms in response to feedback received and keeps its forms under continuous review. In addition to developing a new funeral benefits application form, during the review period, the MAI Commission made an improvement to the process for funeral benefits. Under the revised process, the receiving MAI insurer is to make the funeral benefit payment and then transfer the details to the relevant insurer if required. In this way, there is "no wrong door" for an application when a death has occurred on an ACT road. These changes are intended to make it easier to claim

³ Submission 1 – J. Stewart, Submission 4 – G. Maddigan, Submission 10 – S. Murry, Submission 14 – Victims Support ACT

⁴ Submission 7 – T. McLuckie, Submission 14 – Victim Support ACT

⁵ Submission 15 – ACT Law Society, Submission 16 – Australian Lawyers Alliance

the funeral benefit during a difficult period and reduce the potential for financial hardship from the unexpected expense.

While there have been some improvements to its forms, there would be benefit in the MAI Commission undertaking an audit to identify further opportunities to minimise required information and make steps clearer. There is also an obligation on MAI insurers to provide information and to work with injured persons to navigate the application process.

Additionally, the MAI Commission could make it clearer that there is assistance available from the DBIS to help with information on completing the forms. There may also be benefit in refreshing the MAI Commission website, including developing an information booklet to assist people navigating the MAI Scheme.

An alternative to the completion of an application form could be for insurers to take a more active role in assisting with collecting the required information from the potential applicant. The NSW CTP Insurance Scheme recently established a digital portal that provides an option for an injured person to give a notification with basic information. The information is submitted to the State Insurance Regulatory Authority (SIRA), regulator for the NSW CTP Scheme, with the date of the accident, the vehicles that were involved and the intention of the person to apply for benefits. The portal identifies the relevant insurer and provides the basic information to the NSW licensed insurer. The insurer then contacts the applicant to commence the application process. For the ACT scheme, a digital portal that facilitates a notification and follow up by a MAI insurer may be of benefit for those who need extra support to complete application forms.

Lastly, the reviewers agree that applicants would benefit from some streamlining of the application processes. The application process should be straightforward so that defined benefits flow as quickly as possible and be mindful of the emotional distress applicants may be experiencing when navigating the MAI Scheme for the first time.

Action Items

1. The MAI Commission should refresh its information material on the website to improve accessibility and develop an information booklet to provide additional guidance for making an application.
2. The MAI Commission should update the forms to minimise the required information and make the steps clearer.
3. The MAI Commission should explore the feasibility of establishing an optional process for a notification to the relevant insurer through a digital portal.

Access to treatment and care and out of pocket reimbursements

Treatment and care expenses are payable by a MAI insurer for injuries resulting from a motor accident. Treatment and care include medical and dental treatment; rehabilitation services; and paid attendant care services.

When a person is physically injured in a motor accident, they may receive initial treatment from a paramedic/ambulance officer, the emergency department of a hospital, or from a general practitioner (GP). In the initial stages of the application, the MAI Scheme allows an

injured person to be reimbursed for part of their billable⁶ expenses and for certain future treatments, called allowable expenses, while a MAI insurer is determining liability for the defined benefits application. Allowable expenses were included in the MAI Scheme design so that an injured person can quickly start receiving reimbursable treatment, with allowable expenses not able to be recovered by the MAI insurer if liability for the application is denied.

In addition to allowable expenses, once liability for their application is accepted, an injured person can access treatment and care as needed through ad hoc approval by the insurer of treatment and care requests. If an injury from the motor accident emerges later, a MAI insurer is obligated to consider treatment requests for the injury. In addition to documenting treatment goals, a Recovery Plan also provides for the approval of treatment and care, if the insurer is satisfied the injured person is likely to require longer term treatment and care. Payment is arranged by the MAI insurer through either a direct billing arrangement with a treatment provider or reimbursing the injured person upon provision of the invoice/receipt.

What we heard

Treatment and care is the most accessed defined benefit under the MAI Scheme, with 83 per cent of survey responses identifying this as the key benefit received. 50 per cent agreed that defined benefits supported their recovery, while 47 per cent agreed the MAI insurer understood their recovery needs. Most of the submissions had a focus on treatment and care. Submissions from individuals expressed some frustration about accessing treatment noting:

- coverage to only Western or evidence-based treatments⁷;
- other schemes being open to alternative treatments, such as Maori healing practices by the New Zealand Accident Compensation Commission⁸;
- insurers disputing treatment requests with injured persons⁹;
- the denial of general practitioner (GP) requests for imaging and treatment¹⁰;
- support services and GPs not knowing about the MAI Scheme¹¹;
- barriers being put in place by insurers for treatment¹² and not advising whether certain treatments such as gym passes, or yoga are reasonable and necessary treatment and care¹³; and
- difficulties in getting reimbursements for approved treatment and care¹⁴.

⁶ No ambulance fees or charges are incurred if care is provided at the scene of a motor accident on a road or road-related area.

⁷ Survey response 4

⁸ Survey response 4

⁹ Submission 1 – J. Stewart, Submission 3 – D. Hennessy, Submission 10 – S. Murry, Submission 13 - Anonymous

¹⁰ Submission 1 – J. Stewart

¹¹ Submission 7 – T. McLuckie, Submission 9 – Australian Association of Social Workers

¹² Survey response 1

¹³ Submission 13 - Anonymous

¹⁴ Submission 1 – J. Stewart

Other comments included concern about people not accessing early treatment because of the upfront cost¹⁵ and one association advising that their ACT engaged members were happy with the way the MAI Scheme was operating¹⁶.

Recovery planning was raised in submissions, specifically confusion between the creation of the plans and the appointment of rehabilitation providers. With respect to rehabilitation providers and their role in supporting a return to work, there was a suggestion that this was a process being managed inappropriately, to end benefits early¹⁷. It was also suggested the early focus on recovery plans may be distorting claims consultants' priorities.

No submissions were received about the process for medical assessment for the purposes of approving treatment and care benefits.

The reviewers received several comments that related to issues outside the scope of the review:

- One submission suggested that commutation of treatment and care to a lump sum should be allowed¹⁸. This is outside the scope of this review given it is not allowed under the MAI Act.
- Feedback was received that perhaps an injured person could decide whether they wanted a draft of the recovery plan to be provided to themselves and their treating doctor prior to the recovery plan being finalised¹⁹. The requirement for a draft recovery plan is a legislative policy setting and hence this proposal is also out of scope.

Reviewers' comments and findings

The MAI Scheme is delivering treatment and care benefits quickly to injured persons, with 80 per cent of applications receiving their first treatment and care payment within four weeks of submitting a complete application (see Figure 8). The median number of days to first payment is 12 days. How promptly an invoice is sent from a provider directly to the insurer or an injured person requests a reimbursement, will impact on how quickly a payment can be made under the MAI Scheme.

¹⁵ Submission 14 – Victim Support ACT

¹⁶ Submission 6 – Australian Physiotherapy Association

¹⁷ Submission 10 – S. Murry

¹⁸ Submission 8 – Maliganis Edwards Johnson

¹⁹ Submission 11 – Insurance Council of Australia

Figure 8 - Weeks until first treatment and care payment



MAI Scheme Quarterly Report to 30 June 2023. Number of weeks from receipt of a completed application until the first treatment and care payment by percentage of eligible applicants, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers. May include some allowable expense payments (payments have not been coded specifically as 'allowable expenses' by insurers). Due to this, allowable expense statistics have not been separately reported.

Approval and payment arrangements for treatment and care

A MAI insurer will generally make payments directly to the treatment provider selected by the injured person after treatment; however, some treatment providers may prefer payment at the time of the appointment. This is at the treatment provider's discretion, though the MAI Commission and MAI insurers encourage the acceptance of direct payment from the insurer following treatment. The treatment provider is not mandated by the MAI insurer and is usually selected by or agreed to by the injured person.

The Act provides that a MAI insurer needs to decide whether the treatment and care requested is reasonable and necessary, and that the provider is appropriate. An insurer is also required to ensure any approved treatment is conducted in a manner consistent with the principles of the nationally endorsed Clinical Framework for the Delivery of Health Services (CFDHS). The treatment must also be directly related to the person's motor accident injury, be appropriate for the person, be of benefit and be cost effective.

The legislative framework is not restricted to Western treatment modalities, rather it requires an insurer to consider various factors when approving the treatment. This includes whether it will be conducted in line with the principles in the CFDHS. The insurer may appoint a rehabilitation provider to assist in facilitating and coordinating treatment providers in consultation with the injured person and their treating GP. The appointment of a rehabilitation provider is in addition to developing a recovery plan.

Accessing treatment and care

The rates of dissatisfaction expressed about the MAI insurers and Nominal Defendant are low, compared to the number of complete applications received to 30 June 2023 (1,249), and each application likely having many defined benefit decisions.

- From when the MAI Scheme commenced to 30 June 2023, 80 internal reviews have been conducted by insurers in relation to treatment and care decisions, with a further two in progress.
- In addition, each insurer's internal complaint management process can also be used to raise concerns. The MAI Commission advises these rates are similarly low.
- Nine complaints have been raised with the MAI Commission.

Nonetheless, the reviewers acknowledge the experiences raised in submissions to the review and recognise the importance of continuous improvement.

To assist individuals to access treatment and care, the MAI Commission has advised that they provided information on the MAI Scheme to ACT GP practices. However, information sessions were deferred during and after the COVID 19 pandemic because of high GP workloads. It may now be suitable to provide additional information explaining the MAI Scheme, including the reasonable and necessary test for approving treatment and care. Because of this test, sometimes MAI insurers may need more information from a GP (or other treating practitioner) to validate a request. If treating practitioners are not engaging with information requests from the insurer as needed, this may result in a dispute with the injured person when the treatment request is denied. This is not a desirable outcome.

MAI insurers are also continuing to use some common law language in managing defined benefit applications and this could be contributing to the issues raised in submissions to the review. For example, section 66 of the MAI Act provides that an insurer is to pay defined benefits once it has accepted liability for the application. The MAI Act expects this to be a one-time decision. However, it has been observed in insurers' correspondence that they use phrases such as "considering our liability for" in relation to treatment and care or other defined benefits after they have accepted the defined benefits application. This language and other traditional insurance terminology, such as the use of without prejudice in approval letters, could be creating doubt in a person's mind about their ongoing entitlement to defined benefits.

Clear communication from a MAI insurer is important to avoid people becoming frustrated and unclear about their entitlements. Communications need to reflect the MAI Scheme and not the CTP Scheme, its common law predecessor or other jurisdictions' motor accident injury schemes.

Treatment and care provision under recovery plans

Recovery plans provide for the management and coordination of an injured person's approved treatment and care, if the insurer is satisfied the injured person is likely to require longer-term treatment and care. The plan is prepared by the MAI insurer in consultation with the injured person and their healthcare providers. The tailored recovery plan must be developed for any applicant who is unable to return to their pre-injury duties and activities after 28 days (calculated from the date of receipt of application). A plan is not mandatory if a person has returned to their normal activities after the 28 days or in a later period. Timeframes were placed on recovery plan completion to promote engagement and consultation by all parties and to align with evidence regarding recovery, planning, and early intervention.

Of the 1,146 complete applications received by licensed MAI insurers for accidents in the ACT, a recovery plan was reported to the MAI Commission for 1,116 applications. Of the remaining 30 applications, 15 had no data entries which could have been the result of an administrative error, and 15 entries were for deceased individuals.

Recovery plans are fundamental to the scheme design included in the MAI legislation and can be an effective tool for planning and managing a person's treatment and care when all parties are engaged with the plan. There is also a fixed 28-day timeframe in the NSW CTP Scheme for the completion of recovery plans. The ACT allows a longer period to provide the final version of the plan to injured persons. Additional time is allowable if the insurer is missing necessary information to prepare a draft plan and to allow consultation on the plan.

The reviewers do not consider that further changes to recovery plan processes are required, noting the MAI Commission introduced a further streamlined consultation process in December 2023. However, there would be benefit in the MAI Commission continuing to monitor the effectiveness of recovery plan provisions, including the recently made procedural changes.

Reimbursement payments for treatment and care expenses

MAI insurers have made over 60,000 payments for treatment and care since 1 February 2020. The MAI insurers are required to provide clear information on the process for obtaining payment of incurred expenses. This includes ensuring the injured person is clear about the treatment and care that has been approved either ad hoc or under a recovery plan before the expense is incurred. A clear process helps ensure timely payments and that the injured person continues to engage with the MAI insurer with positive impacts on their recovery.

The MAI Scheme has been designed to minimise out of pocket expenses. However, out of pocket reimbursements may still occur where a treatment provider is unwilling to agree to a billing arrangement with a MAI insurer. There may also be reimbursements associated with transport to an appointment, which is a treatment and care benefit.

Each insurer will have their own procedure for arranging for reimbursement, including the timing of their electronic funds transfer payments. Payments are authorised after the claims consultant has reviewed the invoice or other evidence received from the injured person, usually via email. This may be an unfamiliar process for some in gathering up invoices and receipts for forwarding to an insurer, especially if a person is more familiar with claiming for medical expenses through Medicare or from private health insurance. Given the concerns raised, it would be appropriate for the MAI Commission to explore with the MAI insurers ways to reduce barriers to reimbursements.

Acton items

4. The MAI Commission should consider whether there are changes required to minimise barriers and disputes in accessing treatment and care, while being consistent with the MAI Act. This should include insurer communications.
5. The MAI Commission should explore ways to streamline the process for seeking reimbursement and submission of invoices/receipts to an insurer.
6. The MAI Commission should consider providing greater detail on the various treatment and care processes in an information booklet.
7. The MAI Commission should provide further information to assist general practitioners.

8. The MAI Commission should continue to monitor the process for recovery planning by MAI insurers.

The quality of life benefit process

The quality of life (QOL) benefit is a recognition payment for a person's permanent injuries caused by the accident and may be offered following a WPI assessment. The benefit is payable when an injured person has a WPI assessment of 5 per cent or more, with the benefit payable specified in the legislation based on the WPI figure. A person with a WPI assessment of 10 per cent or more may choose to access common law if they were not at fault. An application for the QOL benefit may be made 26 weeks after the motor accident and when the injuries sustained in the accident have stabilised. The Act and guidelines outline the process to be undertaken by the MAI insurer once the QOL application is lodged, including referral to the authorised Independent Medical Examiner (IME) provider for a WPI assessment. If an injured person wants a second WPI report, then they can select their own assessor for this second report.

What we heard

The dual purpose of the WPI assessment - as a recognition payment and for access to common law - appears to be a point of confusion, with feedback questioning its purpose and the process for obtaining a WPI assessment.

Feedback in submissions to the review raised concerns around processes, including insurers not advising of the QOL benefit²⁰; questioning the need to agree on injuries to be covered by an assessment²¹; and suggesting a need for a definition of stability²². Feedback also raised concerns with the single authorised IME provider, including the delays in the process and the lack of competition²³. It was also suggested that additional information on this process to injured people would be beneficial²⁴.

Several legislative policy settings were also raised that are out of scope of this review. They include why the benefit could not be available from day one²⁵; why it was a requirement to have treatment and care to access the benefit²⁶; and a concern was raised for when the assessment comes in just under 10 per cent²⁷. Feedback also queried injured persons not being able to choose the assessors for the first WPI report²⁸ and the cost of obtaining a second WPI report²⁹. It was suggested that a bespoke assessment and dispute process like the NSW Personal Injury Commission be established³⁰.

²⁰ Submission 3 – D. Hennessy, Submission 7 – T. McLuckie, Submission 13 - Anonymous

²¹ Submission 11 – Insurance Council of Australia

²² Submission 15 – ACT Law Society, Submission 16 – Australian Lawyers Alliance

²³ Submission 11 – Insurance Council of Australia, Submission 15 – ACT Law Society

²⁴ Submission 17 – CARE Inc

²⁵ Submission 1 – J. Stewart, Submission 14 – Victim Support ACT

²⁶ Submission 7 – T. McLuckie

²⁷ Submission 2 – Unnamed Pedal Power member, Submission 4 – G. Maddigan

²⁸ Submission 1 – J. Stewart, Submission 8 – Maliganis Edwards Johnson

²⁹ Submission 8 – Maliganis Edwards Johnson

³⁰ Submission 15 – ACT Law Society, Submission 16 – Australian Lawyers Alliance

Reviewers' comments and findings

The ACT's previous CTP Scheme did not use permanent impairment assessments and it was anticipated that the QOL process would take time for people to understand and become comfortable with its purpose and processes. The MAI Commission developed guidance documents and included detailed information on the MAI Scheme's website to assist with the implementation of this aspect of the scheme. However, the reviewers note that participants' experience with the QOL process also provides valuable insights into where additional information could support the process.

Under the Scheme, an injured person applies for the QOL benefit only after six months has passed since the accident and when their injuries are stable. This is intended to enable a person to access treatment and care and allow for their recovery. It is only once a person's injuries are stable and considered permanent that they can consider applying for the benefit. Not every person who is injured in a motor accident will have a permanent impairment. To ensure a WPI result is obtainable from the assessment, a WPI assessment can only be conducted if a person has attained maximum medical improvement. This will occur when the person's condition is well stabilised and unlikely to change substantially in the next year with or without treatment. It is noted that the term 'stable' is used in the MAI Act, while 'maximum medical improvement' is in the guidelines, reflective of the fact that one is to be assessed by insurers while the other is assessed by medical practitioners. There would be benefit in the MAI Commission monitoring this distinction.

The QOL application process and form were amended in 2022 to clarify when an information pack about the process is to be provided. In addition, the processes for making referrals to an authorised IME provider were improved by:

- allowing additional time for an insurer to gather and review information so that the referral for the assessment contains all relevant information;
- requiring referrals to be made using a form provided by the IME provider to ensure all the required information about the assessment is provided; and
- notifying the applicant of the injuries and body systems, and medical information, included in the referral.

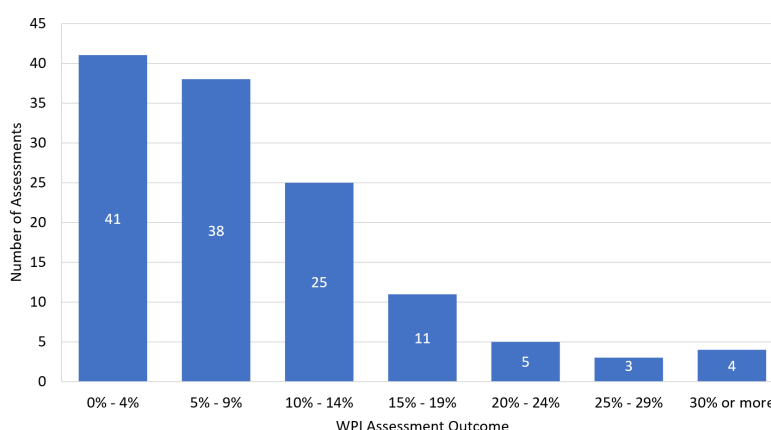
The notification to the applicant was a particularly important improvement. This is because feedback provided to the MAI Commission by the authorised IME provider was that applicants attending appointments were sometimes confused about why they were there. The guidelines provide for notification of the injuries to be assessed in the WPI assessment, so that the injured person is informed of the scope of the assessment. The notification also provides an opportunity for the injured person to provide additional information, if necessary, to address concerns that injuries were sometimes being missed from the assessment, potentially affecting the outcome.

Further, the MAI Act was amended by the *Motor Accident Injuries Amendment Act 2023* to confirm certain aspects of the process, including that the QOL is a defined benefit obtainable only by application to a MAI insurer. The purpose of this was not only to ensure the insurer pays for the first WPI assessment undertaken by the independent authorised

IME provider, but also to ensure that assessments were undertaken consistently and in line with the WPI guidelines.

Figure 9 shows the range of outcomes from WPI assessments since the MAI Scheme commenced up to 30 June 2023. This is shown on a per assessment basis (generally each body system that is referred) and not per applicant, with some injured people having multiple body system assessments. Where different assessors are required to assess different body systems, there is a process undertaken to coordinate and calculate the total degree of permanent impairment of the injured person as a percentage of whole person impairment using the combined values chart.

Figure 9 - WPI Assessment outcomes per body system



Note: This is shown on a per assessment basis (generally each body system that is referred) and not per applicant. A calculation is undertaken to provide an overall number if a person has more than one physical assessment.

IME Provider

Currently one IME Provider is authorised by the MAI Commission, MLCOA, to select and train medical specialists to undertake assessments in accordance with the ACT WPI Guidelines. A procurement process was undertaken to identify service providers with appropriate experience and access to specialists to undertake assessments in Canberra or via telehealth. MLCOA uses its local and national network to identify specialists to undertake WPI assessments. This has enabled the MAI Commission to overcome the challenge of accessing appropriate specialists given Canberra-based specialists are in high demand, and some specialties are not always regularly available. Delays in assessments may be experienced if a particular specialty has only a few specialists or appointments available. The MAI Commission advises that as the MAI Scheme matures, and the number of assessments increases, a second (or more) IME Provider may be appointed. This should address any competition concern that has been raised. The MAI Commission notes potential providers can approach the Commission to be considered for appointment outside of procurement tender processes.

Lastly, the MAI Commission advises it will continue to monitor the WPI assessment process but considers the current settings are correct. Under current settings, the first WPI report is organised by and paid for by the insurer who cannot select the assessor, with the assessor being independently selected by the authorised IME provider. If they want, an injured

person can obtain and pay for a second WPI report from an assessor of their choice, in accordance with the guidelines. If there is any matter of concern in relation to the final WPI offer, then in accordance with the legislation the ACT Civil and Administrative Tribunal (ACAT) is the relevant body able to review the offer. To date, the ACAT has not undertaken a final offer review.

Action items

9. The MAI Commission should consider providing more website information about the purpose and processes associated with the quality of life benefit.

Income replacement benefits

The income replacement benefit is to provide support to an injured person who requires time off work while they recover from their injuries. It is paid as a percentage of a person's ordinary income, noting it does not include superannuation and there may be a reduction in income for higher-income people. The percentage paid will depend on the applicant's ordinary income level. Lower-income applicants receive a higher amount of benefit paid, representing 100 per cent income support plus an extra amount equivalent to the superannuation guarantee.

Evidence is required to be provided to a MAI Insurer, such as payslips or Pay As You Go (PAYG) tax summaries. This allows the insurer to determine weekly pay (or net business income if self-employed) over a 52-week period before the accident. Casual workers need to show they were in paid work at least 260 hours in the 52-weeks before an accident. There is also provision for people who were capable of being in paid work but were not in paid work on the date of the motor accident. The guidelines provide some flexibility for the evidence, including through a signed declaration confirming a person's work history from the injured person or their employer.

The weekly pay calculation includes post-injury earnings. If someone has not been able to work at all, they will receive the full amount subject to the relevant percentage (eg, 95 or 80 per cent if not a lower income applicant). As people recover, they receive a partial payment from the MAI insurer, that supplements the amount received as they partially return to work.

What we heard

Income replacement is an important feature of the MAI Scheme, and 42 per cent of those who responded on the survey advised they had accessed the income replacement benefit. Feedback in most of the submissions to the review raised questions about the limitations placed on the income replacement benefit by the legislation, specifically asking why these were in place. Issues raised included the:

- income replacement percentages (95 per cent for the first 13 weeks, then 80 per cent)³¹;
- high-income earner cap³²;

³¹ Submission 2 – Unnamed Pedal Power member

³² Submission 2 – Unnamed Pedal Power member, Submission 7 – T. McLuckie

- superannuation and other employer benefits not being payable³³; and
- whether weekly income support is for the working week or from the date of the motor accident³⁴.

As these limitations are policy decisions and included in the Act they are out of scope for this review.

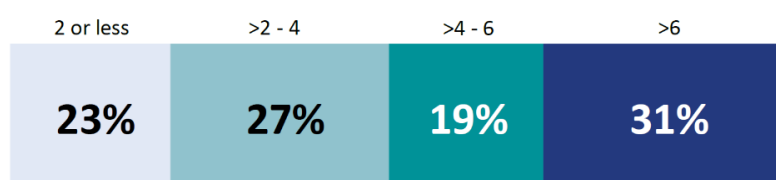
A small number of the individuals that provided feedback indicated they had not applied for or received the benefit³⁵. The reasons for not applying for and/or receiving the benefit included: the information on claiming was not provided; that potentially incorrect information was provided³⁶; or that the information was hard to understand/overwhelming³⁷.

Reviewers' comments and findings

The MAI Scheme is delivering income replacement benefits to injured people in a timely manner, with 23 per cent of injured people receiving their first income replacement payment within two weeks from the insurer receipting their complete application, and 50 per cent receiving their first payment within four weeks (see Figure 10).

Income replacement payments can be paid once an insurer accepts liability for an application, with insurers having up to 28 days to accept liability from the receipt of a complete application. In some cases, a request for income support may not be made immediately as an injured person may need some time to provide information about their pay and work arrangements or some may choose to rely on personal leave if they required only a few days off from work. For those who do require income support, it is important that a MAI insurer provides information that assists the person to apply for the benefit.

Figure 10 - Weeks until first income replacement payment



MAI Scheme Quarterly Report to 30 June 2023. Number of weeks from receipt of a completed application until the first income replacement payment by percentage of eligible applicants, for accidents between 1 February 2020 and 30 June 2023, as reported by ACT MAI insurers.

The benefit formula, replacement percentages and high-income earner cap that apply to this benefit are all contained in the MAI legislation. The policy settings for the income replacement benefit are to provide a higher percentage of pre-accident income to injured people on a low income and to set a pre-injury income cap (indexed) for higher income

³³ Submission 2 – Unnamed Pedal Power member, Survey response 5

³⁴ Submission 7 – T. McLuckie, Submission 14 – Victim Support ACT

³⁵ Submission 1 – J. Stewart

³⁶ Submission 10 – S. Murry

³⁷ Submission 13 - Anonymous

earners. The income thresholds are indexed twice a year. The applicable replacement percentages and indexed weekly income thresholds as of 1 October 2023 are as follows:

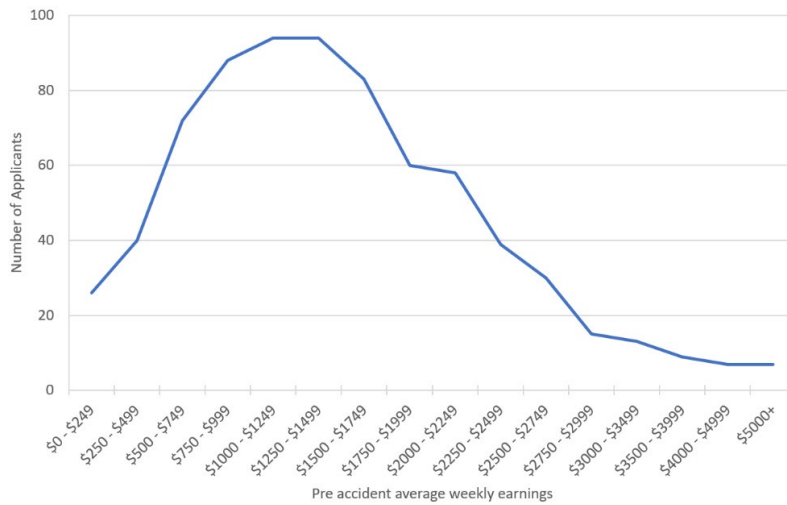
- for weekly income below \$928 – 100 per cent plus the superannuation guarantee per cent as an in-lieu payment up to five years
- for weekly income from \$928 to \$1,129 – 95 per cent up to five years
- for weekly income above \$1,129 up to a weekly income cap of \$2,531 – 95 per cent for the first 13 weeks then 80 per cent up to five years

Not paying 100 per cent of all injured people's pre-accident income is one of the trade-offs to keep the MAI Scheme affordable for ACT motorists and is a common feature of injury insurance schemes. In addition, as the MAI insurer is not in an employment relationship with the injured person, they cannot pay superannuation and other employer benefits.

The reviewers acknowledge that some may feel that the income support is inadequate for the disruption caused by being injured in a motor accident. It is, though, a timelier payment for a person unable to work compared to waiting for back payment for loss of income through legal proceedings. While some individual applicants will be negatively impacted by the limits placed on income support under the MAI Scheme, the reviewers found the benefit is working as intended. It would be beneficial, however, for information about the income replacement percentages and cap to be more clearly explained in information material on the income replacement benefit.

Overall, the benefit is working as intended and is appropriately balancing the support from income replacement with overall MAI Scheme affordability. Data collected by the MAI Commission shows the weekly income ranges for injured people requesting income support (Figure 11). As the figure shows, most applicants are under the pre-injury income cap (currently \$2,531 as of 1 October 2023), while 13.6 per cent (80 people) reported weekly income over the cap. Those over the cap can still receive income support up to the applicable percentage of the cap. If an injured person's post-injury earning capacity for the week exceeds their pre-injury income (up to the cap), the person will not be eligible to receive any income replacement payments for that week.

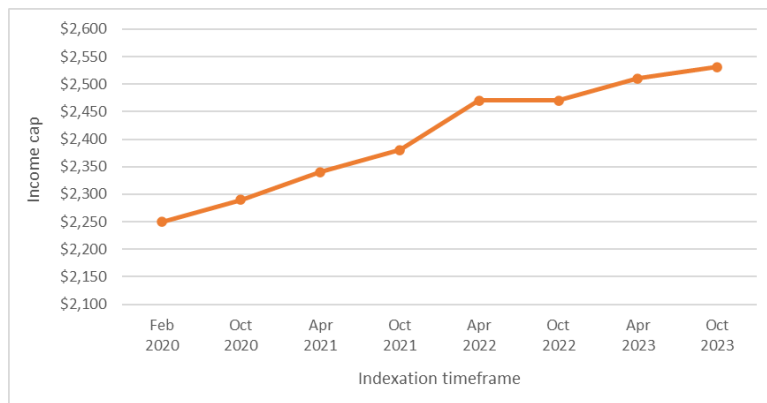
Figure 11 – Distribution of Applicant’s income reported to MAI insurers



Note: Income is only required to be reported to a MAI insurer if a person requests income support. Some applicants may not require time off work, not be in work or have chosen to access leave entitlements to cover periods away from work during their recovery.

The income cap is adjusted on a biannual basis, increasing by 12 per cent from its initial base of \$2,250 in 2020 (Figure 12).

Figure 12 – Chart showing income cap growth from biannual indexation



Note: No indexation occurred in April 2020 as the MAI Scheme commenced on 1 February 2020.

Definition of work week for purposes of calculating income replacement payments

Two of the submissions questioned when a work week commences for the purpose of income replacement calculations³⁸. Recently the ACAT confirmed the entitlement to income replacement benefit is not restricted to Monday-Friday and the week for the purpose of the benefit calculation starts on the day of the motor accident³⁹. This decision confirmed the view held by the MAI Commission as it was not intended for a MAI insurer be able to pick the day a person's first 13 weeks of income support was to start. This is important as the legislation is designed to restrict the discretion available to MAI insurers.

Action items

10. The MAI Commission should provide more website information and examples about how income support is worked out under the MAI Scheme, and review the information provided by MAI insurers.

Dispute resolution and access to legal assistance

The MAI Scheme established several mechanisms to promote and encourage the early, quick and cost-effective resolution of defined benefit disputes. These are:

- complaints handling by MAI insurers – it is a condition of a MAI insurer licence that an insurer has processes in place to deal with a complaint in an expedient manner;
- complaints handling by the MAI Commission – it is a function of the regulator to consider complaints in the handling of an injured person's application for defined benefits or a motor accident claim by a MAI insurer;
- internal review dispute resolution - a formal process for a MAI insurer's decision to be reviewed internally; and
- external review dispute resolution – application is made to the ACAT to review the decision of the MAI insurer in relation to defined benefits, after internal review⁴⁰.

What we heard

Feedback provided to the review suggests there may be opportunities to improve the information material on the dispute resolution processes. From the survey, 54 per cent of injured people said they lacked even slight confidence in disputing a MAI insurer's decision. Submissions to the review raised concerns about the external review process by the ACAT, suggesting it lacked effectiveness⁴¹ and it was too complex for individuals to navigate. It was commented that it may be more effective if ACAT undertook a merits review⁴²; however, the type of review mechanism relates to a policy issue that is out of scope of this review.

³⁸ Submission 7 – T. McLuckie, Submission 14 – Victim Support ACT

³⁹ *McLuckie v Insurance Australia Ltd trading as NRMA Insurance* [2023] ACAT 70, issued 15 November 2023.

⁴⁰ There are some decisions that can go directly to the ACAT for review, ie. do not require internal review first.

⁴¹ Submission 12 - Suncorp

⁴² Submission 11 – Insurance Council of Australia, Submission 5 – ACT Bar Association

There was also feedback on the ability to access legal assistance to help with applying, navigating the MAI Scheme and obtaining an external review through ACAT⁴³. One submission noted that the legal profession was limiting legal representation for injured people on defined benefit external reviews to those they consider likely to be entitled to common law damages, on the basis the legal costs will be paid from the common law damages. Feedback in some submissions criticised the level of costs able to be awarded by the ACAT, with a call for the capped amount to be increased⁴⁴.

Reviewers' comments and findings

The settings for review of a decision by a MAI insurer are specified in the legislation. The numbers of internal and external reviews have been low, relative to complete applications received to 30 June 2023 (1,249), and each application likely having many defined benefit decisions. Figures 13 and 14 provide the numbers of internal reviews and external reviews to 30 June 2023, with internal review requests totalling 121 and external review requests totalling 29. Internal review outcomes have resulted in decisions been amended or substituted, suggesting this mechanism is working.

Figure 13 – Internal Reviews

Category	In progress	Decision affirmed	Decision amended	Decision substituted
Treatment & Care	2	42	6	32
Income Replacement	0	18	5	4
Liability	1	11	0	0
Other Review Types	n/a	n/a	n/a	n/a

Affirmed means not change to the insurer's decision; Amended means a change (i.e., a payment calculation); Substituted means insurer made a different decision. n/a – no review of this type has occurred.

Figure 14 – External Reviews

Category	In progress	Decision affirmed	Decision set aside	Dismissed
Treatment & Care	0	3	7	2
Income Replacement	1	0	3	0
Liability	0	0	9	2
WPI Final Offer / SOI	0	0	0	2
Other Review Types	n/a	n/a	n/a	n/a

Dismissed may include matters where an applicant no longer pursues their application for external review, either by request or by not undertaking further steps, in addition to being dismissed by the ACAT; n/a – no review of this type has occurred; WPI – Whole Person Impairment; SOI – Significant Occupational Impact.

The MAI Commission has managed nine complaints to 30 June 2023, with eight of the complaints from two injured people. In general, the complaints relate to misunderstandings or miscommunication between the parties, with the insurer making a genuine effort to assist the injured person. The number of complaints handled by insurers has also been low, with most complaints relating to delays in approvals or unfavourable decisions.

⁴³ Submission 7 – T. McLuckie, Submission 13 – Anonymous, Submission 14 – Victim Support ACT, Submission 17 – CARE Inc

⁴⁴ Submission 5 – ACT Bar Association, Submission 16 – Australian Lawyers Alliance

As a no-fault scheme, the MAI Scheme intentionally removed the ability for an insurer to pay for legal advice for defined benefits on behalf of an injured person. This was because it was no longer necessary to establish the fault of another person to establish an entitlement to defined benefits and the legislation specifies what defined benefits are to be provided and how they are to be provided/calculated. The MAI Act did recognise people may need information and assistance and expressly provided for the DBIS; however, it did not restrict lawyers being able to provide their services to injured people. This is because a lawyer or a firm could work out a fee for service cost in relation to advice that an injured person pays when there are specific issues or stages of a defined benefit application. Firms that undertake other legal work that are one-off transactions, such as conveyancing and probate, have similar models. However, feedback in one submission suggests this model is not being used by the legal profession.

External reviews by ACAT

The ACAT was chosen as the forum for external reviews, and it was intended not to provide for merits review (i.e., was the decision incorrect on its merits) to avoid an ongoing cycle of reviews, and the seeking of report after report. It was intended to establish a process that allows for the correction of the possible error by an insurer that had not been corrected through internal review. In operationalising the legislation, the ACAT has indicated that the MAI Act requires applicants to establish that the decision was legally wrong or not based in evidence. There may be scope to explore with ACAT the approach being taken with respect to external review matters under the MAI Act and how this compares to other general matters reviewed by the ACAT. The MAI Commission advises that to date the ACAT has not used the option under the ACAT's governing legislation to appoint assessors who are medically trained to assist Tribunal members. There may be barriers to such appointments.

Some people may require assistance from a legal practitioner for an external review process in ACAT. To facilitate this, a regulation was put in place that provides for costs and sets a cap on the amount of legal costs that may be awarded by the ACAT on application by a party. That cap was set at \$2000 indexed by average weekly earnings (AWE) plus the filing fee. The MAI Commission advises they have been monitoring the costs awarded by the ACAT, including the information that is required to be reported by the legal profession under the Motor Accident Injuries (Lawyer Information Collection) Regulation 2021. The Commission notes that only a handful of entries in accordance with this regulation have been received and that in some cases reporting has been of the costs awarded by the ACAT rather than the actual costs incurred by the injured person in the matter. This limits the evidence the Commission can consider as to whether the cap on the amount able to be awarded requires adjustment.

Noting the feedback received on the external review process, there would be benefit in the MAI Commission considering other forms of evidence and information to inform whether an adjustment should be made to the cap provided for in the Motor Accident Injuries (ACAT Costs Orders) Regulation 2020. It may also be appropriate to consider whether allowance is made for the costs of certain reports to be included in the award of costs by ACAT.

Action items

11. The MAI Commission should develop more information material on the various means to dispute an insurer's decision through complaints and internal review.
12. The MAI Commission should review the amount in legal costs that can be awarded by ACAT, including whether allowance is made for the costs of some reports.

Navigating the MAI Scheme and accessing information

In addition to considering the application process to enter the MAI Scheme, the review also considered applicants' information needs and navigation experience through their entire defined benefits journey.

To commence receiving defined benefits, an application is required to be submitted along with a medical report. An insurer is obliged to provide information to the injured person about their entitlements with the application receipt notice. It should include information on the process for obtaining treatment and care, and income replacement.

The insurer then has 28 days to determine liability for the application, and this can include seeking additional information to establish the motor accident and the injuries that resulted. If the insurer is satisfied the injured person is likely to require longer term treatment and care, a draft recovery plan is developed that the injured person discusses with their GP. In relation to income support, there is an ongoing obligation for the injured person to obtain a fitness for work certificate from their GP and the injured person signing a work declaration. There are other touchpoints between the injured person and the insurer throughout the management of the application.

What we heard

The top three ways people discovered the MAI Scheme were via website searches (17 per cent), family/friends (16 per cent) or health professionals (15 per cent) according to the survey undertaken for the review. Submission comments made in relation to how people found the various aspects of applying were:

- the information on the forms was not obvious or clear⁴⁵;
- the lack of information on the website for specified persons, for example cyclists and pedestrians⁴⁶;
- that there was a lot of bureaucracy⁴⁷;
- GPs not familiar with the MAI Scheme and lack of support services⁴⁸;
- poor navigability of the MAI Commission website⁴⁹;
- feeling overwhelmed by the amount of information and felt being taken advantage because they lacked knowledge⁵⁰.

⁴⁵ Submission 4 – G. Maddigan

⁴⁶ Submission 2 – Unnamed Pedal Power member

⁴⁷ Submission 4 – G. Maddigan; Submission 12 – Suncorp, Submission 14 – Victim Support ACT

⁴⁸ Submission 7 – T. McLuckie

⁴⁹ Submission 7 – T. McLuckie

⁵⁰ Submission 10 – S. Murry, Submission 13 - Anonymous

Some suggestions were also made, including that examples of completed forms be provided to guide the information required⁵¹. It was also suggested that additional support be provided for vulnerable people who may need assistance navigating the interactions between the MAI Scheme and other schemes or employment law⁵², due to low literacy⁵³ or the type of injury the injured person has sustained⁵⁴.

Reviewers' comments and findings

The MAI Commission's website, www.treasury.act.gov.au/maic, has been operational since the MAI Scheme commenced. In March 2022, the MAI Commission's website was redesigned, and information rearranged to provide additional assistance and information on the MAI Scheme. The MAI Commission advises they review the information routinely, particularly following enquiries which suggest clarification may be required. The MAI Commission also aims to ensure that the forms and the information that is provided are simple to understand and the website is navigable. Several actions in this report are intended to improve the forms, website and information available to injured people to navigate the MAI Scheme.

Information is required to be provided to an injured person by the insurer throughout their application and defined benefits journey. Given the feedback from some injured people that they felt overwhelmed by the amount of information that was provided to them, it would be beneficial for the MAI Commission to discuss with insurers how, and potentially when, information is presented to applicants.

Support is available from the DBIS for injured people and their families to navigate the MAI Scheme through a combination of information services and some legal services. In establishing the DBIS, the MAI Commission initially ran a pilot with certain restrictions on the ability to undertake legal services, such as legal advice and tasks. Findings from the pilot indicated that there was a need to allow these additional services. As a result, legal services are now allowed under the current contract and include legal advice and tasks such as completing forms where a person has identified a particular difficulty, for example not being able to read or write in English. The DBIS identifies the level of services required. However, they do not provide ongoing legal representation services. CARE Inc delivers the DBIS through their accredited community legal centre, providing the service with legal capability.

Since the start of the MAI Scheme to 30 June 2023, the DBIS has provided over 508 services. The DBIS initially provided 34 services in their first few months of the service being established, and in June quarter reported 74 services (Figure 15). The increased utilisation rate indicates that the promotion of the DBIS is working to make its services more well known.

⁵¹ Submission 7 – T. McLuckie

⁵² Submission 16 – Australian Lawyers Alliance, Submission 17 – CARE Inc

⁵³ Submission 14 – Victim Support ACT

⁵⁴ Survey response 4

Figure 15 – DBIS services to 30 June 2023, to date and for the June quarter

DBIS SERVICES PROVIDED		
To date	This quarter	DBIS
508	74	Number of services provided*

*If required, individuals may access repeat services from the DBIS.

The reviewers note CARE Inc has identified a concern that support may be needed for vulnerable people who have more complex needs or interact with other schemes. As this relates to service provision under contract, the reviewers suggest the MAI Commission consider this in the context of its next review of the scope of services provided by the DBIS.

Action items

13. The MAI Commission should work with the MAI insurers to identify ways that can address the concerns raised about information overload.
14. The MAI Commission should consider a review of the scope of services provided by the Defined Benefits Information Service.

Other aspects of the MAI Scheme

The reviewers note comments were made in one submission regarding funeral benefits and these are addressed in the section on the application process. The funeral benefit is payable for a person who dies because of a motor accident. As of 1 October 2023, the maximum cap of the benefit is \$16,930. Data held by the MAI Commission indicates that most funeral costs claimed from MAI insurers have been below the cap. MAI insurers have paid funeral benefits for an accident in the ACT on 16 occasions, paying \$221,626 to 30 June 2023, with the average payment being \$13,852. The payment is generally made within 14 days (median) following a complete application being received by a MAI insurer.

There were no submissions received in relation to the dependant benefit, which is a lump sum payable for the domestic partner of a person who dies because of a motor accident and up to four children of the deceased.

Some comments were received in relation to the pathway for children to common law⁵⁵. This is a policy setting contained in the legislation and is out of scope of this review. Under the MAI Scheme, an avenue for a child injured by someone else's negligence in a motor accident to claim for common law damages for their on-going needs without a WPI assessment, is if they are still receiving treatment and care benefits four years and six months after the accident. This is in recognition of the fact that young people's injuries can take longer to stabilise and resolve. As the MAI Scheme is less than four years old, no child has reached the four years and six months point. A not at fault child with a WPI assessment of at least 10 per cent is eligible to make a common law claim before four years and six months.

⁵⁵ Submission 15 – ACT Law Society, Submission 16 – Australian Lawyers Alliance

Common law is not covered by the review as very few claims have occurred as at 1 February 2023. An out of scope legislative drafting issue was raised in the context of common law⁵⁶.

Section Three – Financial aspects of the MAI Scheme

This section assesses the financial aspects of the MAI Scheme in line with the terms of reference of the review, noting the review received little feedback from organisations and/or individuals on these aspects.

Two of the objects of the MAI Act are to keep the costs of motor accident injury insurance at an affordable level and to provide frameworks that allows competition in setting premiums for policies. In addition to reporting on these two objects, this section provides a summary of work undertaken by the MAI Scheme Actuary, Finity Consulting (detailed report at Attachment A) for the review. The Finity report includes:

- the components of insurance pricing;
- the pricing complexities specific to the MAI Scheme;
- the application of the premium fully funded but not excessive tests;
- the claims experience to date; and
- premiums collected.

Components of insurance pricing (from the Finity report)

Under the MAI Act, one of the functions of the MAI Commission is to ensure that premiums fully fund the present and likely future liability under the Act but are not excessive. Finity assesses the insurer filings as the Scheme Actuary to assist the MAI Commission to undertake this function.

Insurers make annual filings to the MAI Commission outlining proposed premiums to be charged. These filings provide information on the assumptions and rationale for the prospective premiums, including the frequency and average cost for both defined benefit claims and common law claims, based on available information. In addition to considering the various costs of the scheme, when setting premiums insurers also consider the timing of cashflows and elements affecting demand, such as competitor pricing.

MAI premiums are made up of various components, including:

- the risk premium (accounting for the expected cost of claims and expected returns on invested funds);
- expenses and loadings, including for claims management;
- profit margin as compensation for the capital allocated and accepted risk; and
- nominal defendant loadings and GST.

The largest part of the MAI premium is the risk premium, which accounts on average for around 65 per cent of the premium (Figure 16). These claims costs arise from both the

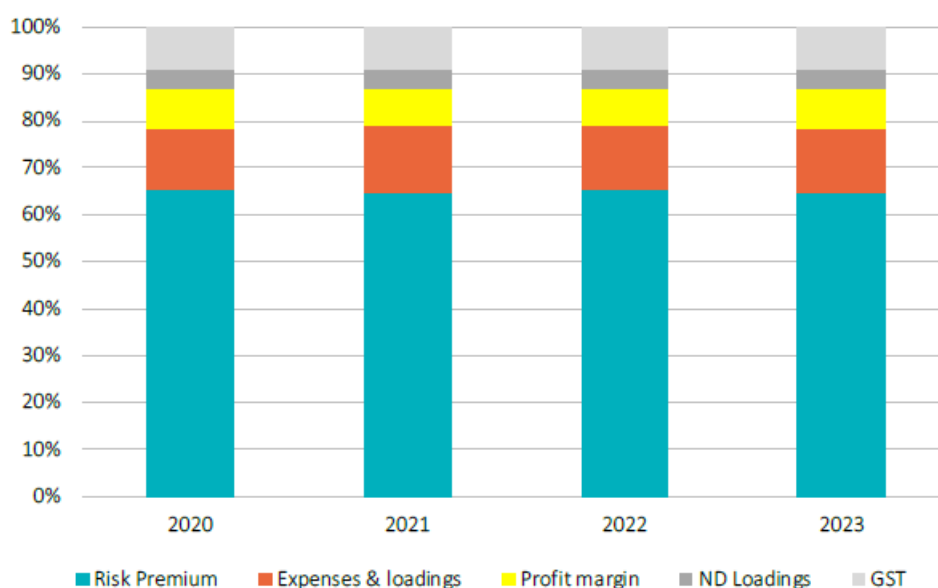
⁵⁶ Submission 15 – ACT Law Society, Submission 16 – Australian Lawyers Alliance

defined benefits and common law provisions of the MAI Scheme and continue to emerge for a significant period after a policy is underwritten. According to Finity, just over half of the risk premium relates to common law.

The overall average profit margin across the full premium filings from the MAI Scheme commencement to 2023 adjusted for market share is 9.5 per cent (though generally varying between 8.35 per cent and 9.65 per cent). This average or range is broadly consistent with profit margins achieved in other states, noting insurers might seek a slightly higher profit margin for a smaller jurisdiction due to diseconomies and greater uncertainty:

- in NSW, SIRA has set an 8 per cent profit margin as a target for assessing insurer premium filings;
- in Qld, the target profit margin is 7.75 per cent, with the retrospective estimates of actual insurer profitability being an average of 9 per cent over 2018-2022 and 7 per cent over 2020-2022; and
- in Tasmania, a pricing recommendation for 2021-22 included a projected after-tax profit margin of 9.4 per cent.

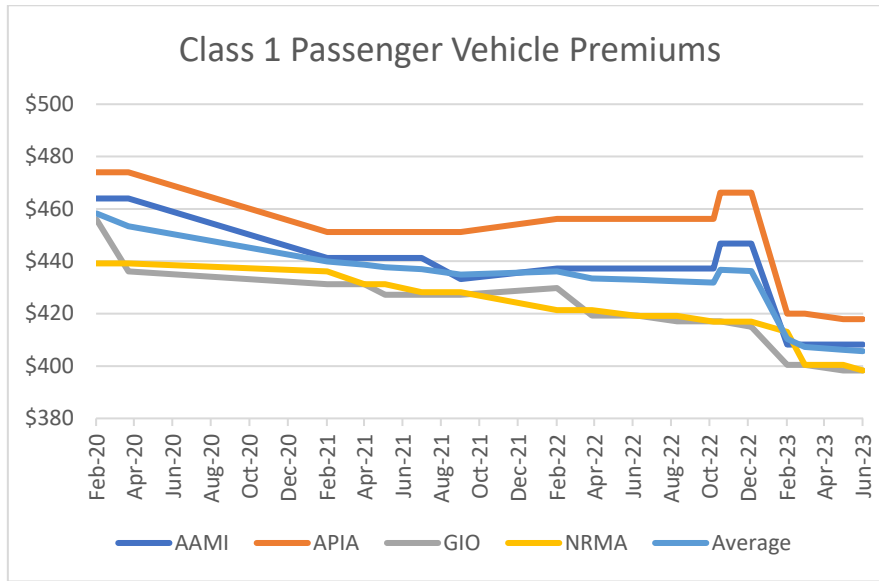
Figure 16 – Components of the De Novo premiums (applicable from 1 February of each year) (Finity Report, Figure 7.1, page 7)



Premiums and affordability

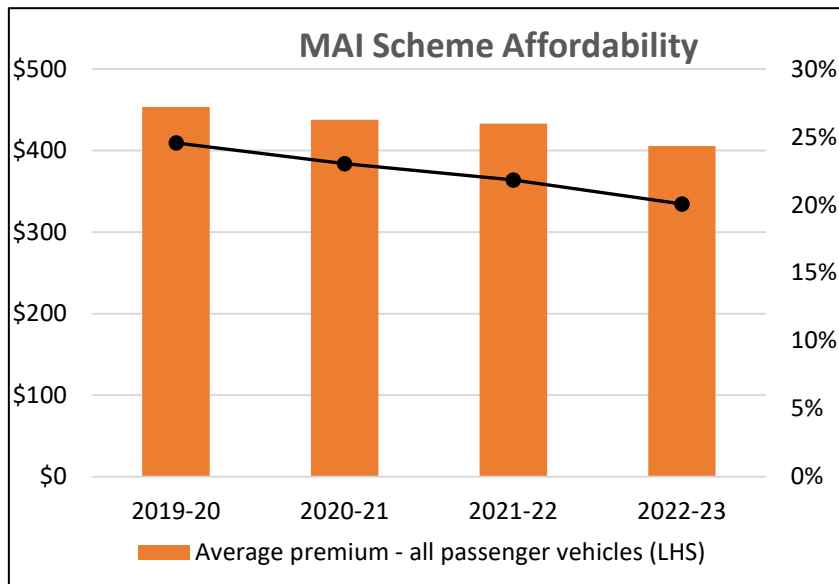
The average passenger vehicle MAI premium on 30 June 2023 was \$405.68, a reduction of nearly \$53 or 12 per cent from the 1 February 2020 premium of \$458.30 when the Scheme commenced (Figure 17). In comparison, over this same period, the consumer price index for the ACT increased by nearly 15 per cent. In addition, in the immediate couple of months leading up to and in anticipation of the new scheme, average passenger vehicle premiums reduced by \$58.45.

Figure 17 – Fall in MAI premiums – 1 February 2020 to 30 June 2023



The overall affordability of the MAI Scheme has also improved since its commencement in February 2020, with average passenger vehicle premiums declining from around 25 per cent to 20 per cent of average weekly earnings (AWE) (Figure 18).

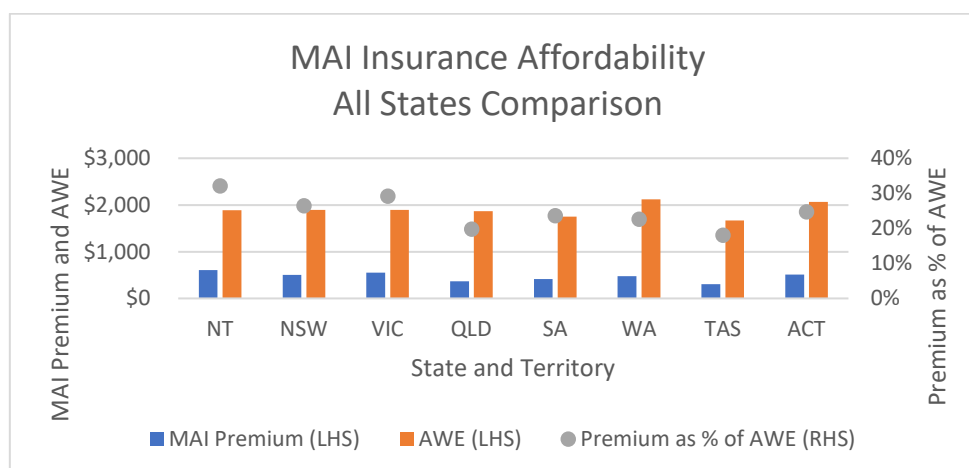
Figure 18- Average premiums for private passenger vehicles as a proportion of ACT AWE



Note: Premiums and AWE data as at 30 June each financial year.

Average passenger vehicle premiums are also affordable when compared to premiums in other states and territories (Figure 19), with the ACT’s premium as a share of AWE equal to the state average of 24.7 per cent of a week’s average earnings. This represents 0.474 per cent of average annual earnings in the ACT.

Figure 19 - Average premiums for private passenger vehicles as a proportion of AWE for all states – 1 July 2023



As some jurisdictions do not separate out the CTP/MAI premium collected and the amount collected for their respective Lifetime Care and Support (LTCS) Schemes (the ACT has a separate levy), the amounts in Figure 19 include CTP/MAI premiums and LTCS amounts. Some jurisdictions may also include stamp duty or other amounts in their premiums.

Premiums were lower on commencement of the MAI Scheme compared to the previous CTP scheme, despite the expanded coverage of the MAI Scheme to at fault injured people. The MAI Scheme is a lower cost scheme and insurers have ‘clearer visibility’ over the scheme costs they are incurring (or likely to occur) and the benefits payable. Pre-determined benefit arrangements provide a higher level of certainty, compared to a pure common law scheme.

A key factor in premium reductions since the MAI Scheme commenced has been insurer competition. Other factors resulting in some premiums reductions have been lower than expected applications because of COVID (lower vehicle numbers on the road) and what’s known as the honeymoon period. The ‘honeymoon’ is the time it can take for injured people to become used to and engage with a new scheme. Insurers were expressly required to take this factor into account in premium filings.

Insurer competition and market share

The MAI insurance market is a competitive market and, in addition to the design of the MAI Scheme, this has contributed to declines in premiums and improvements in affordability relative to the previous CTP Scheme.

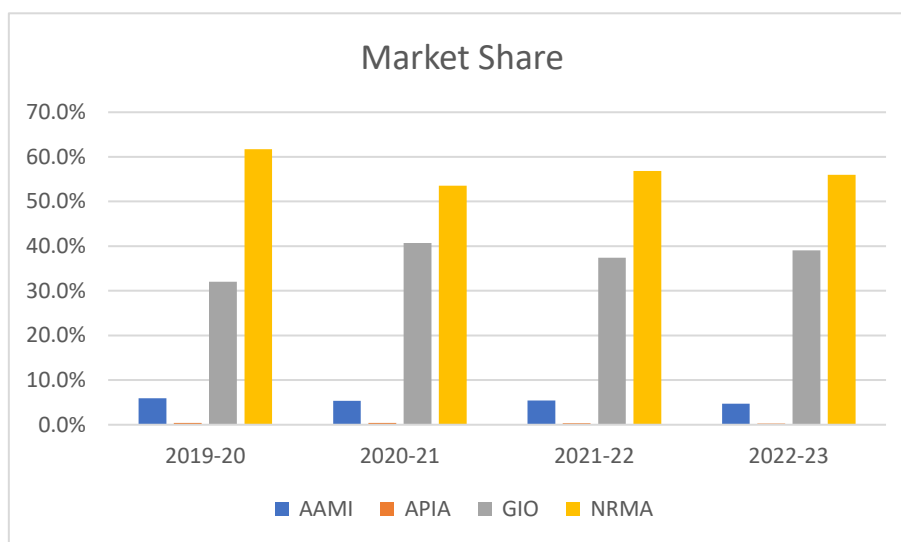
Changes in insurer market share

Market share indicates the proportion of the market held by each insurer and provides an indication of how the ACT community is responding to the premiums offered by MAI insurers. Market share is calculated based on the premiums collected by each insurer.

After the MAI Scheme commenced on 1 February 2020, NRMA and the Suncorp Group (AAMI, APIA and GIO) held 61.7 per cent and 38.3 per cent of the market respectively in

2019-20. NRMA’s market share reduced to 53.5 per cent in 2020-21 as GIO provided more competitive passenger vehicle premiums. In 2021-22 and 2022-23 the market share continued to fluctuate in response to movements in premiums charged by insurers, with NRMA maintaining a market share of over 55 per cent in both years (Figure 20). Competition has particularly focused on passenger vehicles which represents by far the largest proportion of the market at 76.0 per cent ⁵⁷.

Figure 20 – Market share – 2019-20 to 2022-23



Framework Settings and Competition

The MAI framework settings - including information transparency and streamlined filing arrangements - promote competition in the MAI insurance market.

The MAI Commission facilitates price information to motorists by having a comparison of all insurers’ premiums shown on registration renewal notices; links to the insurers’ website address are also included on the notice; and the latest and historical premiums are published on the MAI Commission’s website.

The ACT market is price sensitive and motorists have responded to reductions in premiums by ‘chasing’ lower prices and switching insurer, even with minor changes in the published price. Due to this price sensitivity, to gain greater market share the two leading insurers, NRMA and GIO, have generally filed lower or equivalent passenger vehicle premiums very soon after becoming aware of their main competitor’s latest premium offering.

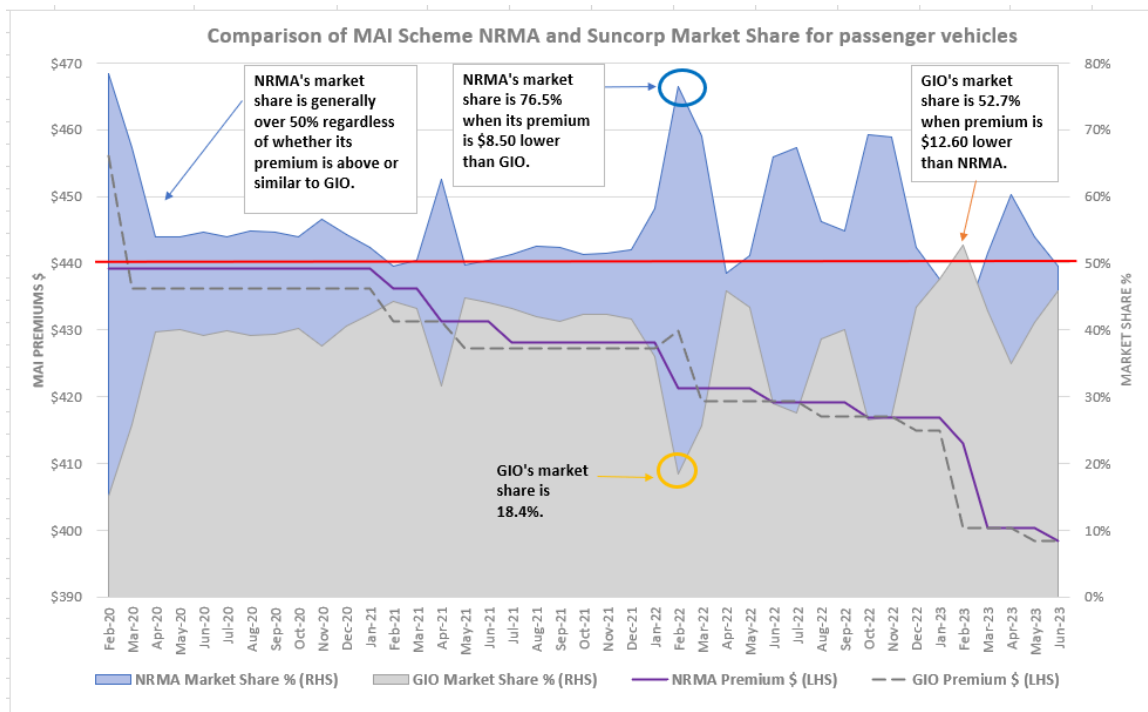
Streamlined premium filing arrangements, ‘partial filings’, were introduced to allow insurers to file smaller changes to premiums more often, which promotes competition between insurers. The filing is required to meet a minimum threshold premium change and can increase or decrease within the set range, with the MAI Commission setting the range

⁵⁷ The passenger vehicle proportion of the market is based on market share i.e. premiums collected, not actual registrations.

after advice from the Scheme Actuary. The insurers have adopted the arrangement, with partial filings increasing from a total of one in 2019-20 to nine in 2022-23.

From the commencement of the MAI Scheme 1 February 2020 to the end of June 2023, NRMA has generally maintained a market share of more than 50 per cent despite generally not having the lowest price, or when just matching the price of GIO (Figure 21). However, the insurers' market shares do vary depending on which insurer has the lowest premium and by how much they are lower than their competitor. When NRMA's premium is generally more than \$3 or \$4 lower than GIO's premium, its market share increases substantially. GIO's market share reached a high of 52.7 per cent when its premium was \$12.60 lower than NRMA.

Figure 21 – Market share and passenger vehicle premiums



This suggests that for a substantial proportion of motorists, price is the key component of their purchase decision, rather than reputation, brand loyalty or the incentives offered. According to Finity, premium reductions appear to have occurred primarily because of competition, rather than emerging information about the Scheme, which has reduced profit margins. In addition, Finity notes the ACT MAI Scheme applies stricter pricing regulations compared to other state and territory schemes and means that one of the key avenues available to ACT insurers is to compete on price.

The MAI Scheme framework permits MAI insurers to provide ancillary offers to existing and/or new MAI customers in the ACT. These after-offer incentives are intended to secure and maintain brand loyalty across an array of general insurance products, with strict rules against cross-subsidisation. Examples of after-offers have included bundling discounts; gift

cards; and sporting event tickets. This has increased competition in terms of the insurers putting forward incentives to accrue customer business.

There appears however to be some degree of customer allegiance to NRMA and/or NRMA's strong loyalty discount arrangement on other insurance products. NRMA had a monopoly on CTP policies prior to competition in 2013 and has had a long-standing presence in the ACT market.

GIO's approach has been centred around offering a strong local presence and being part of the Canberra community. This includes locating their claims management office in Woden, which seeks to provide faster response times and local engagement. It also has community partnerships with GIO Stadium, the Canberra Hospital Foundation, the Australian Road Safety Foundation and Wheelchair Sports NSW/ACT.

Claims experience and premiums collected (from the Finity report)

The actual volume of claims reported to 30 June 2023 has been materially lower than anticipated (on a mature scheme basis) prior to the MAI Scheme's commencement, with the number of applications to the MAI Scheme totalling 1,454 and the number of common law claims totalling only 26 (noting further common law claims associated with the first three years' of accidents might be notified) (includes interstate claims). According to Finity this, at least in part, reflects the significant impacts of the COVID-19 pandemic and the 'honeymoon period'.

The payments associated with premiums collected for a given year can occur over an extended period (Figure 22). This means that setting premiums can be a challenge for insurers, because there is uncertainty around what the costs will ultimately be and how claim trends will evolve. Cost inflation and investment returns are also a source of additional uncertainty.

Figure 22 - Indicative payment pattern showing expected payments over time for a year's worth of earned premium (Finity Report, Figure 8.1, page 12)

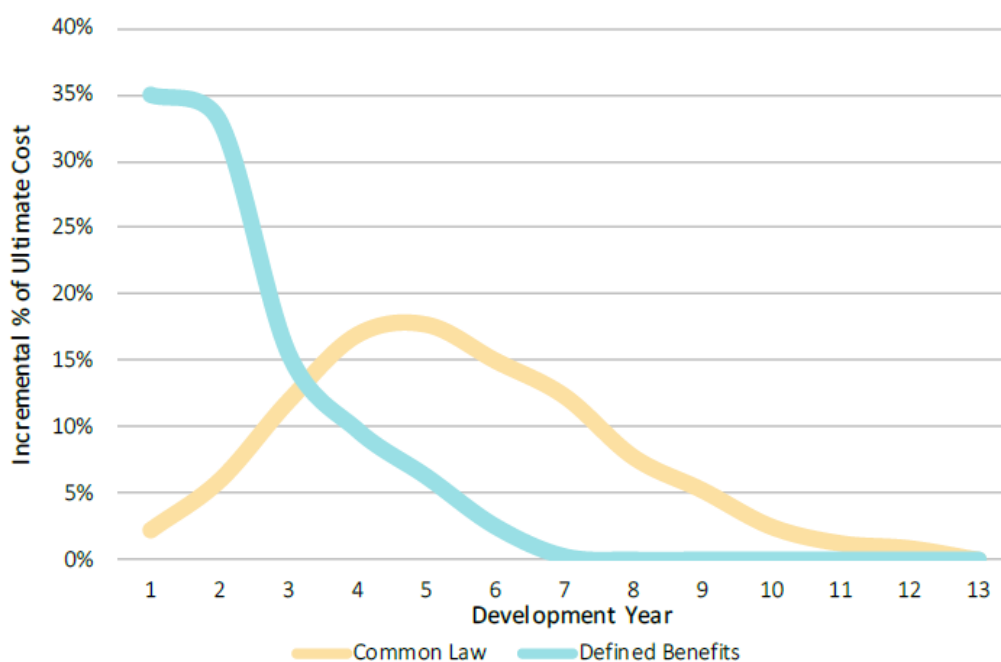


Figure 22 shows an indicative payment pattern, derived from insurer rate filings prior to the implementation of the MAI Scheme. These patterns are derived by taking an ultimate view of the total costs for a single year's worth of injuries and showing when (over time) the costs are expected to be paid. These patterns are not shown cumulatively, but show the incremental payments expected in each year following the year which the injuries occurred. For example, in Development Year 6 (five years after the end of the year of injury), 15 per cent of the ultimate Common Law payments for that year of injury are expected to be paid. These patterns are not intended to show a "normal" payment pattern for an individual claim, but the total pattern of payments an insurer estimates it will be liable for across an entire year's accidents.

For the total payments made to 30 June 2023, nearly 93 per cent was paid directly to injured people in the form of treatment benefits (45.8 per cent) and income replacement defined benefits (35.8 per cent); future economic loss for common law (3.8 per cent); past economic loss for common law (2.6 per cent); quality of life (2.6 per cent); and care (2 per cent).

Defined benefits payments made to 30 June 2023 have exceeded common law costs, but this is consistent with an anticipated later peak on common law costs. Finity analysed actual payments made by each accident year over their development and considered that the 'shape' of the payments for defined benefits to date is broadly consistent with that envisaged in premium filings (see figure 8.2, p.13 in the Finity report).

According to Finity, there is currently a high level of uncertainty in the long-term cost of the scheme, as an extended period is required to accurately assess claims costs. It is too early to determine the long-term cost of the scheme given:

- it has only been operating for 3 years, with only a small number of claims finalised. Data on the cumulative payments made by accident year show both defined benefits and common law costs being incurred, however, with outstanding case estimates. None appear to be ‘fully developed’ to allow definitive conclusions on ultimate costs to be made;
- many of the frequency and cost patterns are still yet to develop;
- the high levels of frequency uncertainty associated with the ‘extreme impact’ caused by COVID-19 lockdowns and changes in driving behaviour; and
- the ‘honeymoon’ impact which has materially reduced the claims frequency.

Between \$140 and \$150 million in premiums have been collected per annum since the Scheme commenced, equating to around \$438 million over the first three years.

While premium revenue is collected as part of vehicle registration, most costs are usually paid sometime later, and benefits may continue for several years but are accounted for against the accident year.

According to Finity:

“considering only payments made by the insurer in a year, particularly early in the Scheme’s maturity, will understate the ultimate cost of the accidents occurring in that year, and therefore the cost of providing that insurance”⁵⁸.

It is also important to highlight that premiums cover more than just claims costs, with non-claim costs accounting for about 35 per cent of the total premium.

Overall, Finity considers that premiums are meeting the ‘fully funded’ and ‘not excessive’ scheme requirements, though with potential for significant divergence occurring between the assumptions made by insurers and actual experience as it develops.

Finity in its report considered the 2020-21 accident year, which is the most developed year. While the costs for that year are not fully developed and will continue to evolve, particularly in relation to common law payments, they do consider it likely to be impacted by lower claims frequency due to COVID and the honeymoon period that has accompanied scheme reform.⁵⁹

In addition to claim payments under the MAI Scheme, insurers have continued payment of claims costs related to the prior CTP Scheme, for which no premiums have been collected since 31 January 2020. These claims payments have totalled \$279.2 million over the period 2020-21 to 2022-23 for CTP claims that were being finalised post introduction of the MAI Scheme.

Reasonable commercial return

In establishing the MAI Scheme, the Government was concerned to ensure that a mechanism could be put in place to allow for action to be taken in the event a greater than

⁵⁸ Finity report, Attachment A, p.16

⁵⁹ Finity report, Attachment A, p.16

reasonable commercial return occurs in an accident year. To date, only one jurisdiction, NSW, has a profit mechanism under their legislation following scheme reform.

The MAI Act provides that a regulation may be made that provides for the way the MAI Commission is to work out the reasonable industry net profit for a licensed insurer for a year. The MAI Commission is to then assess the actual net profit of the MAI insurer. If the actual net profit of a licensed insurer differs from the reasonable industry net profit, the regulation is also to specify the action the MAI Commission may take.

Insurers intend to make a profit when underwriting insurance, and it is appropriate they are compensated for risk and the opportunity cost of capital. However, noting there is still significant uncertainty around scheme costs and there is evidence of lower-than-expected claims, on balance, it would be appropriate for the regulation to be put in place.

Action items

15. The MAI Commission should develop the regulation on net profit under section 411 of the MAI Act, noting a consultation process with the Scheme Actuary and MAI Insurers on the regulation is to be undertaken.

Section Four – Activities of the MAI Commission

The MAI Commission is a statutory authority established on 1 February 2020 to monitor and supervise the MAI Scheme. This section outlines the activities of the MAI Commission.

Promotion of awareness of the MAI Scheme

A key function of the MAI Commission is to promote awareness of the MAI Scheme and provide information on how to apply to MAI insurers and the Nominal Defendant. This has been done through the development of the website and other activities. At the commencement of the MAI Scheme, the ACT Government placed radio ads and used Facebook to inform Canberrans. Following these initial communication activities, other ways of promotion have been:

- An information flyer included with every registration mailout for over a year.
- Providing an information sheet to the Coroners Court for their use.
- Sending out targeted information packs to service providers, including GP practices, funeral directors, the Australian Medical Association (AMA), Royal Australian College of General Practitioners, and the Australian Physiotherapy Association.
- Running information sessions for key stakeholders, for example Victim Support ACT, the Australian Physiotherapy Association and Taxi industry associations.
- Funding Google Search advertising campaigns for the MAI Commission's website, generating over 2,342 click throughs. This involves purchasing the top search result for relevant keywords, increasing the prominence of the website.

MAI Scheme improvements

Guidelines were developed initially for the commencement of the MAI Scheme. Since then, the treatment and care guidelines and the income replacement benefit guidelines were updated in 2021 to reflect feedback received from MAI insurers, injured persons and the DBIS. New internal review guidelines and quality of life guidelines were made in 2022, also reflecting feedback received and from reviewing ACAT decisions.

The *Motor Accident Injuries Amendment Act 2023* introduced additional regulatory tools to strengthen the licensing provisions in the MAI Act. These include directions powers and a financial penalties regime, allowing the MAI Commission to manage non-compliance by licensed insurers in a proactive manner. The MAI Act also provides for insurers to report conduct to the MAI Commission which may have had an impact on the MAI business.

Licensing and supervision

The MAI Act provides the licensing and supervision framework for the MAI Scheme. One of the first activities of the MAI Commission was to license the MAI insurers. On the commencement of the MAI Scheme, the insurers, previously licensed under the *Road Transport (Third-party Insurance) Act 2008*, had their licences transferred to be licences under the MAI Act. Licensees and the Nominal Defendant also signed an updated Insurance

Industry Deed. A Compliance Framework outlining the Commission's approach to the regulation and supervision of the MAI Scheme and the insurers was published.

Since the commencement of the MAI Scheme, the MAI Commission has adopted the approach of education and engagement of insurers on issues that have arisen. The Commission regularly reviews data in the MAI Register for quality and consistency with the MAI Act, regulations, and guidelines. Data from the register is also used to identify trends and potential risks in each insurer's systems and processes for administering the MAI Scheme. Thirteen written requests were made to MAI insurers up to 30 June 2023 for information about compliance risks identified through the MAI Commission's monitoring activities.

The MAI Register assists the MAI Commission in monitoring compliance as well as analysing how the MAI Scheme is performing against its objectives. It allows for an enhanced and systematic data capture and reporting, assisting Commission staff and the MAI Scheme's actuary in its functions. Data is collected from licensed insurers and the Nominal Defendant at regular intervals. De-identified information is reported through the MAI Scheme Quarterly reports.

The MAI Commission also has an arrangement with the ACAT's Registry staff to provide information to the Commission on external reviews of insurers' reviewable decisions and applications for the payment of dependent benefits. Information is collected by regulation about legal fees and related costs from lawyers providing legal representation to injured parties under the MAI Scheme in certain circumstances.

The MAI Commission also reviews the decisions published by ACAT. Where procedural or compliance matters are raised in the decision, these are followed up with MAI insurers. Process improvements have also resulted from the review of ACAT decisions, for example clarifying when an internal review can be paused to allow more information to be obtained. The MAI Commission actively works with insurers so that all non-compliance identified is appropriately addressed. This includes requiring improvement plans to be submitted and completed.

Regular meetings are held with MAI insurers, the Nominal Defendant, and the Insurance Council of Australia. These meetings focus on:

- operational aspects of the MAI Scheme including any significant matters arising from applications under the MAI Scheme;
- complaints, insurer compliance and updates on any remediation activities;
- other emerging policy and operational issues including legislative updates.

Further feedback on the operation of the MAI Scheme is gathered through periodic discussions with the authorised providers for the DBIS and independent medical examinations, any complaints and from direct community enquiries regarding the MAI Scheme. Feedback is regularly sought from stakeholders through consultation on draft guidelines and other initiatives.

The MAI Commission's complaint function relates to reviews into the handling of an injured person's application for defined benefits or a motor accident claim by a MAI insurer. Since the commencement of the MAI Scheme, the Commission has handled a total of nine complaints. The Commission will propose actions and remedial options in process improvement but cannot change or overturn a decision made by the insurer. Information resulting from the complaints process, where applicable, is used to inform compliance activities; make Guidelines amendments to address issues or improve procedures; and to inform the internal Complaints Handling Policy.

The Commission's compliance activities also include an annual self-assessment tool for insurers. The tool was first issued to insurers in 2021 and related to the initial handling of defined benefit applications. In June 2022 insurers were issued with a questionnaire focusing on recovery plans, internal review processes and the handling of quality of life applications. Both questionnaires resulted in all licensed insurers making improvements to their internal processes and compliance monitoring systems to reflect risks they identified through using the tool. Given the effectiveness of the self-assessment tool, the MAI Commission intends to use it annually, and issued the tool in July 2023 to insurers on income replacement benefit.

Funding of road safety initiatives

The MAI Commission plays a key role in supporting and promoting the prevention of motor accidents and the safe use of motor vehicles. The Commission has budgeted to contribute a minimum of \$50,000 each financial year towards road safety. In conjunction with Transport Canberra and City Services Directorate (TCCSD), the Commission funds a range of road safety initiatives that aim to reduce the number of accidents and/or the severity of accidents with the intent of reducing the cost and trauma associated with personal injuries, some of which are fatal. Speeding, drink-driving and the non-wearing of seatbelts are consistently identified as key factors in ACT road accidents.

Where applicable, the road safety campaigns have been aligned with the ACT's overarching road safety strategies, including the ACT Road Safety Action Plan 2020-2023; the core guiding principles of Vision Zero; and the Safe Systems approach in the ACT Road Safety Strategy 2020-2025. The MAI Commission provided \$100,000 for speeding, drink driving and seatbelt wearing campaigns in the 2019-2020 financial year and another \$80,000 for 2020-2021 to allow the initiatives to be extended. Substantial funding of \$220,000 was contributed to the implementation of mobile device detection cameras to address driver distraction, another key factor in ACT road accidents.

In 2022-23 in response to the relatively high death toll experienced on ACT roads in 2022, the MAI Commission contributed \$70,000 for the broadcasting of the *Casual Speeding Campaign - Every K Counts*. The key intent of the initiative was to change motorists' attitudes towards low level speeding.

The MAI Commission recently worked with the taxi industry to develop and fund an ACT Road Safety Taxi Manual (the Manual) to assist the industry in reducing taxi accident rates over time. The Manual provides a standardised guideline aimed at improving the driving

safety of taxis in the ACT. A range of hazards specific to the ACT taxi industry are outlined, with the manual providing numerous strategies that may be implemented to minimise the risk of incidents and harm. To maximise the likelihood of reducing taxi premiums in the medium term, the taxi industry has been encouraged to holistically adopt the framework in the Manual. The manual is available on the MAI Commission's website.

Transition premium surplus refunds paid to vehicle owners

As the MAI Scheme replaced the previous CTP Scheme, premium surplus refunds (refunds) were payable to many motorists as the policies they paid for prior to 1 February 2020, crossed over from the old CTP Scheme and automatically became MAI policies. This was so because the CTP policy was a higher cost than the MAI policy.

ACT vehicle owners that renewed their registration with a start date falling between the 30 April 2022 and 29 April 2023 benefited from receiving a one-off MAI refund applying to their first renewal. Each vehicle in an eligible vehicle class received the same average one-off refund, which for a private car (class 1) was \$19.90, irrespective of which MAI insurer the motorist selected as part of their registration renewal and the period of insurance selected.

Up until 30 June 2023, the MAI Commission successfully returned to motorists \$6.8 million of the \$7.1 million (96 per cent) refunded by insurers to the Commission. In addition, it is expected that there will be some additional outstanding top-up payments⁶⁰ to individual motorists made in 2023-24. The remaining amount relates to implementation costs such as the required ICT changes that were necessary to action the refunds to motorists.

The total refund amount of \$6.8 million has not been included in (subtracted from) the average passenger vehicle premiums outlined in the premiums and affordability section of this report. The refund amount received from the insurers was based on premiums collected in the CTP Scheme.

Next Steps

The Government is pleased to note that the reviewers have found overall that the MAI Scheme is working as intended in providing faster and fairer support; and will continue to monitor the operation of the Scheme and the need for additional guidance material to clarify legislation.

The MAI Commission was consulted in the process of finalising this review report and the proposed actions. The Insurance Branch will work with and support the MAI Commission to progress the 15 action items proposed in this report, including further engagement with stakeholders on some actions.

⁶⁰ Additional 'top-up payments' were made to some vehicles in vehicle classes 4 - Goods vehicle - gross vehicle mass (GVM) is over 4.5 t; 5A - Bus or demand responsive service vehicle – vehicle has seating for more than 16 adults (including the driver); 6 – Taxis; and 22 - Ambulances as they paid substantially higher premiums than the vehicle class average.

Appendix A- Terms of Reference

Review the operation of the Motor Accident Injuries Scheme legislation, including associated guidelines, and report on the extent to which they are working in practice, with regard to the requirements of section 493(2) and the objects in section 6 of the *Motor Accident Injuries Act 2019* (the Act) as follows:

1. MAI Scheme general statistics.

This is to include:

- number of defined benefit applications and the potential impact COVID has had on the Scheme
- participant statistics such as role in accident, age ranges, types of injuries, injury severity

2. Ensure defined benefits are available to support all people injured in motor accidents on a no--fault basis.

This is to consider the quantum of benefits provided to MAI Scheme applicants and the processes for ensuring the timely determination and payment of defined benefits entitlements and include:

- the initial application process, including information required from applicants to determine eligibility on a no-fault basis and decision timeframes
- information required from applicants when requesting approvals and payments
- obligations on applicants receiving income replacement benefits
- an analysis of the quantum of benefits paid
- the timeliness of defined benefit payments (for income replacement, funeral, dependant death benefits, and quality of life benefit entitlements)
- the process for accessing a quality of life benefit

Matters relating to the approval and payment of treatment and care benefits will be covered under the following section.

3. Encourage early and appropriate treatment and care, to achieve optimum recovery and return to pre-accident levels of activity and work.

This is to include:

- the amount and incidence of allowable expense payments
- treatment and care approvals, including factors in section 120 of the Act relating to deciding what is reasonable and necessary
- conduct in relation to treatment and care needs assessments
- recovery plan development and engagement
- the timeliness of delivery of treatment and care
- the amount, and timeliness of treatment and care benefit payments
- the progression of motor accident injury claims

4. Support access to defined benefits.

This is to include the:

- availability of information and support to access defined benefits under the MAI Scheme, including whether there are barriers for some individuals in engaging with the scheme
- provision of services by the Defined Benefits Information Service

5. Promote and encourage the early, quick, and cost-effective resolution of defined benefit disputes.

This is to include:

- the process of complaints handling by insurers
- the nature and outcomes of complaints to insurers (but not in relation to internal review applications under part 2.10 of the Act)
- the number of applications under part 2.10 (Defined benefits—dispute resolution) for internal review and ACAT (ACT Civil and Administrative Tribunal) review of decisions by insurers relating to applications for defined benefits and the outcomes of those applications
- information reported to the MAI Commission under section 469 in relation to legal fees and related costs for applications for external review before the ACAT
- the number, nature, and outcome of complaints to the MAI Commission

6. Continue to improve the system of motor accident injury insurance, and the scheme of statutory insurance for uninsured and unidentified vehicles, operating in the ACT.

This is to include:

- Improvements made to the MAI Scheme since it began operation

7. Keep costs of motor accident injury insurance at an affordable level, and provide a framework that allows competition in setting premiums for motor accident Injury insurance policies.

This is to include:

- changes in premiums from the commencement of the MAI Scheme
- changes in insurer market share and price impacts on market share
- the affordability of the scheme
- how MAI premiums compare to other jurisdictions
- the amount of premium surplus refunds paid to vehicle owners due to the transition from the Compulsory Third-party Insurance Scheme

8. MAI premiums efficiency.

This is to include the:

- percentage of MAI premiums used to pay defined benefits, including for treatment and care, for people injured in motor accidents during the review period
- percentage of payments by benefit type, including direct and indirect recovery payments, for people injured in motor accidents during the review period
- percentage breakdown of the components of the total scheme average MAI premium over the review period as contained in insurer premium filings
- range of the annual expected MAI insurer profit margin (percentage terms) included in insurer premium filings during the review period

9. Provide for the licensing and supervision of insurers providing motor accident injury insurance.

This is to include:

- compliance activities of the MAI Commission since the MAI Scheme commenced operation

10. Establish and keep a register of defined benefit applications and motor accident claims to assist with the administration of the MAI Scheme and the detection of fraud.

This is to include:

- information on the collection of data and how the data is used by the MAI Commission

11. Support and promote the prevention of motor accident and the safe use of motor vehicles.

This is to include:

- information on the activities of the MAI Commission in this area

Appendix B – Action Items

1. The MAI Commission should refresh its information material on the website to improve accessibility and develop an information booklet to provide additional guidance for making an application.
2. The MAI Commission should update the forms to minimise the required information and make the steps clearer.
3. The MAI Commission should explore the feasibility of establishing an optional process for a notification to the relevant insurer through a digital portal.
4. The MAI Commission should consider whether there are changes required to minimise barriers and disputes in accessing treatment and care, while being consistent with the MAI Act. This should include insurer communications.
5. The MAI Commission should explore ways to streamline the process for seeking reimbursement and submission of invoices/receipts to an insurer.
6. The MAI Commission should consider providing greater detail on the various treatment and care processes in an information booklet.
7. The MAI Commission should provide further information to assist general practitioners.
8. The MAI Commission should continue to monitor the process for recovery planning by MAI insurers.
9. The MAI Commission should consider providing more website information about the purpose and processes associated with the quality of life benefit.
10. The MAI Commission should provide more website information and examples about how income support is worked out under the MAI Scheme, and review the information provided by MAI insurers.
11. The MAI Commission should develop more information material on the various means to dispute an insurer's decision through complaints and internal review.
12. The MAI Commission should review the amount in legal costs that can be awarded by ACAT, including whether allowance is made for the costs of some reports.
13. The MAI Commission should work with the MAI insurers to identify ways that can address the concerns raised about information overload.
14. The MAI Commission should consider a review of the scope of services provided by the Defined Benefits Information Service.
15. The MAI Commission should develop the regulation on net profit under section 411 of the MAI Act, noting a consultation process with the Scheme Actuary and MAI Insurers on the regulation is to be undertaken.

Appendix C – Submissions list

- 1 J. Stewart
- 2 Unnamed Pedal Power Member
- 3 D. Hennessy
- 4 G. Maddigan
- 5 ACT Bar Association
- 6 Australian Physiotherapy Association
- 7 T. McLuckie
- 8 Maliganis Edwards Johnson
- 9 Australian Association of Social Workers
- 10 S. Murry
- 11 Insurance Council of Australia on behalf of MAI insurers
- 12 Suncorp
- 13 Anonymous provided by third party
- 14 Victim Support ACT
- 15 ACT Law Society
- 16 Australian Lawyers Alliance (ACT Branch)
- 17 CARE Inc

Additional responses to the survey (five)

Please visit the MAI Commission's website for the above submissions.

Review of the operation of the Motor Accident Injuries Act 2019 - Financial Aspects

Motor Accident Injuries Scheme



November 2023

17 November 2023

Ms Lisa Holmes
MAI Commissioner
Motor Accident Injuries Commission
Chief Minister, Treasury and Economic Development Directorate
ACT Government
1 / 220 London Circuit
CANBERRA ACT 2601

Dear Lisa

Review of the operation of the Motor Accident Injuries Act 2019 - Financial Aspects

We are pleased to provide our report to assist the Insurance Branch in the completion of the report required under Section 493 of the *Motor Accident Injuries Act 2019*.

We would be pleased to discuss any aspect of this with you.

Yours sincerely



Gillian Harrex
Fellow of the Institute of Actuaries
of Australia



Antony Cloughton
Fellow of the Institute of Actuaries
of Australia



Cameron Lucas
Fellow of the Institute of Actuaries
of Australia

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1 Purpose and Scope

The Motor Accident Injuries Commission (MAI Commission) of the ACT on behalf of the Insurance Branch has asked Finity Consulting Pty Ltd (Finity) to assist in the preparation of material to aid the Insurance Branch in completing a review of the operation of the *Motor Accident Injuries Act 2019* (the Act) as required by Section 493 of that Act.

The purpose of this brief paper is to respond to part 8 – ‘MAI premiums Efficiency’ of the Terms of Reference by providing expert analysis and actuarial advice in the context of Finity being the MAI Scheme actuary.

2 Uncertainty

Motor accident injury insurance is a long tail class of insurance business and it can be many years between an accident occurring and the final cost of a claim being known. The MAI Scheme is still in its relative infancy, with only three years of history, and only a relatively small number of claims finalised to date.

The experience of the Scheme has also been extremely impacted by the COVID-19 pandemic and associated lockdowns and changes in driver behaviour, which means there is more than the usual amount of uncertainty associated with the Scheme at this time. This has amplified the usual “honeymoon” impact that often accompanies any scheme reform, where there is often a period of very benign claims activity following significant legislative change, as all parties adjust to the new scheme environment.

Where references are made to data ‘paid to date’, this refers to data covering the period 1 February 2020 to 30 June 2023.

The reader’s attention is drawn to our full Reliances and Limitations in Section 10.

3 Overview of the Motor Accident Injuries Scheme

Effective 1 February 2020, the scheme covering motor accidents in the ACT was completely overhauled. From this date the Motor Accident Injuries Scheme (MAI Scheme, the New Scheme), governed by the *Motor Accident Injuries Act 2019* (the Act), came into effect. The Act significantly changed the benefits payable to motorists injured in motor vehicle accidents in the ACT.

Under the New Scheme certain Defined Benefits became available to all injured motorists, with at-fault drivers included, with some exclusions for certain benefit types. Those who are not-at-fault injured parties continue to be able to lodge a common law claim against the at-fault driver if they are severely injured (or meet certain other minimum requirements). Legal expenses are limited to certain matters.

As with the previous scheme, catastrophically injured participants who are eligible will receive medical, treatment and care support from the Lifetime Care and Support Scheme (LTCSS).

ACT motorists who are at-fault for accidents occurring in jurisdictions outside the ACT are covered by the MAI scheme policies, as they were by the previous scheme’s policies. Interstate claim costs are consistent between the old and new schemes; although they are covered by the MAI insurance policy taken out by the ACT vehicle owner, the benefits payable to injured parties are based on the benefits of the jurisdiction the accident occurs in.

Prior to the introduction of the New Scheme, Ernst & Young (EY) conducted a significant costing analysis of the scheme changes. EY's analysis provided estimates of the cost per policy for passenger vehicles for the various types of payment (Quality of Life, Loss of Earnings etc.), and for the costs associated with the different categories of benefit (Defined Benefits for at-fault and not-at-fault claimants, and Common Law benefits for not-at-fault claimants).

4 Components of insurance pricing

Overview

Long-tailed insurance products, such as those often encountered in motor accident injury schemes, possess unique characteristics that distinguish them from other insurance types. These schemes typically require an extended period – often many years – to accurately assess the total claims costs.

When pricing insurance products, insurers need to consider the:

- Different costs and revenues associated with the product.
- Required profit as compensation for the capital allocated and accepted risk.
- Timing of those cashflows.
- Elements affecting demand – including competitor pricing.

Estimates of these components of required premiums (on a mature scheme basis) were developed by EY as part of their role advising on the development of the Scheme. Each insurer has subsequently developed their own refined estimates as they have underwritten the insurance (starting from a lower base than EY). Insurers' analysis of the expected costs have been provided through their premium filings. The remainder of this section describes the components of the overall cost which insurers have had to consider.

Components of the price of insurance

The major components of the cost of insurance are:

- Claims costs – these usually make up the majority of the premium charged. In the MAI Scheme, claims costs, arising from Defined Benefits and Common Law provisions of the scheme, make up the majority of the costs allowed for in insurers' pricing. This is consistent with EY's costing of the scheme. Claim costs continue to emerge for a significant period of time after a policy is underwritten.
- Claims handling expenses – these relate to the costs incurred by insurers in administering claims, but are not benefits payable. These include the costs directly associated with managing claims, overheads related to these functions, and other expenses which the insurer would continue to incur even if they stopped underwriting new policies.
- Claims inflation – when projecting cashflows, insurers must make allowance for anticipated increases in costs from those expressed in "current dollars" (based on analysis of claim sizes at the time premiums are set) to what the cashflow will actually be in the future. Generally, these increases in costs are expressed as a combination of:
 - > economic inflation – where costs increase approximately in line with standard economic indicators such as the Consumer Price Index (CPI) or Average Weekly Earnings (AWE); and
 - > "super-imposed" inflation which may arise from causes such as increased frequency of claims, changes in claims mix, increases in medical costs or court-based judgements causing increases in common law payout sizes. Each insurer in the MAI Scheme has made allowance for super-imposed inflation when setting claims cost assumptions. This is consistent with both observed experience and generally accepted actuarial principles.

- Other expenses:
 - > Policy administration expenses – these are administrative costs associated with underwriting a portfolio of insurance, but not directly related to the management of claims. For example, the costs associated with maintaining a call centre to respond to customer inquiries.
 - > Acquisition costs – insurers incur costs in acquiring business, for example through brokerages and commissions, marketing and within underwriting processes.
- Other costs – Other costs may be applied as necessary (either as a specific cost or loading). For example, insurers that reinsure elements of their coverage will incur an expected cost of that reinsurance.
- Taxes and levies – GST, as well as any stamp duties or insurance specific taxes, must be incorporated into a premium charged. For the ACT, levies, including for the Nominal Defendant and Motorcycles contribute to the premium charged to motorists. The ACT does not apply stamp duty to MAI insurance unlike a number of other States.
- Investment returns – due to the timing difference between when premiums are collected and when payments are made, insurers generally expect to make some investment returns while they hold those funds. In order to manage capital requirements set by federal insurance regulation and provide greater certainty, investments will normally be in low-risk and/or risk-free asset classes. Investment returns are often factored into premiums by “discounting” future cashflows to present values, rather than included as a specific line item in premium calculations. The actual level of investment returns allowed for in premiums varies by insurer.
- Profit margin and/or cost of capital – insurers will generally intend to make a profit when underwriting insurance. This can be thought of as related to the cost of the capital they must hold to underwrite the product, and as compensation for the risk they take on by underwriting the portfolio.

Insurers will also consider the competitive landscape (including competitor premiums), and their preference for profitability and market share when setting premiums.

The timing of cashflows

The timing of cashflows must be considered – both in how it impacts the insurers’ ability to monitor the premium charged; and the impact these have on the inflation and discounting of future cashflows.

In most insurance contexts, a premium is charged and collected up-front, usually at the start of the coverage period. Typically, some expenses, taxes, and acquisition costs are paid at that point in time. However, claims costs are usually paid sometime later.

For short-tailed insurance classes, such as comprehensive motor insurance or home insurance, claims are typically reported very quickly after an incident and the majority of claim payments will be made in the months immediately following an incident. However, for long-tail insurance classes, such as those provided by a motor accident injury scheme, the claims may not be reported for some time post the incident (particularly common law claims) and benefits may continue to be provided for a number of years.

The drawn-out duration over which injury claims are resolved has several implications.

- 1 There is an extended duration (typically some years) between when premiums are collected and the related claims are ultimately finished being paid or settled. This means significantly more time needs to elapse before the actual sufficiency and profitability of these policies can be definitively assessed. This means:

- a a greater level of uncertainty and risk is therefore accepted by insurers at the inception of a policy, and
 - b structural changes in claims experience, such as happened in 2020 with the introduction of the new Act, cannot be responded to as quickly or definitively. In particular, common law claims typically take some years to be commenced, and a number of further years before settling.
- 2 As there is more time between policy inception and resolution, the effects of inflation and discounting apply for a longer period. This means inflation and discounting assumptions adopted have a greater impact on the premium required.

Section 7 shows a selection of the payment patterns assumed by insurers when setting premiums.

Competitor premiums

Insurers operating in a competitive market, such as the MAI Scheme, will consider competitor pricing when setting premiums.

In environments where pricing is less regulated, insurers may use many different strategies in pricing insurance business – for example by pricing the risk at an individual level, differentiating new and renewing business pricing, and leveraging an understanding of consumers' price elasticity to optimise returns. The regulations surrounding pricing in the MAI Scheme are stricter, and leave insurers with less scope to implement differentiated pricing.

With regulated pricing processes such as occurs for the MAI Scheme, and high price transparency (consumers and insurers have easy access to information on the pricing for the entire Scheme), insurers seeking to capture or maintain market share are forced to compete on pricing as one of the few factors differentiating them from competitors. The Scheme has seen this play out over the last three years, with multiple incremental changes to price (particularly for private motor vehicles) since scheme inception.

We do note that, while four brands underwrite in the MAI Scheme, GIO, AAMI and APIA are all brands of Suncorp; with NRMA being a brand of IAG. Therefore, we would expect less competitive tension in the market if either of the two companies withdrew from the market.

5 Pricing complexities specific to the MAI Scheme

The MAI Scheme has several characteristics for insurers to consider when developing premiums to charge:

- A new scheme, with new legislation, creates additional uncertainty for insurers. While estimated costs can be developed – using information from the prior scheme, similar schemes in other jurisdictions, and costing work developed during design stages – they can be heavily driven by assumptions.
- It is common to observe “honeymoon” periods when new arrangements are introduced. These honeymoon periods are often characterised by lower claim numbers and costs. It is conventionally accepted that, as a new scheme becomes familiar to both applicants and solicitors, they will better understand how to best utilise the benefits of the new scheme. Insurers were explicitly required to factor in an allowance for the honeymoon period during the introduction of the scheme, via the Premium Guidelines. However, this characteristic of new schemes may make insurers less responsive to more benign than expected initial claims experience when setting premiums in the years immediately following the Scheme's introduction – as they will be cautious that the honeymoon will, in all likelihood, be a temporary effect.
- Insurance classes and benefit designs which have significant delays between the occurrence of an incident and the finalisation of cashflows to applicants or claimants result in experience taking longer to be observable. For example, due to the delay between Common Law claims being made and then

ultimately paid to a claimant, it can take years after the introduction of a new scheme to confidently predict the actual cost. Injury schemes, with benefits and settlements extending many years into the “tail”, are therefore challenging to monitor and draw conclusions from in the first few years after their establishment.

- Insurers are generally required to submit premium filings annually, or when making changes to their premium structure. Premiums are community rated (by class of vehicle), with transparent competitor information available, and a levy supporting a cross-subsidy to motorcycles.
- The COVID-19 pandemic significantly impacted claims experience from virtually the start of the new scheme. Reduced mobility, both within the Territory and between other jurisdictions, had a material impact on claim frequency. This was particularly acute at times where government restrictions were imposed, but also resulted in changed community behaviour at other times. COVID-19 may have also impacted the treatment and other costs of those applications that did occur. Insurers, while largely benefiting from the reduced claim frequency (COVID-19 was unknown at the time premiums were set for the beginning of the new scheme), would be hesitant to assume any material long term impact arising from COVID-19 and, similarly, the experience from the first year or two of the Scheme is very unlikely to be indicative of longer-term trends.

6 Fully funded and not excessive tests

Section 22 of the Act establishes the role of the MAI Commission and Section 25 sets out the functions of the MAI Commission. These functions include, *inter alia*:

- a to regulate the licensing of insurers ...;*
- b to ensure that premiums fully fund the present and likely future liability under this Act but are not excessive; ...*
- c to approve or reject MAI premiums and make guidelines in relation to premiums under this Act; ...*
- d to issue, monitor and review the MAI guidelines and other statutory instruments under this Act; ...*

Insurers are required to submit a full review of premiums (a *de novo* filing) at least annually, unless the MAI Commission allows a longer period of time. Partial filings can be submitted more frequently, and new full filings may be submitted if an insurer decides to do so before the anniversary of the *de novo* filing.

To date the four insurers have submitted a single *de novo* filing each year commencing 1 February, aligned to the commencement of the MAI Scheme. These have been assessed by Finity as the Scheme actuary to assist the MAI Commission in its assessment of the proposed premiums. Further detail on the filings and underlying assumptions is contained in Section 7 of this report.

Finity, acting as the Scheme actuary, have assessed whether the premiums are:

- intended to fully fund the present and likely future liabilities under the Act.
- are not excessive, taking into account the market share and mix of risks underwritten by each insurer.

Finity’s approach to undertaking these tests have included:

- Reviewing the reasonableness of assumptions made, with reference to the (limited) claims experience to date and EY’s initial costing analysis during scheme design.
- Assessing the appropriateness of estimated profit margins, with reference to accepted insurance practice in Australia.

Given the limited experience to date, analysis of the *de novo* filings has generally considered the limited emerging experience, and compared the assumptions adopted for the forthcoming years to the original EY costings; each insurer's previous filing; and general information on changing driving behaviour, for example due to COVID-19 lockdowns in the first two years, and changing work patterns post COVID.

While the actuaries have been satisfied that the premiums are meeting the Act's requirements, the fact that the Scheme only commenced effective 1 February 2020 means that it is likely that experience may diverge, potentially materially, from the assumptions made by each insurer. It will be some years from now before the actual experience will be known with any certainty. In particular, while the risk cost per policy may not be unreasonable, it is too early at this point to be definitive about the long-term frequency and average claim sizes. This is particularly because common law claims have only recently commenced reporting, and it will be some years before these claims, even from the first year of the scheme, start to finalise in any material way.

In view of the limited experience, the approach of insurers to date to adopt a cautious approach to the change in the estimated risk cost per policy under the New Scheme is not unreasonable.

7 Insurer filings

7.1 Overview

The four insurers currently writing policies within the MAI Scheme have submitted *de novo* premium filings for the years commencing 1 February 2020, 1 February 2021, 1 February 2022 and 1 February 2023. These filings outline the assumptions and rationale for the prospective premiums to be charged by insurers. This section summarises a number of those assumptions at the Scheme level.

Each insurer sets their expectations and pricing assumptions based on the available information at the time of the filing. This information includes the actual claims experience of the insurer, the costing analysis undertaken by EY, and any other information the insurer might wish to rely on.

Depending on the approach taken by insurers, they will need to make assumptions about:

- The frequency of Defined Benefit claims (per vehicle covered)
- The mix of claims (at-fault, not-at-fault, and by severity)
- Average costs per applicant, which may be further analysed by duration/continuance on benefits and by benefit type
- The frequency of Common Law claims they will be liable for
- Average settlement sizes for Common Law claims
- Economic assumptions (for example, regarding claims cost inflation)
- Other components of the premium as described in Section 4.

The approaches taken to setting the various assumptions will be different as the scheme matures.

For example, setting an assumed Defined Benefit claim frequency for the coming year can be done with reference to the observed claim frequency in recent years. This is because recent years' claims frequencies are observable with higher certainty and without a significant delay (because claims are reported relatively quickly). However, an insurer will consider how credible recent experience is as a predictor of future experience – particularly currently with COVID-19 and a honeymoon period increasing uncertainty – and that may reflect in their assumption setting.

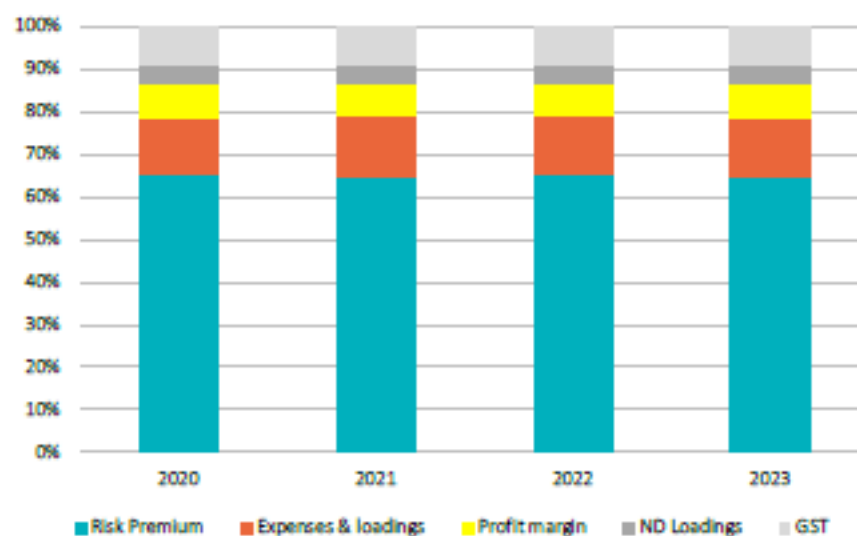
When setting Common Law average sizes, however, insurers have less direct Scheme experience available to rely on. Insurers may then leave assumptions unchanged from the costing analysis until more evidence emerges, rely on case management or legal expertise, or still-emerging experience from the prior scheme and other jurisdictions to update their assumptions until more evidence becomes available.

Lastly, setting economic assumptions may be done with reference to economic projections which do not relate to past claims experience.

7.2 Breakdown of costs

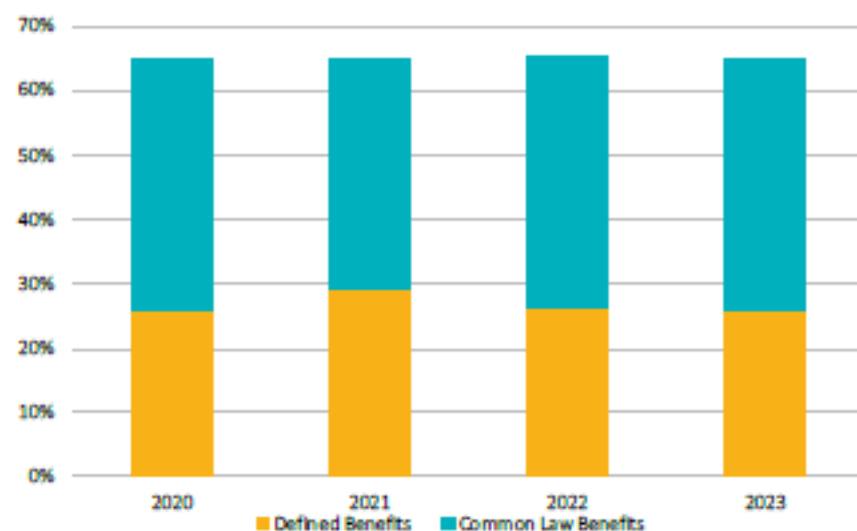
For each filing the insurers must submit the break-down of their premiums into various components. Figure 7.1 compares the average relative components of the total premium for the four insurers in proportional terms across the four filings.

Figure 7.1 – Components of the De Novo premiums (applicable from 1 February of each year)



Generally, the largest component is the risk premium, i.e. the expected cost of claims allowing for inflation and discounting. The risk premium has been stable at approximately 65% of premiums. The risk premium is shown further broken down in Figure 7.2.

Figure 7.2 – Breakdown of the Inflated and Discounted Risk Premium (% total premium)



The largest element of the risk premium is the assumed average size of costs associated with Common Law claims. The calculation of this element may still be depending significantly on the pre-scheme calculations of the expected costs, given the experience to date is limited.

Across the four years, the average defined benefits represent around 24% of the total risk premium, common law benefits 32% and the net impact of inflation and discounting across defined benefits and common law has been an additional average cost of 9% across the first four de novo filings.

After the risk premium the next largest element of filed premiums is expenses (14%). These represent the costs of handling claims and managing any recoveries, managing the business, marketing and acquisition activities, and business overheads.

GST payable to the Australian Taxation Office represents 8.7% of the premium¹.

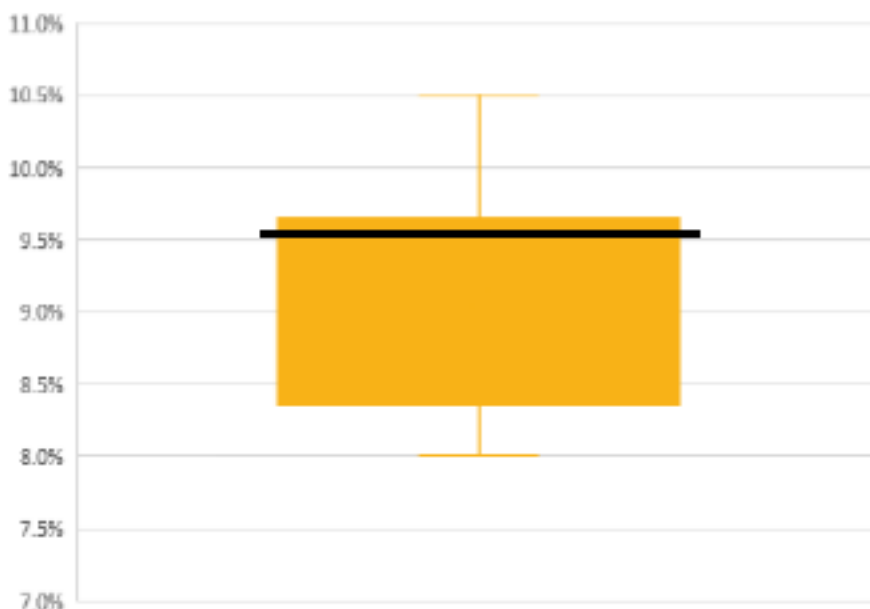
The profit margin in the de novo filings has been 8.3% of the total premiums. This is discussed further in more detail below.

The Nominal Defendant Loading is currently 4.8% of premiums. This is how much every registered vehicle is paying on average to cover the costs of injuries arising from uninsured and unidentified vehicles.

7.3 Profit margins

Figure 7.3 shows the distribution of the profit loadings in the de novo filings since 1 February 2020. The profit loading is shown as a percentage of total premium excluding GST and the Nominal Defendant Loading, but including the profit margin itself. The overall average across the four de novo filings adjusted for market share is the black line; an average of 9.5%.

Figure 7.3 – Distribution of profit margins (% premium excluding GST and Nominal Defendant Loading)



The distribution in Figure 7.3 shows that although the most frequent profit margins adopted are between 8.35% and 9.65%, generally the insurers with the largest market share have kept the average at the top of that range.

¹ Note: GST is not 9.1% (i.e. equal to 10% of 110%) due to part of the total premium (the Nominal Defendant Loading) being GST exempt.

7.4 Profit margins between jurisdictions

The estimated profit margins adopted by insurers operating in the MAI Scheme can be compared to profit margins in other jurisdictions, to assess their consistency with standard commercial practice. Not all jurisdictions publish information on their target profit margins.

New South Wales

In NSW, the State Insurance Regulatory Authority (SIRA) oversee the privately underwritten CTP scheme for the state. The NSW scheme was significantly reformed from 1 December 2017. During 2017, the premium system also went through several changes. From that time, SIRA has set an 8% profit margin as a target for assessing insurer premium filings.

Queensland

In Queensland, the Motor Accident Insurance Commission (MAIC) set “ceiling” and “floor” rates, and insurers are only permitted to charge premiums within that band. When setting bands, the MAIC targets a profit margin for insurers of 7.75%. The MAIC has released a report², prepared by their scheme actuaries, Taylor Fry, showing retrospective estimates of actual insurer profitability over the last several years. Table 7.1 shows an extract of that report, with an overview of estimated retrospective profit margins. Taylor Fry notes that these estimates contain uncertainties, as these underwriting periods are not yet fully developed – refer to their report for more information on their approach and the associated limitations.

Table 7.1 – Range of insurer profit margins by underwriting year – Qld – Reproduced from Taylor Fry’s report

Underwriting period	Scheme margin	Highest insurer margin	Lowest insurer margin
2018	13%	26%	2%
2019	11%	29%	-6%
2020	7%	32%	-10%
2021	5%	15%	-6%
2022	9%	20%	-3%
Average 2018-2022	9%	25%	-5%
Average 2020-2022	7%	23%	-6%

While the Queensland Scheme sets a range on premiums, and insurers generally charge at or very close to the “ceiling” price, the mix of policies each insurer covers results in a range of profit margins. Due to reported challenges profitably underwriting in Queensland, RACQ stopped providing Queensland CTP insurance on 1 October 2023.

Tasmania

In Tasmania, the Motor Accident Insurance Board (MAIB) administer the funding and payment of the no-fault CTP motor accident injury scheme. In 2021, the Office of the Tasmanian Economic Regulator released a report³ prepared by EY into MAIB’s pricing.

² https://maic.qld.gov.au/wp-content/uploads/2023/06/MAIC_Retrospective_Profit_Dec22.pdf

³ <https://www.economicregulator.tas.gov.au/Documents/21%201359%20%20EY,%20MAIB%20Pricing%20Investigation%20Report%20021%20-%20Final%21.pdf>

That report noted that MAIB’s pricing recommendation for 2021/22 included a projected after-tax profit margin of 9.4%, and noted that this was consistent with pricing profit margins targeted by other CTP scheme that are privately underwritten in Australia.

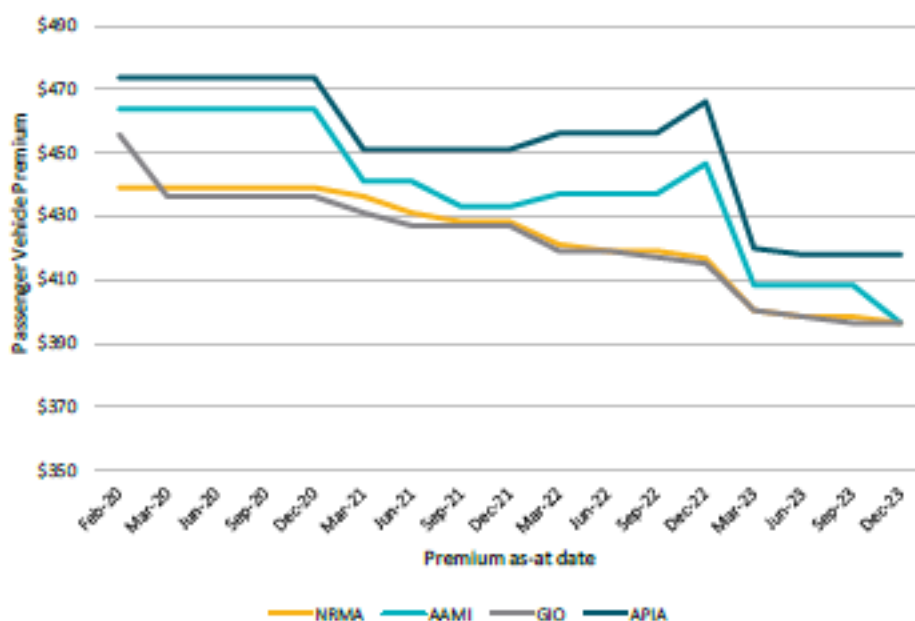
Reasonableness of MAI estimated profit margins

As described in Section 7.3, insurers’ prospective estimates of profit margins have generally varied between 8.35% and 9.65%, with the average rate charged close to the top of that range. These profit margins are broadly consistent with profit margins achieved in other states. While it is difficult to be definitive on this issue, given the relatively small size of the ACT scheme, it is arguable that there may be some “dis-economies” in terms of expenses and greater uncertainty in terms of claims costs. These two factors may result in insurers seeking a profit margin that may be higher than in a larger jurisdiction.

7.5 Impact of competition on premiums charged

Since the inception of the scheme, insurers have implemented a number of interim filings varying the premium charged for the underwriting year *downwards*. Particularly notable, several of these premium reductions appear to have been designed primarily in response to competitor pricing, rather than emerging information about the Scheme, and have the effect of lower the expected profit margin compared to *de novo* filings. Figure 7.4 shows how premiums charged for passenger vehicles over time by insurer. Figure 7.4 shows the GIO and NRMA brands (rival brands making up the bulk of market share in the Territory) competing to charge lower premiums.

Figure 7.4 – Passenger vehicle premiums by insurer since Scheme introduction



8 Claims experience

Number of claims incurred

EY’s Model Design Costings Paper ⁴, a report prepared in 2018 whilst the MAI Scheme was being developed, estimated total potential Defined Benefit claims (based on a mature scheme) of 1,500 per annum split into 900 not at-fault and 600 at-fault claims. The estimated number of Common Law claims was 100 per annum.

⁴ Available from: https://yoursayconversations.act.gov.au/download_file/1725/683

The 600 at-fault claims and 100 Common Law estimated annual claims excluded any allowance for interstate claims, which were analysed separately.

The number of claims incurred by the scheme to 30 June 2023 has been substantially below anticipated levels. This can be attributed, at least in part, to the significant impacts of the COVID-19 pandemic and the “honeymoon period”, the latter being typical of any scheme reform. Table 8.1 shows the number of claims reported by accident year. Note that the 2019/20 accident year is a partial year (five months), and further development of claims numbers for all accident years is expected (particularly in relation to Common Law intimations).

Table 8.1 – Number of claims reported to 30 June 2023 (inclusive of interstate claims)

Accident Period ending 30 June	Defined Benefit claims reported	Common Law claims reported to 30 June 2023
2020*	170	10
2021	520	6
2022	354	10
2023	410	0
Total	1,454	26

* 2020 is a partial year running from 1 February 2020 to 30 June 2020

Table 8.1 includes interstate claims. Of the twenty-six common law claims reported at 30 June 2023 fourteen are associated with interstate claims. Twelve of the common law claims are from accidents in the ACT. We note the MAI reporting on the scheme is generally for claims from accidents that occurred within the ACT.

The volume of claims reported to 30 June 2023 has been materially lower than anticipated. As a consequence, insurers have generally been decreasing their frequency assumptions for Defined Benefits when setting premiums. However, they have (not unreasonably, in our view) not fully allowed for the low claim volumes to continue indefinitely as this has been influenced by the factors outlined above.

It is too early to draw any conclusions regarding common law claims as the “oldest” of these applications is now only 3.5 years old and there are only 12 common law claims made to the new scheme. Claimants generally have 5 years from the accident to lodge their Common Law claim, and must wait until their injury has stabilised sufficiently to receive a WPI assessment to confirm eligibility (with common law claim timing requirements applying once a WPI assessment has been received). We also note that following the material changes to the NSW Compulsory Third-Party (CTP) Insurance scheme in 2018, material volumes of common law claims were not reported for several years after the scheme’s introduction, and so the ACT’s experience to date is consistent with this.

Claims cost experience

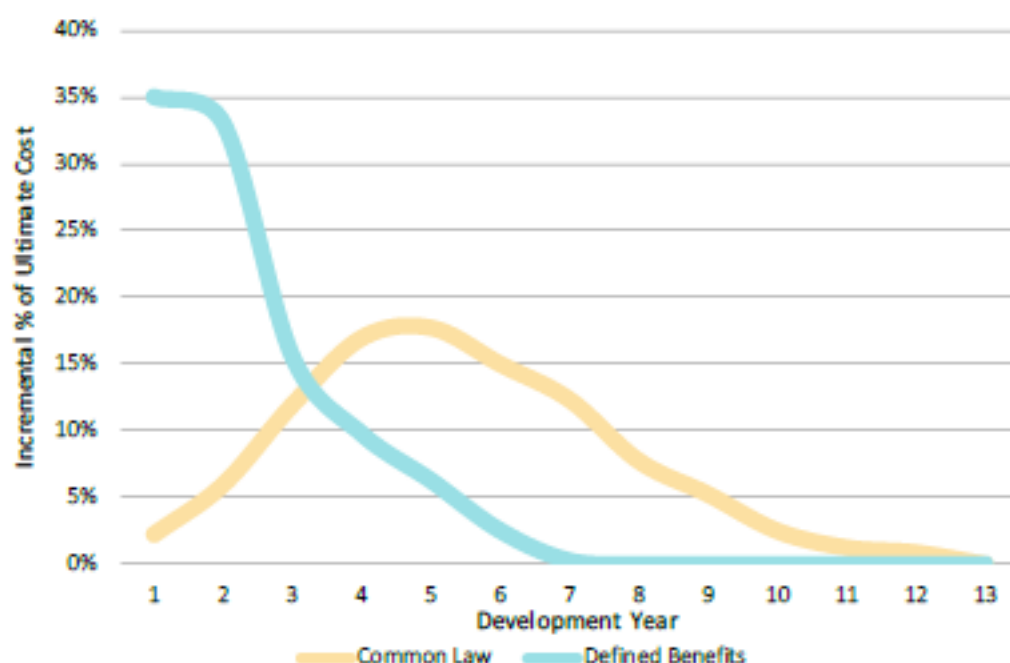
Figure 8.1 shows an indicative payment pattern, derived from insurer rate filings prior to the 1 February 2020 implementation date of the New Scheme. These patterns are derived by taking an ultimate view of the total costs for a single year’s worth of injuries, and showing when (over time) the costs are expected to be paid. These patterns are not shown cumulatively in Figure 8.1, but show the incremental payments expected in each year following the year which the injuries occurred. For example, in Development Year 6 (five years after the end of the year of injury), 15% of the ultimate Common Law payments for that year of injury are expected to be paid. These patterns are not intended to show a “normal” payment pattern for an individual claim, but the total pattern of payments an insurer estimates it will be liable for across an entire year’s accidents.

The actual costs an insurer incurs during the year will be impacted by the number of claims and severity (and therefore average cost) of claims the insurer is liable for.

While the insurers' approach to the expected costs and time to payment were undertaken quite differently, each insurer had similar expectations about how an accident period would develop:

- Defined benefits are primarily paid in the first three “development years” (i.e. in the first three years post-accident).
- All defined benefits are paid by the end of development year 6 (i.e. the 6th year after the year of accident). Note that some payments will continue into development year 6, as claims are incurred throughout the year of coverage (development year 1) and will therefore not reach 5 years post-accident until sometime during development year 6.
- Limited (or no) Common Law costs were expected to emerge within the year of accident and costs not to reach a peak until 3 to 7 years post-accident.

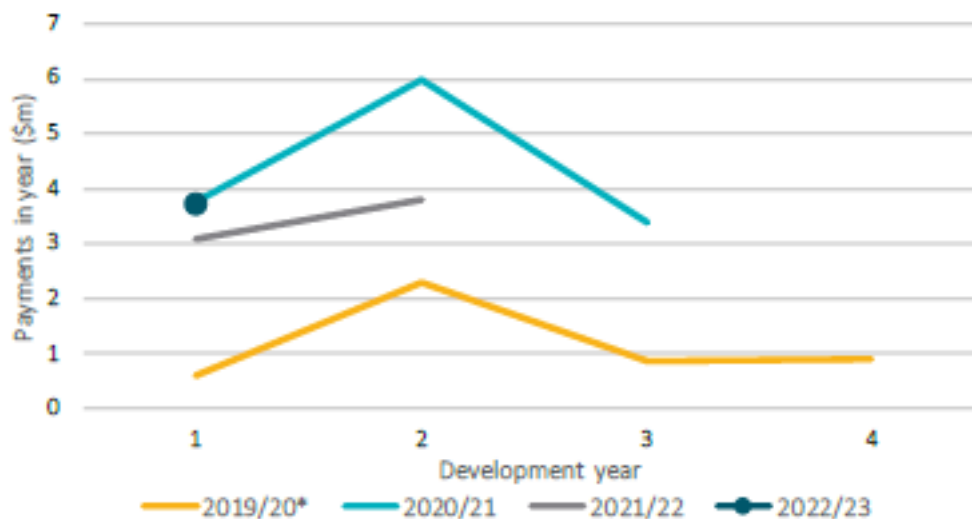
Figure 8.1 – Indicative payment pattern showing expected payments over time for a year’s worth of earned premium



The New MAI Scheme began operation in February 2020. At the time of writing (mid-2023), only three complete years of development have been observed. That is, even the earliest accident periods in the New Scheme are only part way into the Defined Benefit payment pattern and only a very small portion of the way through the expected Common Law payment pattern. While this means insurers and scheme administrators have some experience on which to update expectations on emerging Defined Benefits costs, the Common Law experience is extremely immature. As discussed in Section 5, the extent to which the observed experience can be relied on to predict future experience is significantly reduced by the potential of a “honeymoon” period and the impact of COVID-19 suppressing claims experience.

Figure 8.3 and Figure 8.4 show the actual payments made by each accident year over their development, for Defined Benefits and Common Law respectively. Defined Benefits payments made to 30 June 2023 have substantially outweighed Common Law costs (note the difference in scales), however, this was anticipated with a later peak in Common Law costs.

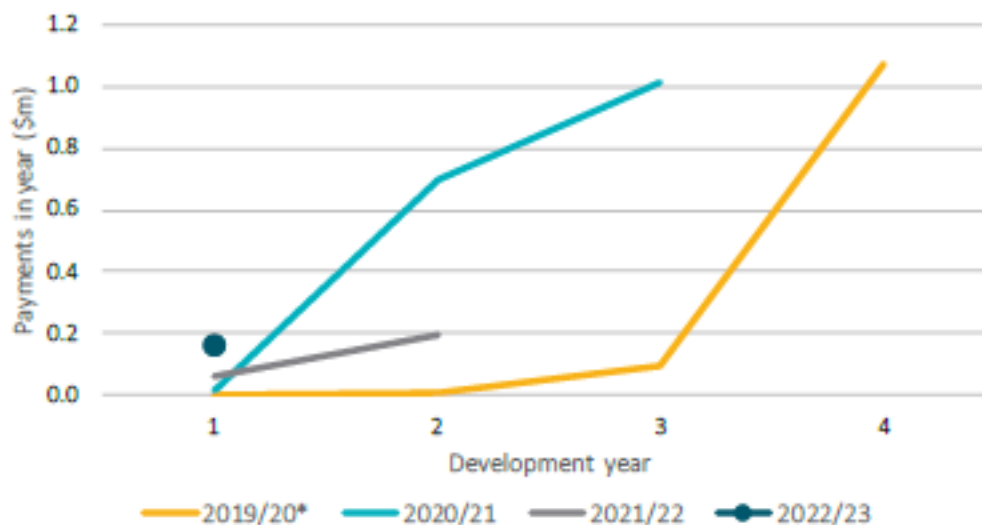
Figure 8.2 – Payment of Defined Benefits over time



Note: The 2019/20 year for the MAI Scheme runs from 1 February 2020 to 30 June 2020, with all subsequent years running from 1 July to 30 June.

Defined Benefits costs peaked in Development Year 2 (i.e. the year after the year of accident) for 2019/20 and 2020/21 accident years. This “shape” of payments for Defined Benefits to 30 June 2023 is broadly consistent with that envisioned under the costings and subsequent premium filings lodged by insurers.

Figure 8.3 – Payment of Common Law costs over time

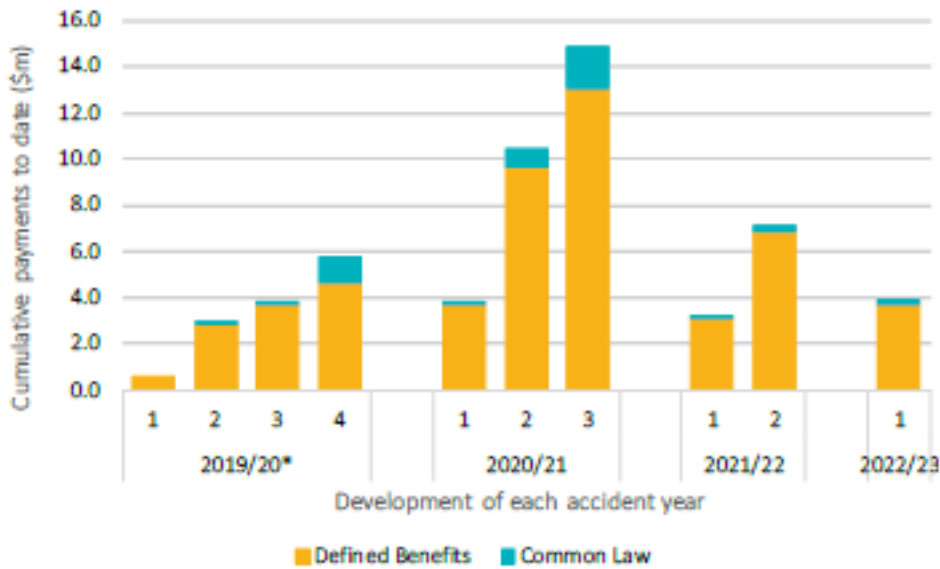


Note: The 2019/20 year for the MAI Scheme runs from 1 February 2020 to 30 June 2020, with all subsequent years running from 1 July to 30 June

As expected, Common Law payments have been substantially lower than Defined Benefits for the first few years of the Scheme. Some costs have now begun to be paid by insurers. In addition, insurers currently have case estimates on existing claims that are materially larger than claims paid to 30 June 2023 (as expected). The slow payment experience is typical of common law portfolios.

Figure 8.4 shows how the total cumulative claim payments for each accident year have developed over time. Note that the 2019/20 accident year is a partial year of exposure.

Figure 8.4 – Cumulative payments by accident year



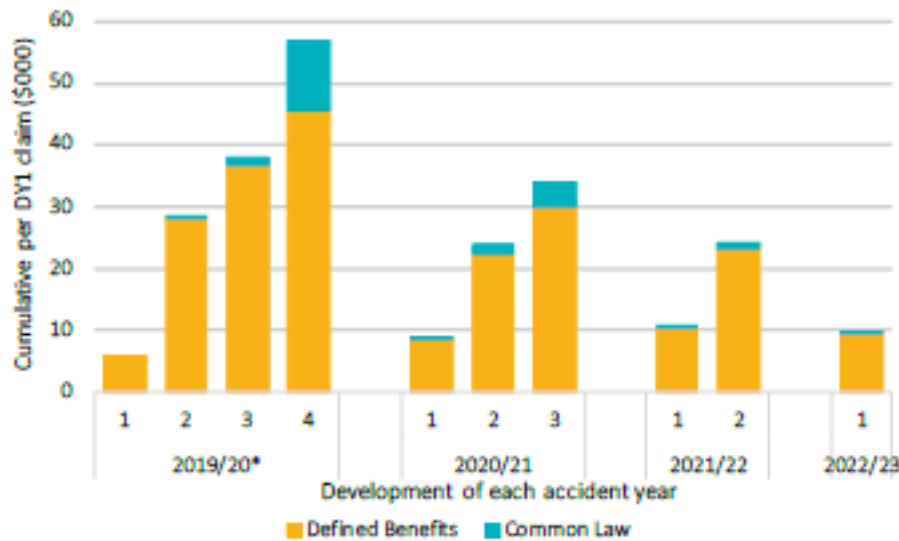
Note: The 2019/20 year for the MAI Scheme runs from 1 February 2020 to 30 June 2020, with all subsequent years running from 1 July to 30 June

From Figure 8.4 we make the following observations:

- The share of Defined Benefit payments in early claims payments is substantial. This was anticipated by the reforms as the nature of Defined Benefits is that they are paid as soon as the application is accepted.
- Each accident year has continued to incur both Defined Benefit and Common Law costs, and have outstanding case estimates. Therefore, none appear to be “fully developed” to the point where definitive conclusions on ultimate claims costs during the period can be made.
- To date, costs related to the 2021/22 accident year have been lower than at the same point in development compared to the 2020/21 accident year – a result of lower claim numbers for that accident year.

Figure 8.5 shows a variation of Figure 8.4 – with absolute payments divided by the number of claims reported in Development Year 1. This adjustment controls for the numbers of claims in each year, and the development of claim reports over time.

Figure 8.5 – Cumulative payments per Defined Benefits claim reported in Development Year 1 by accident year



Note: The 2019/20 year for the MAI Scheme runs from 1 February 2020 to 30 June 2020, with all subsequent years running from 1 July to 30 June

Figure 8.5 shows that, on a cost per Defined Benefits claim perspective, the development of costs has been stable between accident years. That is, after adjusting for absolute claim volumes, there is relatively little variation in experience between different accident years.

Continuing payments under the Previous Scheme

In addition to claim payments under the MAI scheme, insurers have continued paying claims costs related to the prior insurance scheme. Table 8.2 shows material volumes of payments continue to be made under the old scheme (for which no premiums have been collected since 31 January 2020), as reported to the MAI Commission.

Table 8.2 – Old Scheme payments by payment year

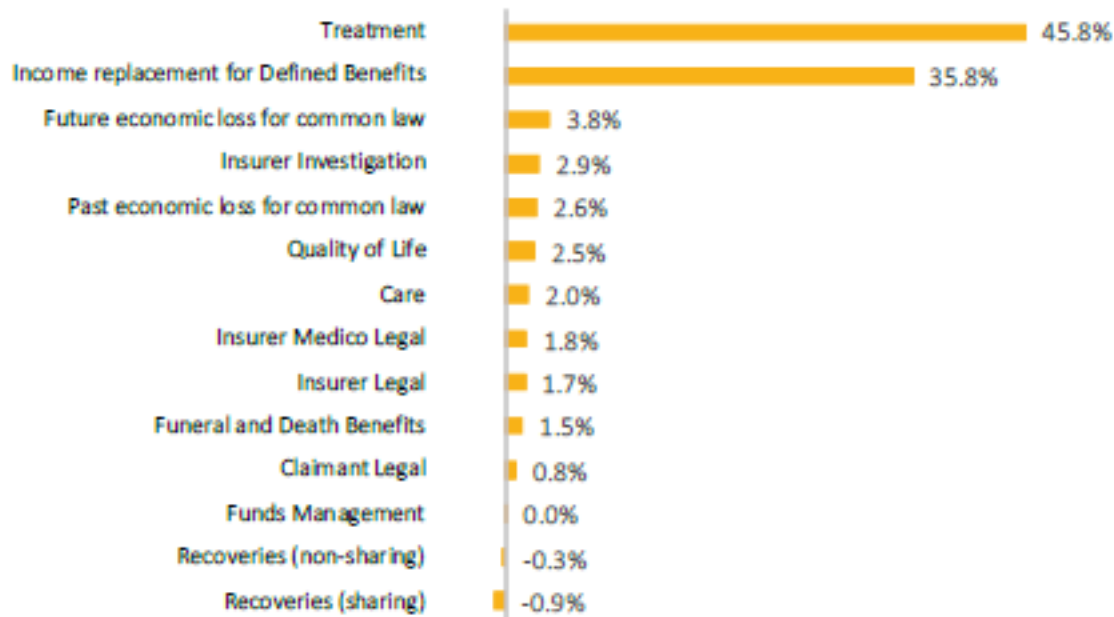
Payment Year	Gross Payments
2020/21	\$115.39m
2021/22	\$92.09m
2022/23	\$71.70m

While these payments are not directly relevant to the costs, pricing, or profits under the new scheme; they highlight the need for insurers to consider ongoing costs associated with underwriting motor accident injury insurance. That is, comparing only the New Scheme cashflows to date to premiums collected will materially understate the ultimate cost of providing the coverage incurred by insurers.

Payments by benefit type

The benefit type breakdown of benefits paid to 30 June 2023 under the MAI Scheme is shown in Figure 8.6. Note that this reflected the current mix of payment – and with very little Common Law experience to date it is dominated by Defined Benefits. As the Scheme matures, this will further develop.

Figure 8.6 – Benefit type as a proportion of total benefits paid



9 Premiums collected

Data from the MAI Commission shows between \$140 million and \$150 million in premiums have been collected per annum in each of 2020/21, 2021/22 and 2022/23. This data on MAI policies and premiums is by “underwriting period” (a breakdown by “earned” year is not available). The underwriting period attaches premiums to when the policy coverage commences; and these premiums are subsequently “earned” over the period of coverage. For example, a 12-month policy commencing on 20 June 2021 would attach to the 2020/21 written year, even though most coverage applies to (and is earned throughout) the 2021/22 year. Given the stability in the amounts by underwriting year, we consider this an appropriate metric to compare to costs by accident year.

Table 9.1 – Premiums collected by underwriting year

Written Year	Scheme Premium Collected (\$m)
2020/21	147.0
2021/22	146.0
2022/23	145.0

Noting that insurers are generally targeting a risk premium of approximately 65% of the total premium, this implies an expected present-value of ultimate claims costs of approximately \$95 million per annum (not the total amount of the premium collected as shown in Table 9.1 due to the other components required to be included in a premium – see Section 4). These expected claims cost for a single underwriting year will emerge over a number of years (for example, as shown in Figure 8.1). Considering only payments made by the insurer in a year, particularly early in the Scheme’s maturity, will understate the ultimate cost of the accidents occurring in that year, and therefore the cost of providing that insurance.

The estimated cost for claims incurred (payments to date plus insurers’ outstanding case estimates) in relation to the 2020/21 accident year, the most developed full accident year, is \$42 million. While this cost is not fully developed and will continue to evolve particularly as common law claims start to be reported, we also consider it likely to be impacted by COVID and the honeymoon period that has accompanied scheme reform.

Claims payments as a proportion of premium

Figure 9.1 and Figure 9.2 show the payments to date, of Defined Benefits and Common Law respectively, as a proportion of premiums collected in each underwriting year. Also shown are the ultimate proportions expected from insurer premium filings. As noted in earlier sections of this paper, there are further expected payments to be made in each group.

Figure 9.1 – Defined Benefits payments, as a proportion of premiums collected

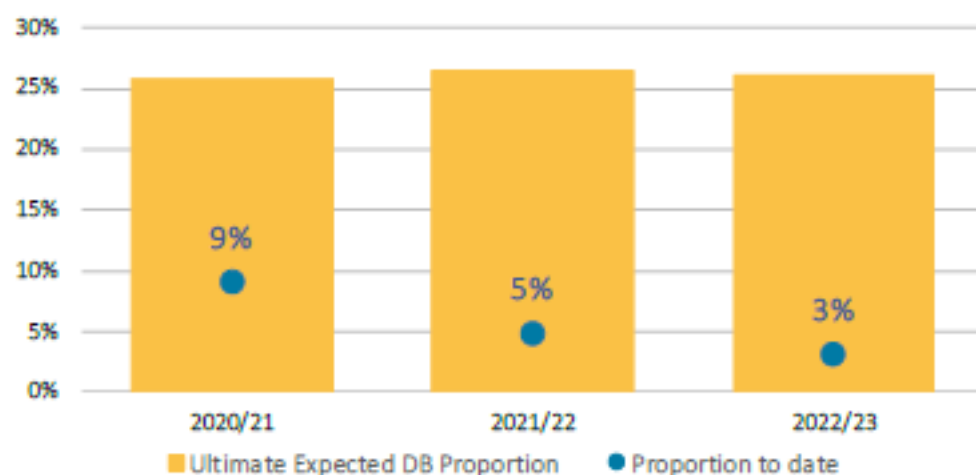
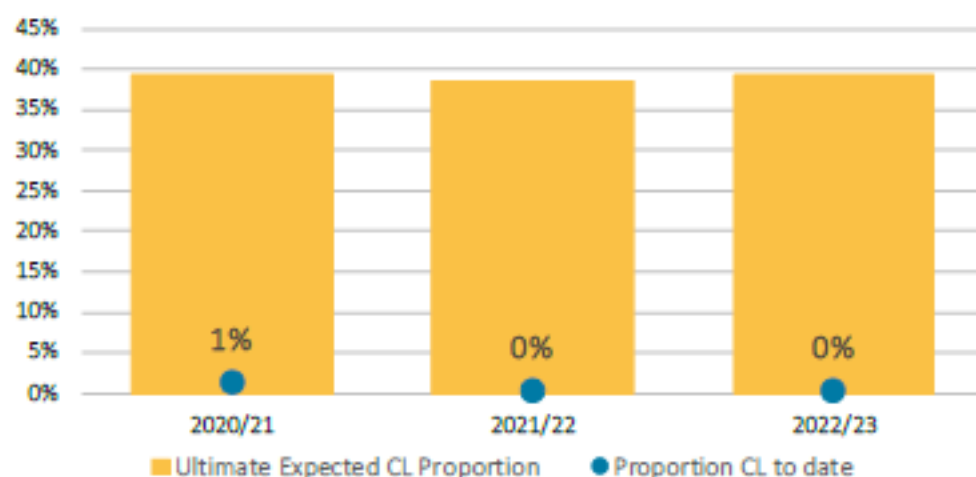


Figure 9.2 – Common Law payments, as a proportion of premiums collected



10 Reliances and Limitations

This report is subject to a number of limitations, reliances and assumptions. The main ones are outlined below.

10.1 Uncertainty

Motor accident injury insurance is a long tail class of insurance business and it can be many years between an accident occurring and the final cost of a claim being known. The MAI Scheme is still in its relative infancy, with only three years of history, and only a relatively small number of claims finalised to date. The experience of the Scheme has also been extremely impacted by the COVID-19 pandemic and associated lockdowns and changes in driver behaviour, which means there is more than the usual amount of uncertainty associated with the Scheme at this time. This has also amplified the usual "honeymoon" impact that often accompanies scheme reform, where there is often a period of very benign claims activity following significant legislative change, as all parties adjust to the new scheme environment.

There is considerable uncertainty in the projected outcomes of future claims costs, particularly for long tail claims; it is not possible to value or project long tail claims with certainty.

Sources of uncertainty include difficulties caused by limitations of historical information, as well as the fact that outcomes remain dependent on future events, including legislative, social and economic forces, and behaviour by scheme stakeholders such as insurers, claimants and the legal fraternity.

10.2 Reliance on Data and Other Information

We have relied on the accuracy and completeness of the data and other information (qualitative, quantitative, written and verbal) provided to us by the MAI Commission for the purpose of this report. We have not independently verified or audited the data, but we have reviewed the information for general reasonableness and consistency. The reader of this report is relying on the MAI Commission and not Finity for the accuracy and reliability of the data. If any of the data or other information provided is inaccurate or incomplete, our advice may need to be revised and the report amended accordingly.

10.3 Limitations on Use

This report has been prepared for the use of the MAI Commission and to be provided to the Insurance Branch for the purpose stated in Section 1. At the request of the MAI Commission we have consented to the release of this report, subject to the other reliances and limitations noted herewith.

Third parties, whether authorised or not to receive this report, should recognise that the furnishing of this report is not a substitute for their own due diligence and should place no reliance on this report or the data contained herein which would result in the creation of any duty or liability by Finity to the third party.

While due care has been taken in preparation of the report Finity accepts no responsibility for any action which may be taken based on its contents.

Finity has performed the work assigned and has prepared this report in conformity with its intended utilisation by a person technically competent in the areas addressed and for the stated purpose only. Judgements about the conclusions drawn in this report should be made only after considering the report in its entirety, as the conclusions reached by a review of a section or sections on an isolated basis may be incorrect.

This report, including all appendices, should be considered as a whole. Finity staff are available to answer any questions, and the reader should seek that advice before drawing conclusions on any issue in doubt.

Any reference to Finity in reference to this analysis in any report, accounts or any other published document or any other verbal report is not authorised without our prior written consent.

Appendices

A Glossary

Accident year	The year in which the injuries occurred, regardless of when the premium was collected, claims were reported or when payments were made.
Case estimate	The estimated cost to settle an individual claim, including both reported and not yet reported expenses, as estimated by the insurer.
Claim frequency	The rate at which claims occur within a period of time, often expressed as the number of claims per exposure unit (such as the number of claims per 1,000 vehicles per year).
Community rated	A rating system where premiums are set at the same level for all insureds within a defined class, regardless of their individual risk levels. The community rating system is often used in schemes where there is a social objective to provide broad, equitable coverage.
Development year	The periods following the accident year in which the cost of claims for the accident year matures and the ultimate cost becomes clearer. Development Year 1 is the year of the accident, Development Year 2 is the year following the accident, and so on.
Discounted (discount rates)	Refers to the process of adjusting future claim payments to their present value using a discount rate. The discount rate reflects the time value of money – the idea that \$1 received today is “worth more” than \$1 received in one year’s time.
Incurred Cost	The total cost of claims associated with a particular period, including both paid claims and reserves for future periods
Motorcycle Levy	A specific levy applied to most other vehicles to be redistributed and offset the higher cost of providing motorcycle coverage. This is essentially a cross-subsidy built into the scheme.
Nominal Defendant (and associate Levy)	The Nominal Defendant is a last resort insurer in case an at-fault party is not insured or identified. A levy is applied to all insurance policies to fund the Nominal Defendant.
Premium (earned)	The portion of the total written premium that corresponds to the expired part of the policy period.
Premium (written)	The total amount of premiums for policies issued during a particular period. This represents the total revenue expected to be earned over the life of those policies. However, some amount of this premium collected in the most recent underwriting is “unearned” at the balance date – reflecting that it provides coverage following the balance date.
Risk cost (per policy)	The expected cost of <i>claims</i> for an individual insurance policy, based on the probability of claim events occurring and their expected cost. This is equivalent to the Risk premium.
Risk premium	See Risk cost.
Ultimate costs	The total cost that an insurer will ultimately pay for all claims related to a particular accident year, including all payments made and to be made in the future. It accounts for both known claims and incurred but not reported (IBNR) claims.

