



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 24/16-17

Mr Stephen Esdaile  
[foi+request-2290-53da3ff8@righttoknow.org.au](mailto:foi+request-2290-53da3ff8@righttoknow.org.au)

Dear Mr Esdaile

## **Freedom of Information Request – Compulsory Third-Party (CTP) Insurance Scheme**

I refer to your email addressed to Access Canberra, received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 26 September 2016, which seeks access to information on the Compulsory Third-Party (CTP) insurance scheme in the ACT. Your request has been registered as submitted under section 14 of the ACT Freedom of Information Act 1989 (FOI Act). I am responding as the *Road Transport (Third-Party Insurance) Act 2008* (CTP Act) is administered by Treasury in CMTEDD.

In your request you are specifically seeking the following (in relation to *the CTP insurance scheme in the ACT*):

- *The number of successful claims over the past ten years.*
- *The number of successful claims made where the at-fault party was a motorcycle rider.*
- *The average cost of a successful claim.*
- *The average cost of a successful claim where the at-fault party was a motorcycle rider.*
- *The ongoing annual liability for existing claims.*
- *The ongoing annual liability for existing claims where the at-fault party was a motorcycle rider.*
- *The total annual liability for CTP claims.*
- *The total annual liability for CTP claims where the at fault party was a motorcycle rider.*

### **Decision Maker**

I am authorised under section 22 of the FOI Act and have been approved to make decisions on access to documents and liability for charges insofar as they are in the possession or control of the Directorate.

### **Charges**

I have decided under section 29 of the FOI Act not to impose processing charges for this request.

### **Identification of documents**

I note that in the first part of your request you seek the number of successful CTP claims over the past ten years, but your subsequent requests do not specify a timeframe. For the purpose of identifying documents and information I have applied this ten-year timeframe to all eight points of your request.

I also note that in your request you are seeking specific information, rather than a class of documents relating to particular subjects or decisions, and consequently much of the information that you seek is not available in discrete documents. Under section 16 of the FOI Act, if information is not available in discrete form in documents of the agency and it is possible to produce a written document containing the information by the use of ordinarily available equipment, the agency should produce such a document.

In order to respond to your request and provide the information you seek in the most effective manner, CMTEDD has set out answers to your questions in this letter.

### **Decision on access**

- *The number of successful claims over the past ten years.*

For motor vehicle claims finalised in the period 2013-14 to 2015-16 there were 2,301 successful claims.

A 'successful claim' is defined as any claim added by the CTP insurer to the ACT Personal Injury Register (the electronic register of all CTP claims and payments relating to the ACT CTP insurance scheme) for the relevant accident year, where the liability status by a CTP insurer for the claim is 'fully accepted', or 'partially accepted' or 'paid without admission of liability'.

Data prior to 2013-14 are unable to be released. An outline of why this data cannot be released is provided under the section titled 'exemptions claimed'.

- *The number of successful claims made where the at-fault party was a motorcycle rider.*

For motor vehicle claims finalised in the period 2013-14 to 2015-16, there were five (5) successful claims made where the at-fault party was a motorcycle rider.

Data prior to 2013-14 are unable to be released. An outline of why this data cannot be released is provided under the section titled 'exemptions claimed'.

- *The average cost of a successful claim.*

The average cost of a successful motor vehicle claim finalised in the period 2013-14 to 2015-16 was \$99,161.

A 'successful claim' is defined as outlined above.

Data prior to 2013-14 are unable to be released. An outline of why this data cannot be released is provided under the section titled 'exemptions claimed'.

- *The average cost of a successful claim where the at-fault party was a motorcycle rider*

For accidents occurring in the period 2013-14 to 2015-16, the average cost of a successful motorcycle claim where the at-fault party was a motorcycle rider was \$609,587.

A 'successful claim' is defined as outlined above.

Data prior to 2013-14 are unable to be released. An outline of why this data cannot be released is provided under the section titled 'exemptions claimed'.

- *The ongoing annual liability for existing claims.*

The ACT CTP scheme is privately underwritten by four separately licensed CTP insurers – AAMI, APIA, GIO and NRMA. Information on total ongoing annual liabilities for CTP claims is held by the individual CTP insurers.

The CTP regulator does not hold the data in the format requested, nor can it be retrieved from an existing database. As such, the information is unable to be provided.

- *The ongoing annual liability for existing claims where the at-fault party was a motorcycle rider.*

The ACT CTP scheme is privately underwritten by four separately licensed CTP insurers – AAMI, APIA, GIO and NRMA. Information on total ongoing annual liabilities for CTP claims is held by the individual CTP insurers.

The CTP regulator does not hold the data in the format requested, nor can it be retrieved from an existing database. As such, the information is unable to be provided.

- *The total annual liability for CTP claims.*

The ACT CTP scheme is privately underwritten by four separately licensed CTP insurers – AAMI, APIA, GIO and NRMA. Information on the total annual liability for CTP claims is held by the individual CTP insurers.

The CTP regulator does not hold the data in the format requested, nor can it be retrieved from an existing database. As such, the information is unable to be provided.

- *The total annual liability for CTP claims where the at fault party was a motorcycle rider.*

The ACT CTP scheme is privately underwritten by four separately licensed CTP insurers – AAMI, APIA, GIO and NRMA. Information on the total annual liability for CTP claims is held by the individual CTP insurers.

The CTP regulator does not hold the data in the format requested, nor can it be retrieved from an existing database. As such, the information is unable to be provided.

## Exemptions claimed

### Section 43 - Documents relating to Business Affairs

#### Relates to folios:

Section 43 of the FOI Act provides:

- (1) *A document is an exempt document if its disclosure under this Act would disclose—*
- (a) *trade secrets; or*
  - (b) *any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or*
  - (c) *information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—*
    - (i) *the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.*
    - (ii) *the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.*

The CTP regulator is unable to provide data prior to 2013-14 given that NRMA was the only CTP insurance provider operating in the ACT. In this context, it is not possible for the CTP regulator to disclose claims information from that period without it being apparent that the data relates to the activities of NRMA. Releasing claims data that are identified by insurer would breach the commercial-in-confidence nature of the data.

The business affairs exemption of the FOI Act [S 43 (1) (b) and (c)] applies to the CTP claims data held by NRMA prior to 2013-14 given that it was the sole CTP insurance provider operating in the ACT. Releasing this claims data would diminish or destroy its commercial value; adversely affect the commercial nature of the data, and the business affairs and competitive position of NRMA; and would prejudice the future supply of information to the Territory, with the likelihood that NRMA would no longer wish to provide commercial-in-confidence claims and payments data to the CTP regulator because of breach of data that are so integral to the operation and viability of the NRMA business.

In addition, subsection 270(4) of the CTP Act specifically prohibits the CTP regulator from disclosing claims, payments and other information that affect an insurer's competitive position, which would occur when such data can be identified by insurer:

*"270 CTP claims register*

*(4) However, information that would, if it became generally known, affect an insurer's competitive position must not be disclosed in a form that would allow the insurer to be identified."*

### **Your right of review**

#### Internal Review

Under section 59 (1) of the FOI Act, you may request a review of my decision. You have 28 days after receiving notice of my decision to ask for a review, or a further period as allowed by the Director-General.

Your request should be addressed to:

Director-General

Chief Minister, Treasury and Economic Development Directorate

GPO Box 158

CANBERRA ACT 2601

#### Complaints to the Ombudsman

Under section 54 of the FOI Act, you may complain to the Ombudsman about administrative matters relating to the processing of your FOI request. There is no fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint.

You can contact the Ombudsman either by telephone on 1300 362 072 or in writing to:

The Ombudsman

GPO Box 442


CANBERRA ACT 2601

### **Online FOI Policy**

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request will be published online. Personal information or business information will not be made available under this policy. A copy of the policy, with details about what information may be published on the Internet, is available online at: [http://www.cmd.act.gov.au/data/assets/pdf\\_file/0016/250333/FOI\\_Web\\_Release\\_Policy\\_-\\_Final.pdf](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

Should you have any queries regarding this matter, please contact me on (02) 6207 0271.

Yours sincerely



Karen Doran

Executive Director

Economic and Financial Group

12 October 2016