



# Motor Accident Insurance Commission Claims Management Standards Explanatory Notes

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The Claims Management Standards and Explanatory Notes (**Standards**) apply to current and future claims made under the *Motor Accident Insurance Act 1994 (Qld)* (**MAI Act**) and the *Motor Accident Insurance Regulation 2018 (Qld)* (**MAI Regulation**). The Standards commence from the date of publication and as updated from time to time and do not apply retrospectively to past claims and past claims decisions. They must be read in conjunction with the MAI Act and MAI Regulation.

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# Contents

Background .....	3
Purpose .....	3
Authority .....	3
Guiding principles .....	4
Role of stakeholders .....	4
Compliance with the Standards .....	6
Defined terms .....	6

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# Background

## Overview of the Queensland CTP scheme

- 1 The *Motor Accident Insurance Act 1994 (Qld)* (**MAI Act**) and the *Motor Accident Insurance Regulation 2018 (Qld)* (**MAI Regulation**) established a statutory insurance scheme for loss and damage (personal injury) resulting from motor vehicle accidents caused by drivers of Queensland registered motor vehicles. Compulsory Third Party (**CTP**) insurance is attached to the registration of a motor vehicle and is compulsory for all motor vehicles in Queensland.
- 2 The scheme is fault-based which means if a person is injured in a motor vehicle accident, they may be entitled to compensation from the CTP insurer of the at-fault driver. CTP insurance does not cover injuries to a driver who is entirely at fault, nor does it cover damage to property.
- 3 The objects of the scheme are set out in section 3 of the MAI Act. Those objects include encouraging the speedy resolution of personal injury claims and promoting and encouraging the rehabilitation of claimants who sustain personal injury in a motor vehicle accident. All licensed CTP insurers in Queensland are bound by an industry deed which regulates the conduct of the CTP insurance business under the scheme.

## About the Motor Accident Insurance Commission

- 4 The Motor Accident Insurance Commission (**MAIC**) is the regulatory body responsible for the ongoing management of the Queensland CTP scheme.
- 5 MAIC's responsibilities are set out in section 6 of the MAI Act and include ensuring a fair and affordable scheme, improving scheme outcomes for injured persons, supervising licensed insurers, monitoring of insurer claims management and claims compliance and establishing and revising standards about claims management.

## Purpose

- 6 The Claims Management Standards and Explanatory Notes (**Standards**) aim to provide a minimum benchmark for aspects of licensed insurers' claims management conduct. Its purpose is to improve claimant outcomes by ensuring scheme fairness, transparency and consistency in the management of claims.
- 7 The Standards do not constitute legal advice, are not intended to be a substitute for legal advice and should not be relied upon as such.
- 8 The Standards will be reviewed every three years or more frequently as required.

## Authority

- 9 The Standards are established under section 10(1)(d) of the MAI Act which provide authority for MAIC to establish and revise standards about the proper management of claims, with which licensed insurers must comply. In addition:
  - (a) section 24(b) of the MAI Regulation prescribes a condition of holding a licence that insurers must comply with such standards; and

- (b) section 10(4) of the MAI Act states that a standard made under section 10(1)(d) applies to the management of a claim from the day the standard is published, whether the claim was made before or after that day.
- 10 The Standards do not override insurer obligations under the MAI Act, MAI Regulation, other legislation or common law. Nor do they override existing legislative obligations relating to timeframes.
- 11 Schedule 4, Part 2, section 3 of the MAI Regulation requires insurers to comply with claims procedures.
- 12 Insurers must:
- (a) deal as quickly as possible with claims;
  - (b) ensure that their procedures for dealing with claims are efficient and cost-effective; and
  - (c) keep appropriate records necessary to enable MAIC to monitor their compliance with obligations under Part 4 of the MAI Act.
- 13 Schedule 4, Part 2, section 4 of the MAI Regulation provides authority for MAIC to issue rehabilitation standards and guidelines for Queensland CTP insurers. MAIC developed the Rehabilitation Standards for CTP Insurers to ensure timely, appropriate and reasonable rehabilitation. They should be read in conjunction with the Standards for matters pertaining to rehabilitation.

## Guiding principles

- 14 Under section 3(f) of the MAI Act, CTP insurers are encouraged to act in a way that supports the integrity of, and public confidence in, the CTP scheme.
- 15 Insurers and parties acting on their behalf must deal with claims in a manner that is consistent with the objects of the MAI Act, the duty to cooperate with claimants under Part 4 of the MAI Act and the following guiding principles:
- (a) Promoting best practice claims management
  - (b) Improving data and information quality and integrity
  - (c) Efficient and fair treatment of claimants
  - (d) Effective communication with claimants
  - (e) Responding to emerging challenges in the scheme.
- 16 These principles apply generally and guide all aspects of claims management.

## Role of stakeholders

### *Claimant*

- 17 Claimants have a duty to comply with obligations imposed on them by the *Motor Accident Insurance Act 1994* and under common law and must cooperate with insurers including to:
- (a) comply with legal requirements and obligations;
  - (b) provide honest and accurate information about claims;

- (c) advise if there is a change in circumstances which could affect claims or impact on injury recovery;
- (d) provide information reasonably requested by insurers about the circumstances of the accident, the nature of the injuries and any consequential disabilities and financial loss, medical treatment and rehabilitation services and the claimant's medical history and any other claims for compensation for personal injury made by the claimant;
- (e) provide copies of reports and documentary material about the circumstances of the accident, their medical condition or prospects of rehabilitation; and
- (f) mitigate loss which includes taking all reasonable steps to cooperate with insurers to facilitate timely access to reasonable and necessary treatment and return to normal activities as soon as practicable.

### ***Claims management staff***

- 18 CTP claims staff manage claims from receipt to finalisation within a common law environment. Responsibilities may include, but are not limited to reviewing claims and making decisions relating to indemnity, quantum, liability and rehabilitation.

### ***CTP insurer***

- 19 CTP insurers have legislative duties under the MAI Act to cooperate with claimants and in particular must:
- (a) provide the claimant with copies of reports and other documentary material in the insurer's possession about the circumstances of the accident or the claimant's medical condition or prospects of rehabilitation;
  - (b) give the claimant information in the insurer's possession or which can be found out from the insured person, about the circumstances of the accident, or the reasons for the accident; and
  - (c) at the claimant's request, ensure that reasonable and appropriate rehabilitation services are made available, once liability has been admitted on a claim, or the insurer has agreed to fund rehabilitation services without an admission of liability.

### ***Legal representative***

- 20 A claimant and/or insurer may choose to have legal representation to assist with management of a claim.

### ***Motor Accident Insurance Commission***

- 21 MAIC is established under the MAI Act and is the regulatory authority responsible for the ongoing management of the CTP insurance scheme in Queensland. MAIC is responsible for the regulation of insurers' activity and compliance and one of the key functions is the licensing and supervision of CTP insurers and monitoring the operation of the scheme.

### ***Rehabilitation advisor or injury management advisor***

- 22 CTP insurers may employ permanent or contract health professionals in an advisory capacity to assist in fulfilling the insurer's rehabilitation obligations to claimants. Their role may include:
- (a) providing a point of contact for the claimant and treatment providers;

- (b) facilitating assessment and access to appropriate services; and
- (c) providing advice on whether requests to fund rehabilitation are reasonable and appropriate.

## Compliance with the Standards

- 23 Insurers must comply with the Standards and have effective systems in place for monitoring and measuring compliance with the Standards. This includes appropriate systems for identifying, assessing, managing and remediating breaches of the Standards.
- 24 MAIC will monitor and review insurer compliance with the Standards which may include reviews or audits of insurer claims files and systems from time to time.
- 25 Where an insurer breaches the Standards, MAIC may take action in accordance with MAIC's *CTP Insurer Enforcement Approach*.

## Defined terms

- 26 Defined terms in the Explanatory Notes and Standards have the meaning set out below.
  - (a) **CTP claim** means a claim for loss or damage under, or assessed to be under, or capable of being validly made under a CTP insurance policy or a claim against the Nominal Defendant.
  - (b) **CTP Insurer Enforcement Approach** means the enforcement guidance for dealing with insurer compliance breaches issued by MAIC and updated from time to time.
  - (c) **Claimant** means an individual who makes a CTP claim or on whose behalf a CTP claim is made.
  - (d) **MAI Act** means the *Motor Accident Insurance Act 1994 (Qld)*.
  - (e) **MAI Regulation** means *Motor Accident Insurance Regulation 2018 (Qld)*.
  - (f) **MAIC** means the Motor Accident Insurance Commission.
  - (g) **NOAC** means *Notice of Accident Claim Form (Non-Fatal)* or *Notice of Accident Claim Form (Fatal)* or any other form prescribed by MAIC to facilitate claims management.
  - (h) **Nominal Defendant** is taken to be a licensed insurer and is bound by the Industry Deed.
  - (i) **Rehabilitation Standards for CTP Insurers** means the standards issued by MAIC under the Industry Deed within MAI Regulation, Schedule 4, Part 2, section 4 and updated from time to time.
  - (j) **Standards** means the Claims Management Standards and Explanatory Notes issued by MAIC under section 10(1)(d) of the MAI Act and as updated from time to time.