

Finity Consulting

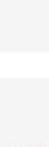



CTP eUpdate

Submissions by peak bodies, service providers and researchers

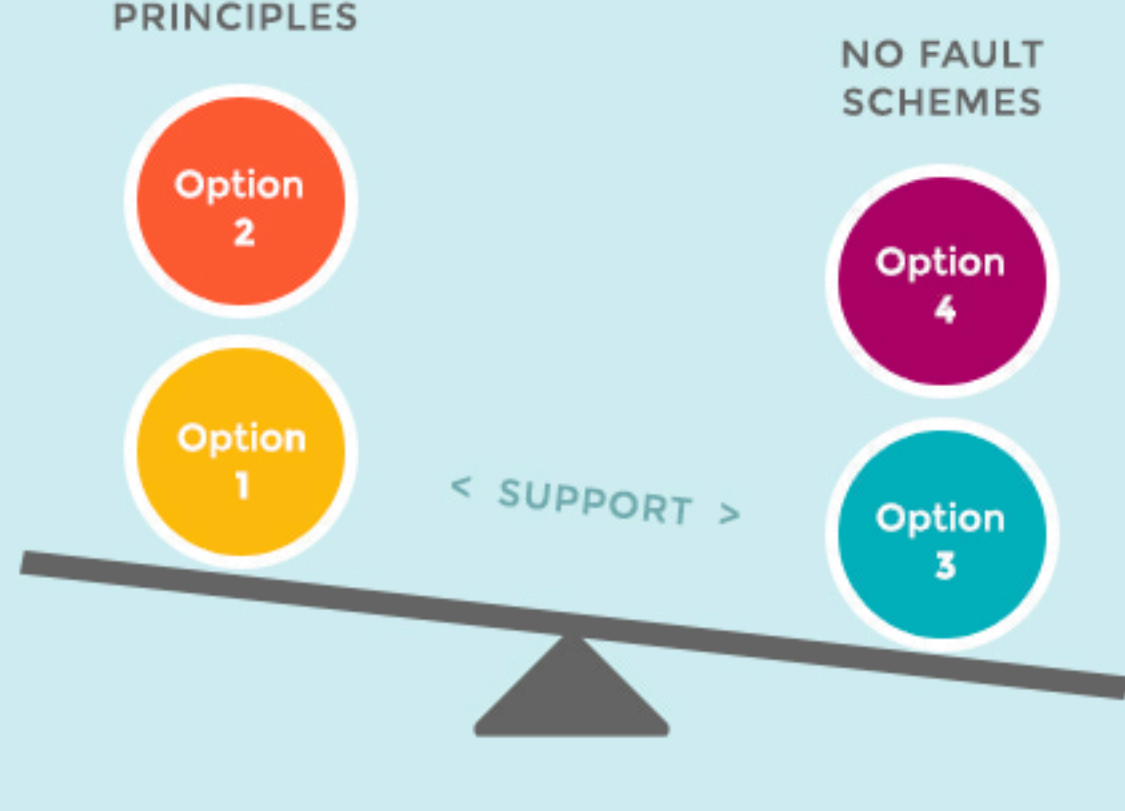
The NSW Government is currently undertaking broad consultation to improve the design of the CTP Scheme. The key objectives of the reform are to:

- Increase proportion of benefits paid to the most seriously injured
- Reduce claim duration
- Reduce prevalence of fraudulent claims
- Reduce CTP premiums.

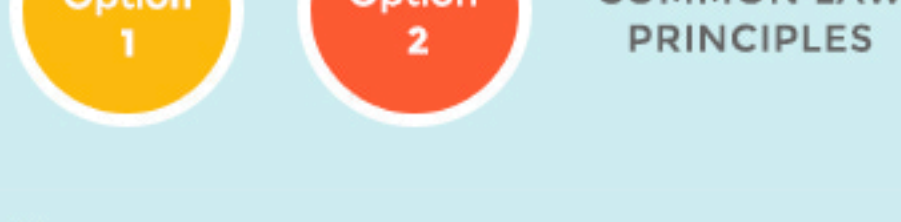
The NSW State Insurance Regulatory Authority (SIRA), the regulatory body for the NSW Government's statutory insurance schemes, released a [discussion paper](#) in March 2016. The paper set out the reform objectives and proposed four options for the future of NSW CTP. SIRA sought submissions on the options, which are summarised below. They range from retaining the current scheme design, which is based largely on common law principles (Option 1), to a no-fault defined benefit scheme designed to standardise the quality of care with no access to common law (Option 4).

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|---|-----------------|---|
|  | Option 1 | Retain the current common law, fault-based scheme with process improvements. |
|  | Option 2 | Retain the current scheme, with process improvements and adjustments to benefit levels. |
|  | Option 3 | No-fault hybrid scheme: defined benefits, and common law access reserved for the seriously injured. |
|  | Option 4 | No fault, defined benefit scheme with caps, thresholds and no common law. |

Who is supporting what option?



Support for option 1 and/or 2

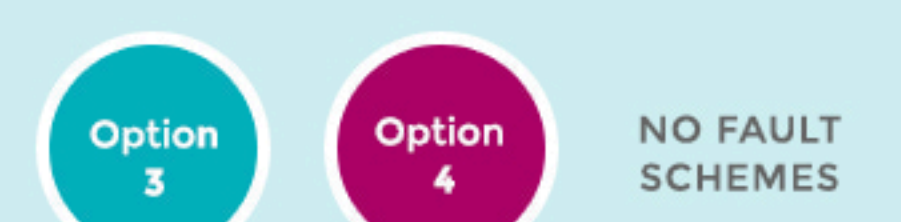


- Legal bodies**
Australian Lawyers Alliance, Law Society of NSW, NSW Bar Association, and NSW Young Lawyers
- Legal Providers**
Wyatts Lawyers, Beilby Poulden Costello Lawyers, McKay Compensation Lawyers, NSW Compensation Lawyers, Slater & Gordon
- Motorcycle Council of NSW, CARS Assessors**

Reasoning

- Common law must be maintained because it adequately addresses the varying and unique needs of each claimant.
- No fault benefits would penalise innocent victims by allowing negligent drivers to access the system, with increased overall costs
- The current scheme will benefit from process improvements and adjustments to benefits, such as altering the involvement of CARS, limiting the involvement of MAS, and extending the ANF cap.

Support for option 3 and/or 4



- Kingsford Legal Centre, Actuaries Institute, National Motorcycle Alliance, NSW Taxi Council**
- Health Bodies:**
Australian Rehabilitation Providers Association NSW, Occupational Therapy Australia NSW, Australian Physiotherapy Association, Australian Psychological Society
- Insurance Council of Australia and Insurers:**
IAG, QBE, Suncorp
- Treatment Providers and Researchers:**
Professor Alex Collie, Associate Professor Steven Faux as Director of Rehabilitation and Pain Medicine at St Vincent's Hospital, John Walsh Centre for Rehabilitation Research, Joint Dynamics, Professor Ian Cameron

Reasoning

- Enables equal access to benefits for all injured road users, and maintains affordability of premiums
- Encourages stakeholders to focus on recovery and returning to health, rather than maximising compensation.
- Will benefit claimants in the long run by providing the treatment needed for recovery while removing the incentive to remain in an 'injured' state.

NOTE: Most submissions supporting a no-fault structure preferred hybrid option 3: all claimants would access defined benefits, with common law reserved for the most seriously injured.

In summary

Most submissions favoured a no-fault compensation scheme, with either limited or no access to common law. The view was that this would facilitate improved claimant health outcomes, and allocate more of the funds to meeting the claimant needs, while providing more financial certainty. Not surprisingly, lawyers and legal peak bodies have favoured retaining common law based principles, arguing that such schemes promote equitable outcomes.

Within the varying views expressed, there is consensus that the increasing number of legally represented minor injury claims and rising legal fees are problematic, and need to be addressed. Some of the recommended solutions that have broad appeal include:

- Maintaining the CTP fraud taskforce
- Increasing SIRA's regulatory role in prosecuting fraudulent claims
- Capping legal costs for claims that settle below a defined threshold.

Additional thoughts

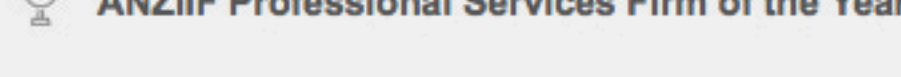
Finity believes that any reform needs to be forward looking and able to adapt to technological advancements such as autonomous vehicles. When motor vehicle technology has advanced to the stage where the 'driver' is not required to undertake any 'act of driving' as we currently know it, trying to determine fault in a common law based scheme may result in many more days in court arguing about the most basic concepts.

In our view, a Scheme that focuses on timely and appropriate treatment and rehabilitation would promote better health outcomes. To attain this goal, we believe that the new Scheme should be designed with the aim of minimising incentives to staying 'injured'.

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