The past profitability in the Australian group Total and Permanent Disability (TPD) insurance market has given way to significant losses for the most recent year. But such a challenge has been experienced before in the past in injury schemes. This prompts the question – are there lessons that can be leveraged from injury schemes to support the group TPD schemes to achieve sustainability for underwriters and improved health outcomes for claimants?

The outcome of this question was a paper and presentation discussing the insights from injury schemes presented at the Financial Services Forum on 6 May by Bozenna Hinton and Richard Yee.

Source: APRA Quarterly Life Insurance Performance Statistics December 2013
Note: group lump sum risk covers Death and TPD insurance. As death insurance results have been steady, the driver of this poor experience has been TPD claims.
The presentation explored the potential for general insurance and life insurance to meet at the crossroads based upon observations and experience of over 30 years in the general insurance industry.

As a member of the research team, I was fortunate to be a party to the in-depth discussions between Bozenna and Richard which contextualised key differences and commonalities in issues across general insurance injury schemes and life insurance TPD schemes. It also gave me a chance to engage some of my hitherto dormant film directing predilections.

**KEY DRIVERS OF RECENT TPD EXPERIENCE**

The very poor recent TPD claims experience was mainly driven by factors that were many years in the making, including increased awareness by members of their cover, definition creep, anti-selection, higher levels of benefits, involvement of third parties in the claims process and increased social acceptance of mental health issues.

**DEFINITION OF DISABLEMENT**

TPD definitions are focused on the medical condition or employment potential, are subjective and are potentially hypothetical in terms of occupation (if the claimant has had a narrow range of occupational experience). Courts have also interpreted definitions in ways that were not anticipated by insurers when they originally priced the cover. As an example, the ‘any’ occupation definition has been replaced by one that refers to ‘any occupation suited by education, training and experience’.

In contrast, for injury schemes there has been a move to more objective claims definitions over time. Whilst not perfect, impairment thresholds are specified for claimants in Compulsory Third Party (CTP) and Workers Compensation schemes to qualify for certain benefits. As an example, NSW WorkCover uses a 100 page booklet based on American Medical Association (AMA) Guides as an objective basis for assessment of permanent impairment that focuses on the change in a bodily part’s functioning and is not centred on a medical condition.

**INVolVEMENT OF THIRD PARTIES IN THE CLAIMS PROCESS**

Doctors, lawyers and unions can have a significant influence on the number of claims lodged and also the success of each claim in achieving a payment for the injured person.

**DOCTORS**

TPD insurers do not refer to independent doctor panels and generally accept the medical advice provided by the claimant’s medical practitioner, although they may also get a second or third opinion. Additionally, claimants could visit a number of doctors until they find one who is sympathetic to their cause.

This contrasts sharply with injury schemes, where independent doctor panels are used (particularly in disputed cases) to provide an impartial assessment of the potential claimant’s injury. While ‘doctor shopping’ has been seen in injury schemes, the risk is mitigated through this independent assessment.

**LAWYERS**

Over the last three years, there has been an increase in the number of TPD claims where the claimant has first consulted a lawyer before submitting a claim. The involvement of lawyers is making it more likely that genuine and marginal claims will get paid, as well as testing the current definitions and setting new precedents.

Injury schemes and other long tail classes (e.g. public liability and medical malpractice) have also seen legal involvement contribute to cost blowouts over the last three decades. An example is United Medical Protection (UMP), which was a large medical malpractice insurer. Increasing numbers of medical malpractice claims and large court awards combined to render UMP technically insolvent with a subsequent government bail-out in 2002. Several injury schemes have since implemented reforms to reduce the involvement of lawyers. A side effect is that law firms need to seek alternative sources of revenue and one such source is TPD claims.

It is possible that legislative changes could further increase legal involvement in the TPD claims process. The Productivity Commission released its draft report on Access to Justice Arrangements in April 2014 with draft recommendation 7.2 that “State and Territory governments should remove all bans on advertising for legal services”.

**RESERVING ADEQUACY AND IMPACT ON PRICING**

A soft pricing market over a number of years has led to TPD insurance premium reductions, with this trend only recently being reversed. Methods of analysis for reserving are restricted by the limited data available and collected, and this can impact on the adequacy of future pricing.

Injury schemes and other long tail classes have had a history of under-reserving, such as the late 1990s public liability insurance market or the more recent pre-2012.

Richard Yee and Bozenna Hinton
NSW WorkCover claims experience. Injury scheme reserving and pricing also reflects its variable claims sizes (there is no pre-defined sum insured compared to TPD which has a fixed sum insured). With this added degree of complexity, injury schemes tend to collect more data than TPD insurance schemes and use more sophisticated analysis such as generalised linear models.

However, just as with TPD insurance, injury schemes reserving can be problematic especially when there are step changes in the data series. In such times, it is not possible to place reliance on the past being a good guide to the future.

RECOMMENDATIONS

Of the many actions that have worked or not worked for injury schemes, the following represent some of the opportunities for TPD insurers to leverage learnings from injury schemes:

• Providing a tighter definition of disablement, defined by an objective measure in terms of what the claimant is able to do. Look to what we can learn from the permanent impairment definitions from injury schemes, such as the use of AMA Guides and Functional Independence Measure (FIM) scores.
• Introducing a time limit to claim of two years after stopping work from the symptoms of the underlying injury or disease.
• Exploring paying partial or instalment benefits. Benefit design could be re-evaluated, with a move to replace lump sum benefits with income style benefits, and a focus on rehabilitation and return to work.
• Providing both claimants and insurers with access to independent doctor panels, who are experienced in assessing the degree of impairment according to objective principles.
• Collecting data on the claimant’s treating medical practitioner and advising lawyer so any concentrations of particular doctors/lawyers can be understood and explored if appropriate.
• Improving data quality and reserving by monitoring key drivers such as rates of return to work, health outcomes of claimants, relationships between automatic acceptance levels (AALS) and claim rates, causes of claim (e.g. mental health versus musculoskeletal claims) and data monitoring for any sign of fraudulent clusters of claims.

This article represents only a snapshot of the paper Chasing Your Tail on TPD Claims – Insights from Injury Schemes. For the full insights and recommendations for TPD insurance, feel free to read the paper (available on the Institute website) or contact Bozenna, Richard or myself.

TPD VS INJURY SCHEMES

Total and Permanent Disability insurance provides a fixed lump sum payment under a situation such as the following: the insured has not been at work for at least three months and is unlikely ever to be able to engage in their own occupation, or in any occupation that they are reasonably suited by education, training or experience. Permanent incapacity cover is required under the SIS Act for MySuper products, and is optional for other group schemes.

An injury scheme provides compensation payments if a policyholder is injured in a way that satisfies the scheme’s specific claims definition, e.g. Workers Compensation insurance and Compulsory Third Party (CTP) insurance which provide varying benefits across each state of Australia. The benefit provided is generally not fixed and instead relates to the size of the claimant’s economic and bodily injury loss. Injury scheme cover is compulsory and required by law.