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Motor Injury Insights

Motor Injury Insights brings you all the news from the world of motor accident compensation.

In this edition

Claim farming update: Australia and the UK

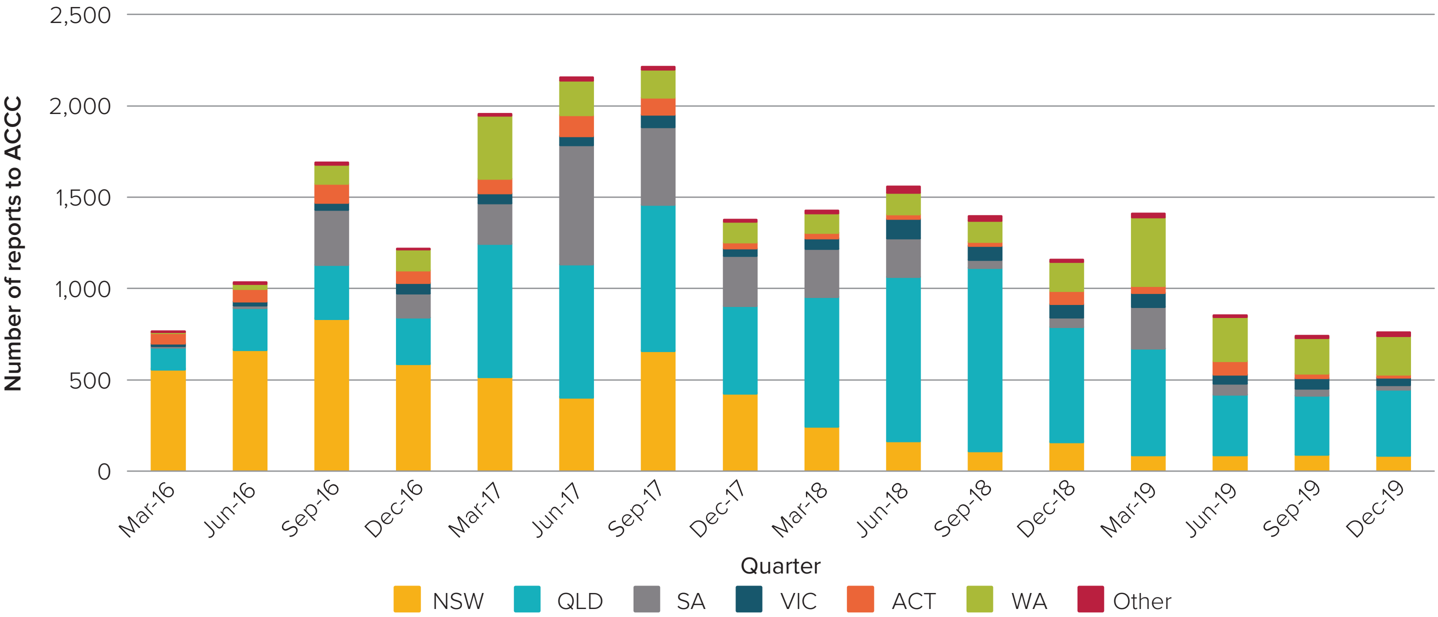
We have previously discussed the escalation of claim farming practices in Australia[1]. In this update, we discuss the experience and changes over the last few years. We also comment on the UK's latest efforts to tackle this and related problems.

Claim farming is the practice of pursuing people involved in motor vehicle accidents in order to encourage them to lodge a claim. Claim farmers target people through information from health service providers, car repairers, cold calls and social media, and are compensated by law firms, motor repairers and credit hire companies. Some of these claims are fraudulent, and the circumstances of the claim are often exaggerated. This has led to rising claim frequency and costs which are ultimately borne by policyholders in the form of increased CTP premiums.

Progress of the business model in Australia

The claim farming business has been agile and has shifted its focus across Australia to adapt to changing legislative environments. Figure 1 shows the number of complaints about 'compensation touts' and claim farming received by the ACCC from 2016 to 2019.

Figure 1 – ACCC complaints: compensation touts and claim farming



1 See April 2017 and October 2017 editions of MII, and the June 2018 CTP update

Prior to 2017, **NSW** had the most complaints. The numbers then reduced due to a number of factors:

- Legal fee regulations introduced in 2015 banned referral fees for CTP claims for legal practitioners
- A multi-agency taskforce (including NSW Police's "Strike Force Ravens") was established in August 2016 to combat CTP fraud
- The scheme reforms which commenced 1 December 2017 also disrupted the claim farming business model

With these changes in the NSW environment, claim farmers shifted their focus to **Queensland**, where the number of complaints increased and reached a peak in 2018. Queensland saw a 14% increase in claim frequency in 2016/17, which was attributable to legally represented claims for minor injuries that involved vehicles "travelling in the same direction". The regulatory response in Queensland included:

- An eight-week public awareness campaign in February 2019 alerted motorists to car crash scammers. As a result, MAIC received over 500 car crash scammer reports in February and March 2019.
- The Motor Accident Insurance and Other Legislation Amendment Bill 2019 took effect 5 December 2019. The reforms made it an offence to engage in claim farming practices (maximum penalty $40k for individuals and $200k for corporations). There is an obligation for both the claimant and the legal practitioner to declare, as part of the claim certificate, that a claim farmer was not engaged in the claim. Since the introduction of these reforms, over 100 claim farming complaints have been investigated.

The Queensland CTP claim frequency reduced by 4% p.a. from 2016/17 to 2018/19. Since 2018/19 claim frequency further reduced by 5% p.a. – the introduction of the new legislation appears to have resulted in a reduction in frequency on top of COVID-19 impacts.

Claim farmers also targeted **South Australia** in 2017, with the number of complaints similar to Queensland. This did not appear to be successful, as complaints reduced substantially over 2018 – likely due to South Australia's legal costs framework disincentivising smaller claims.

The number of claim farming complaints in **WA** has also increased over time, and represented 30% of complaints in 2019. The number of CTP claims lodged also increased: the Insurance Commission of Western Australia (ICWA) saw an average increase of 5% p.a. from 2016 to 2021; this was a reversal of the long-term reduction of 4% p.a. seen between 2000 to 2016. In 2021, ICWA estimated that approximately 25% of new compensation claims received were from suspected claim farming activity[2]. ICWA is currently collaborating with the State Solicitor's Office to examine mechanisms to address the rising occurrence of claim farming.

The trends in recent years suggest that the practice of claim farming is far from eliminated in Australia.

UK whiplash reforms

The claims environment in the UK motor market has resembled a 'magic pudding' of compensation for some time, with lawyers, claims management companies, credit hire companies, referral networks and fraudulent claimants all taking a piece of the pudding. More than a decade of various initiatives such as tougher enforcement and regulations have attempted to tackle escalating insurance costs and have culminated in the UK's latest Whiplash Reform Programme, which took effect 31 May 2021. The whiplash reforms, which form part of the Civil Liability Act 2018, include:

- A legal definition for a whiplash injury.
- A ban on settling claims for whiplash injuries without obtaining appropriate medical evidence.
- An online portal (Official Injury Claim) for managing low-value road traffic accident claims, so claimants can manage their own claims rather than rely on legal representatives.
- Increasing the limit for the Small Claims Track (the route to bring low-value claims to court) from £1,000 to £5,000. This means that if a person hires a legal representative to make a bodily injury claim below £5,000, the legal fees will not be recoverable from the at-fault insurer. This aims to end the 'no win, no fee' incentive behind many minor claims.
- Two new tariffs of fixed compensation for pure "whiplash injuries" and "whiplash including minor and psychological injuries", with compensation based on the duration of injury.

It is still early days for the reforms, and a rush of claims were lodged just before they came into play. We expect that claim farmers will focus on non-injury claims, such as credit hire and car repairs, to further supplement and inflate claims.

What does this mean for Australia?

The claim farming business model in the UK has shown to be resilient and agile – it is too early to tell whether the latest reforms will curtail claim farming.

The lesson for Australia is to remain vigilant and for jurisdictions to apply legislative or other levers to target players intent on using strategies like claim farming.

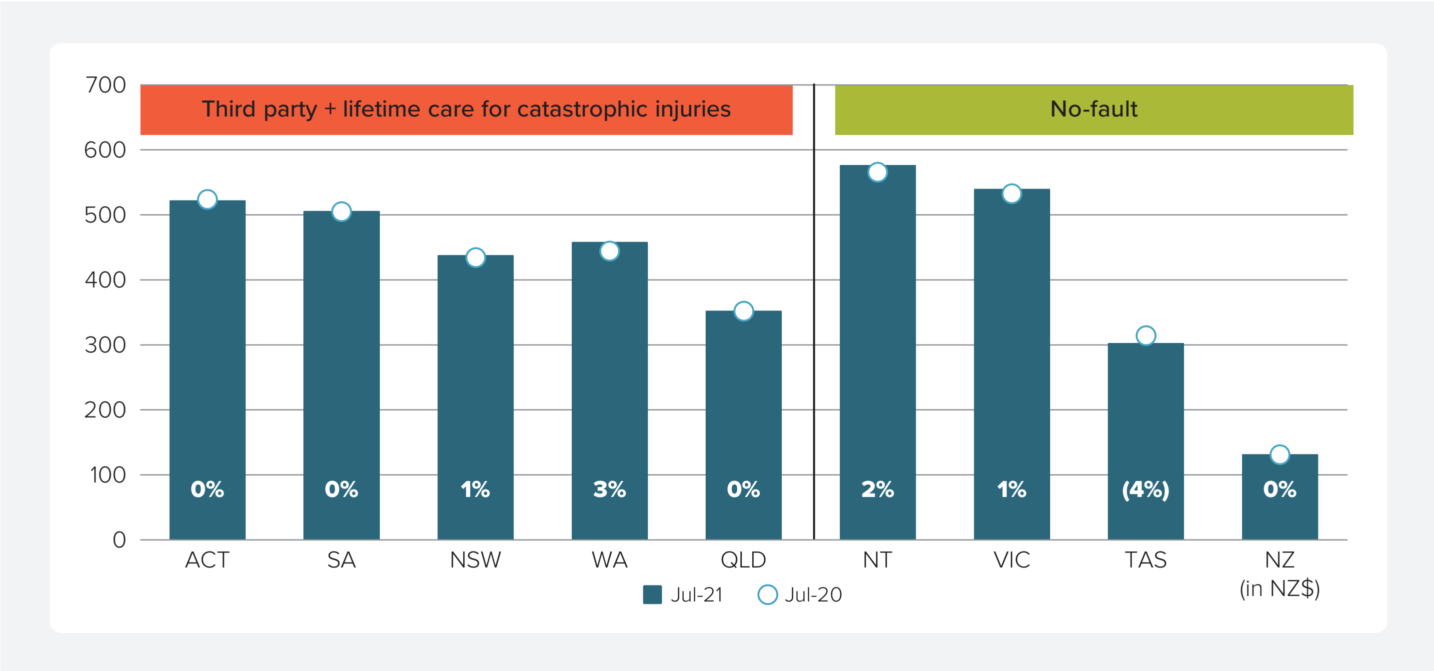
2 Source: ICWA Annual Report 2021, p19.

Update on premiums

MII premiums around Australia and NZ

Figure 2 summarises the headline Motor Injury Insurance (MII) premiums effective 1 July 2021. These include any loadings relating to lifetime care (for jurisdictions with separate schemes), as well as stamp duty, GST and other levies. The 2020 premiums (circles) and change since last year are also shown.

Figure 2 – MII rates at July 2021: standard metro car



There has been minimal movement in premiums for most jurisdictions:

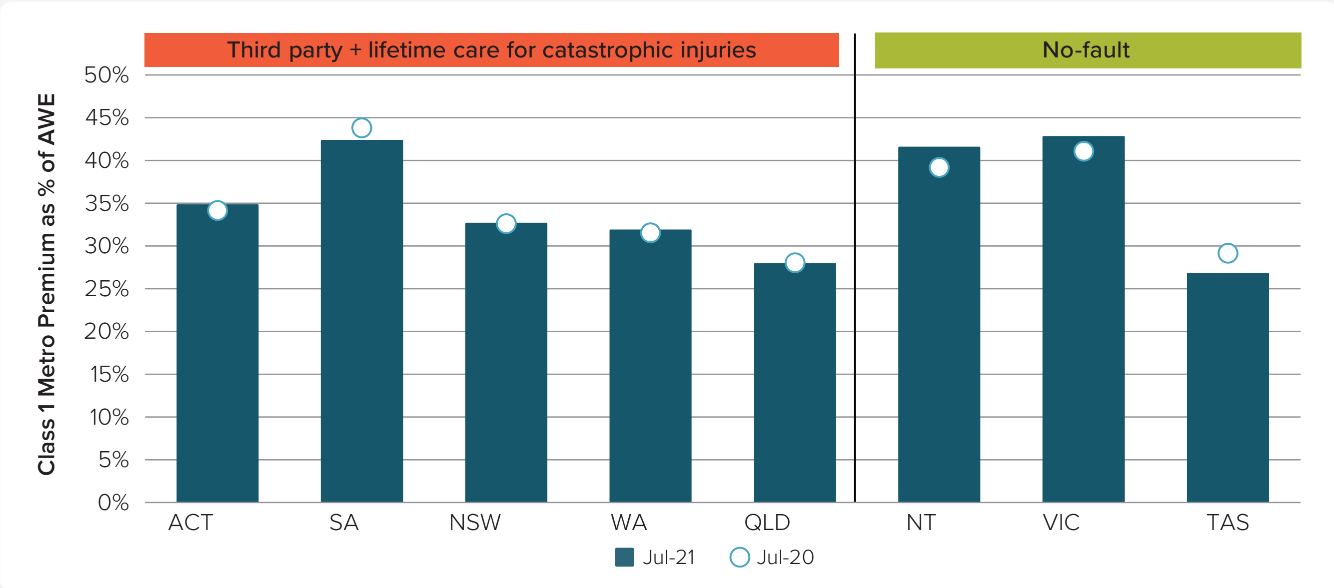
- **ACT's** premium is similar to a year ago. The *insurer* premium decreased by 3% as insurers battle for market share; there have been a number of re-filings to date in 2021. However the reduction in the insurer premium was offset by an increase in levies – resulting in little change overall.
- **WA's** premium increased by 3% after rates were unchanged in the previous year.
- **Queensland's** premium is virtually unchanged from a year ago. The $13.20 increase in levies was offset by a similar reduction in the insurer premium.
- **Tasmania's** premium decreased by 4%, reflecting the lower scheme claims costs driven by the ongoing safety improvements to roads, increased education campaigns, as well as enforcement activities.

Of the Australian jurisdictions, NT continues to have the highest premium, and Tasmania continues to have the lowest.

Affordability index

Figure 3 shows an MII affordability index, which expresses the standard metro car premium (from Figure 2) as a percentage of average weekly earnings – **a smaller percentage means better affordability**. Since the jurisdictions have different benefit regimes, we can't draw conclusions about comparative scheme performance from this index. The circles show the affordability index at July 2020.

Figure 3 – MII affordability index at July 2021



Source for AWE: Australia Bureau of Statistics, 6302.0 Average Weekly Earnings, Australia. Earnings; Persons; Total earnings, May 2021.

Movements in affordability have been minor for most jurisdictions. Other observations are:

- ACT and SA have similar premiums in dollar terms (see Figure 2), but because average earnings are around 25% higher in the ACT, its affordability index is more favourable
- Tasmania's affordability improved over the year, driven by its reduction in premium. It is now the most affordable of the Australian jurisdictions.

Jurisdiction roundup

NSW

SIRA reviews legal support in CTP scheme

A review of legal support in the NSW CTP scheme assessed whether the current provision of legal support is operating effectively and is in line with the objectives of the scheme. Disputes and legal costs have reduced below SIRA's expected levels, and the review indicated this could be due to a number of factors – including injured people finding it difficult to navigate the claims process, and a 'honeymoon' impact in the early operation of the current scheme.

The review proposed the following eight options for potential reform:

1. Make no change to legal services arrangements
2. Review the triggers for entitlement to legal services
3. Set legal fees to more closely map to the work involved
4. Simplify some scheme elements which give rise to common disputes, so that the requirement for legal representation is reduced
5. Increase the role of, and resourcing for, CTP Assist
6. Discontinue the Legal Advisory Service and consider alternatives to replace it
7. Introduce a modified Independent Legal Assistance and Review Service (ILARS) to CTP
8. Defer consideration of ILARS until the current Statutory scheme review is completed.

SIRA will consider the findings of the review, along with the recommendations from the Statutory review of the scheme, and will assess the feasibility and cost implications of any changes.

SIRA announces that the Statutory Review of the scheme is complete

The review, conducted by Clayton Utz and Deloitte, assessed the performance of the scheme over its first three years. It found that overall the scheme is meeting its objectives while making recommendations that could extend benefits.

It found that the policy objectives of the Act remain valid, and the applied terms, regulations and guidelines are largely appropriate for securing those objectives.

The report makes 73 recommendations relating to scheme design, scheme implementation and KPIs.
Ten recommendations were deemed priorities, including an independent claim file review, review of types of claims suitable for internal review, and resolving delays in disputes.

Key recommendations included:

- Extending statutory benefits for minor injuries and at-fault drivers from 26 weeks to 52 weeks
- Removing the 20 month waiting period to lodge a damages claim and the 2 year waiting period before a damages claim can be settled
- All injuries (minor and non-minor injuries) may claim damages if a person has whole person impairment greater than 10%
- SIRA consulting on the term 'minor injury'
- Psychological or psychiatric injuries resulting from the death or catastrophic injury of a family member are not a 'minor injury'
- Removing 'adjustment disorder' from the minor injury definition
- Assessing what steps can be taken to enable a greater proportion of earners to receive their full entitlements sooner and to minimise disputes.

SIRA has stated that it will provide advice to the Minister on the recommendations.

Small increases in premiums...but policyholders to benefit from TEPL in 2022

Figure 4 shows the insurers' premium rates for 'model drivers', ranked from most expensive to cheapest, at April and October 2021.

Figure 4 – NSW Class 1 Metro premiums

Decreasing price

Policies Incepting 5 April 2021

Licence	Premium
QBE	$437
AAMI	$435
GIO	$435
NRMA	$434
Youi	$433
Allianz	$427

Policies Incepting 17 October 2021

Licence	Premium	Change
NRMA	$438	$3
QBE	$437	$0
AAMI	$437	$2
GIO	$437	$2
Allianz	$435	$8
Youi	$435	$2

- Premiums have increased by 1% on average
- The spread of premiums reduced from $10 at April 2021 to $3 at October 2021
- NRMA is now the most expensive 'best price', and Youi has replaced Allianz as the cheapest.

While premiums have increased slightly over the year, SIRA has activated the transitional excess profits and losses (TEPL) mechanism to recover insurer profit above 10%. This follows SIRA's estimation that on average $19 per policy relating to profit from the first accident year of the scheme (1 Dec 17 to 31 Dec 18) will be returned to policyholders through a 35% reduction in a levy that forms part of the premium.

SIRA publishes new healthcare costs and outcomes dashboard

A dashboard recording healthcare costs and outcomes has been set up after SIRA's *Healthcare Review*. SIRA aims to ensure healthcare is delivered in a timely and cost-effective manner to optimise the recovery of injured people. The dashboard reports provide information about utilisation, costs, and performance trends across both the CTP and workers compensation schemes and will be published on a quarterly basis.

Queensland

Increases in the ceiling price

As shown in Table 1, the Class 1 ceiling price increased from $344 at 1 April 2021 to $354 at 1 October 2021. All insurers continued to file at the ceiling.

The ceiling price has increased by $2 to $356 from 1 January 2022. Insurers' filed premiums for 1 January 2022 and beyond were not available at the time of writing.

Table 1 – Queensland Class 1 premium ceiling

Effective from	Ceiling	Change in Quarter
1 Apr 21	$344	-
1 Jul 21	$352	$8
1 Oct 21	$354	$2
1 Jan 22	$356	$2

Car crash scammer reports continue to drop

The anti-claim farming legislation introduced in 2019 continues to be effective two years later. Complaints of car crash scamming have continued to trend down from more than 1,300 complaints in 2019 to 448 car crash scams being reported in 2020/21.

Australian Capital Territory

Small movements in premiums

Figure 5 shows the premiums charged for Class 1 passenger vehicles, ranked from most expensive to cheapest, at April and September 2021.

Figure 5 – ACT premiums: private use passenger vehicle

Policies Incepting April 2021		Policies Incepting September 2021		
Licence	Premium	Licence	Premium	Change
Apia	$451	Apia	$451	–
AAMI	$441	AAMI	$433	($8)
NRMA	$431	NRMA	$428	($3)
GIO*	$427	GIO	$427	–

Decreasing price

*from 4 May 2021

- Following significant re-filing activity in the first six months of 2021, NRMA and AAMI have re-filed again in July and September
- Premiums have reduced by 1% on average since April 2021
- GIO remains the cheapest in the market, with NRMA close behind
- Apia remains the most expensive.

South Australia

Premiums reduce

Figure 6 shows the premiums (excluding stamp duty and other levies) charged for Class 1 passenger vehicles, ranked from most expensive to cheapest, at March and November 2021.

Figure 6 – SA premiums: private use passenger vehicle

Decreasing price

Policies Incepting March 2021 Licence	Policies Incepting March 2021 Premium	Policies Incepting November 2021 Licence	Policies Incepting November 2021 Premium	Change
SGIC	$297	Allianz	$294	($1)
QBE	$295	SGIC	$288	($8)
AAMI	$295	QBE	$288	($7)
Allianz	$295	AAMI	$288	($7)

- Premiums have decreased by 2% on average
- All insurers except Allianz filed at a price of $288 in November 2021. Allianz is now the most expensive in the market
- The spread of premiums increased from $2 at March 2021 to $6 at November 2021.

AAMI jumps up in service ratings

Figure 7 shows the service ratings, based on claimant surveys conducted by the Regulator, as at March and October 2021. These customer service ratings are shown on registration renewal forms, along with insurers' prices.

Figure 7 – SA claimant service ratings

Decreasing rating

Insurer	March 2021 Rating	Insurer	October 2021 Rating	Change
SGIC	79%	AAMI	87%	14%
Allianz	76%	SGIC	75%	(4%)
QBE	75%	QBE	75%	–
AAMI	73%	Allianz	71%	(5%)

Ratings are based on experience over a six month period

- AAMI's service rating increased by 14% over the seven months and it has replaced SGIC at the top
- The spread of ratings has increased from 6% at March 2021 to 16% at October 2021
- Allianz now has the lowest service rating.

Victoria

Paving the way to a new standard of road safety

The Victorian Government's Road Safety Strategy 2021-2030 aims to halve road deaths and significantly reduce serious injuries by 2030, setting the state on a path to zero road deaths by 2050. The objectives will be achieved through a range of methods including policy, innovation and technology, infrastructure improvements, public information campaigns and enforcement. A few recent initiatives are summarised in the table.

Initiative	Summary
Technology to end drink driving[3]	In an Australian first, the TAC and the US Driver Alcohol Detection System for Safety Research Program have together developed a prototype vehicle fitted with passive alcohol sensor (PAS) technology. The PAS can automatically analyse the driver's breath for alcohol when they enter the vehicle, and prevent the car from starting when above the limit. The technology is contactless, and is more precise and reliable than other alcohol detection technology – it could one day bring an end to road trauma caused by drink driving.
Trial to improve safety at intersections[4]	A $2m trial found that advanced light detection and ranging (LiDAR) sensors at an intersection can accurately and reliably detect potential hazards within 0.2 seconds – which could lead to the provision of real-time warnings to alert road users of hazards. The results of this trial will help Road Safety Victoria improve safety at intersections throughout Melbourne's suburbs.
Light Insights Trial to increase safety for cyclists[5]	An Australian-first trial will use smart bike light technology to provide safety benefits in the form of increased visibility. It will also capture rider data – crash events, near misses, abrupt deceleration, swerving, road conditions, average speeds etc. Data from the trial will provide insights about what factors impact cyclist safety, and could help inform future policy planning and infrastructure improvements for cyclists.
Young driver vehicle safety campaign[6]	TAC research shows that when buying a car, young drivers place less value on safety than older drivers. A new campaign aims to encourage young drivers to buy the safest car they can afford, to address an alarming proportion of deaths in older vehicles. A series of videos encourage drivers to "think of the ones beside you", and prompt them to visit TAC's *How Safe is Your Car* website which provides independent safety information on new and used cars.

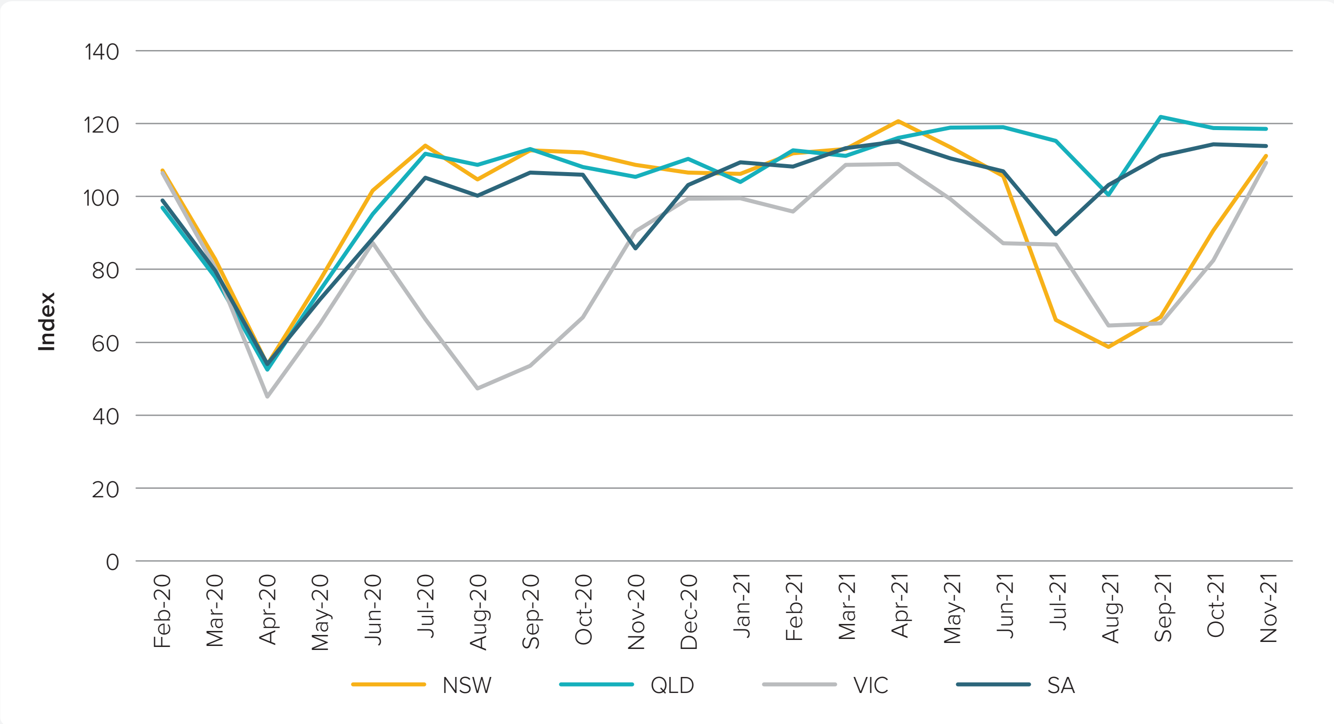
3 https://www.tac.vic.gov.au/about-the-tac/media-and-events/news-and-events/2021/australian-leading-technology-to-help-end-drink-driving
4 https://www.tac.vic.gov.au/about-the-tac/media-and-events/news-and-events/2021/trial-keeps-victorians-moving-safely-through-intersections
5 https://www.tac.vic.gov.au/about-the-tac/media-and-events/news-and-events/2021/trial-to-increase-safety-for-bike-riders
6 https://www.tac.vic.gov.au/about-the-tac/media-and-events/news-and-events/2021/campaign-to-get-young-drivers-into-safer-cars

Driving mobility update

The volume of traffic on our roads, as well as congestion levels, impact on road accidents and therefore CTP experience. Since the beginning of the COVID-19 pandemic, traffic volumes have been significantly affected by lockdown restrictions.

The driving mobility trends data published by Apple indicate traffic volumes via the (relative) numbers of requests for directions; Figure 8 shows the monthly data over the period since lockdowns began in 2020. After a drop in routing requests of almost 50% in April 2020 due to the initial lockdowns across Australia, requests returned close to pre-COVID levels by the end of June 2020 – except in Victoria where the lockdown was prolonged.

Figure 8 – Driving mobility



The 2021 lockdowns have seen routing requests in NSW fall to levels similar to the 2020 lockdown, with numbers recovering in November. The TomTom congestion index (not shown) indicates **congestion** levels in Sydney were actually lower than in April 2020. Despite congestion levels not having a direct relationship with CTP claim reports, the prolonged nature of the 2021 lockdowns means that Finity expects there will be a greater impact on CTP claim numbers than last year.

Routing requests in Victoria have followed a similar shape to NSW. Meanwhile, Queensland and SA, without significant lockdowns in 2021, have seen driving mobility surpass pre-COVID levels.

Despite lockdowns being eased as vaccination rates climb, it is likely that some of the changes seen in the pattern of mobility will 'stick'. The mobility reports released by Google show persistently lower levels of mobility around workplaces and public transport hubs. The likely impact of these changes on CTP claims costs is unclear, but they suggest that the pattern of accidents may change with more people working from home more often.

Finity's Motor Injury team

Finity's Motor Injury team prides itself on looking beyond the pure analytics to gain a deeper understanding of the cost drivers for schemes. This means we can respond appropriately in valuations, premium setting and scheme design.

In addition to our actuaries, Finity has a dedicated group of claims and operational insurance experts in our Management Consulting practice, who can assist with claims and expense management. Finity's Artificial Intelligence (AI) team can assist with new business capabilities and provide AI-powered solutions.

If you would like to receive future editions of Motor Injury Insights, please contact the Finity newsdesk at news@finity.com.au.

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