



Society of Actuaries in Ireland

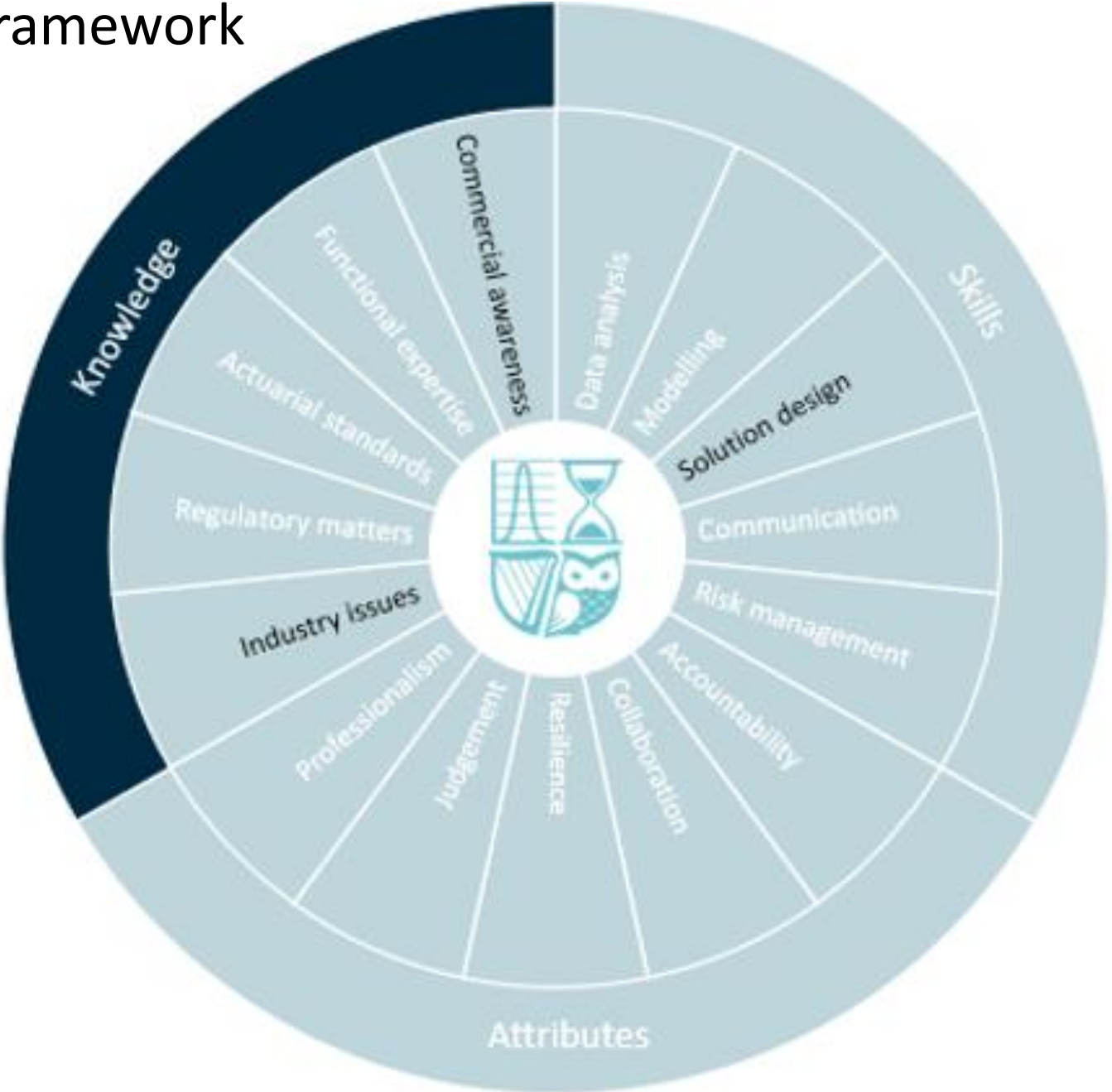
Nationalisation: Is it time to consider a radical solution to the liability crisis in Ireland? Lessons from down under

Ross Simmonds, Gráinne McGuire

Disclaimer

The views expressed in this presentation are those of the presenters and not necessarily those of the Society of Actuaries in Ireland or their employers.

SAI Competency Framework





Human societies care for the injured and disabled

SCIENCE | NOT EXACTLY ROCKET SCIENCE

Deformed skull of prehistoric child suggests that early humans cared for disabled children

BY **ED YONG**

4 MINUTE READ



PUBLISHED MARCH 30, 2009



The prehistory of compassion

Jean-Jacques Hublin¹

Department of Human Evolution, Max Planck Institute for Evolutionary Anthropology,

<https://www.nationalgeographic.com/science/phenomena/2009/03/30/deformed-skull-of-prehistoric-child-suggests-that-early-humans-cared-for-disabled-children/>

<https://www.pnas.org/content/pnas/106/16/6429.full.pdf>

Our current system for accident compensation is an adversarial at fault system. Is this what we want or do we want something different?

New Zealand has a national no-fault accident compensation scheme covering everyone. Is this a better system for Ireland?

Glossary

- **Accident compensation**
 - Medical and care costs, compensation for people injured in accidents
- **General damages**
 - Payment made in recognition of pain and suffering
- **No fault scheme**
 - Compensation to all in accident regardless of whether a guilty party can be identified
- **Fault-based scheme**
 - Someone must be at fault for the accident; compensation then comes from them (or their insurance company)
 - Motor insurance, liability insurance have components to cover bodily injury to others



Accident compensation in Ireland

Third party motor bodily injury
Covered by insurance
Common law

Motor accident for a driver
No insurance for bodily injury
Hospital system / health insurance
Welfare for income if needed

Injury

Accident at work
Employers liability insurance
Common law

General Accident
Common law if fault can be established
Otherwise hospital / personal health insurance /
welfare



Contents

1. Ireland's liability crisis
2. Australia
3. New Zealand
4. Ireland
5. Conclusion



1 : Ireland's liability crisis



Impacts of the crisis

Individual

Business

Societal



Insurers exiting the market

250 insurance firms exited Irish market over six years

<https://www.rte.ie/news/business/2019/1210/1098279-250-insurance-firms-exited-irish-market-over-six-years/>

Hundreds of restaurants at risk of closure as insurers exit hospitality sector

Donohoe rules out Government assistance after four firms announce plans to withdraw

© Fri, Dec 20, 2019, 08:32 | Updated: Fri, Dec 20, 2019, 09:01

<https://www.irishtimes.com/news/ireland/irish-news/hundreds-of-restaurants-at-risk-of-closure-as-insurers-exit-hospitality-sector-1.4121454>

Thousands of jobs at risk after main insurer for leisure sector pulls out

Fears firms will pack up or operate without insurance

<https://www.independent.ie/business/personal-finance/thousands-of-jobs-at-risk-after-main-insurer-for-leisure-sector-pulls-out-38329493.html>



2019 Survey by Public Participation Networks

PPNs collectively represent some 15,000 local voluntary groups and advocates for their interest

The infrastructure of volunteering in Ireland is being threatened by spiralling insurance costs, unavailability of insurance cover and increasingly unreasonable exclusions and conditions

Sarah Wetherald Sligo PPN,

<https://www.thejournal.ie/insurance-costs-2-4803000-Sep2019/>

👏 We would like to run water activities/tours for community groups but cannot get insurance at all for these. Also, struggling with insurance for bouncing castles, family activities for fun days etc.

👏 The cost of funding insurance has meant that we have considerably cut back on extra activities, reduced external coaching inputs and stopped hiring external indoor facilities for winter training.

👏 We used to run a French conversation class but because the insurance was around €600 we couldn't continue.

👏 We keep our local graveyard closed.

👏 For our community fun day and BBQ, our insurers refuse to cover "inflatables", bouncy castles and similar because they are high risk.

👏 It's very difficult to cater for some children's activities where climbing or playing outside is involved.



Adverse outcomes

Most whiplash patients end treatment when legal action finished

Outcome of whiplash treatment differs in less litigious cultures, say doctors

© Mon, Oct 7, 2019, 02:00

<https://www.irishtimes.com/news/health/most-whiplash-patients-end-treatment-when-legal-action-finished-1.4041918>

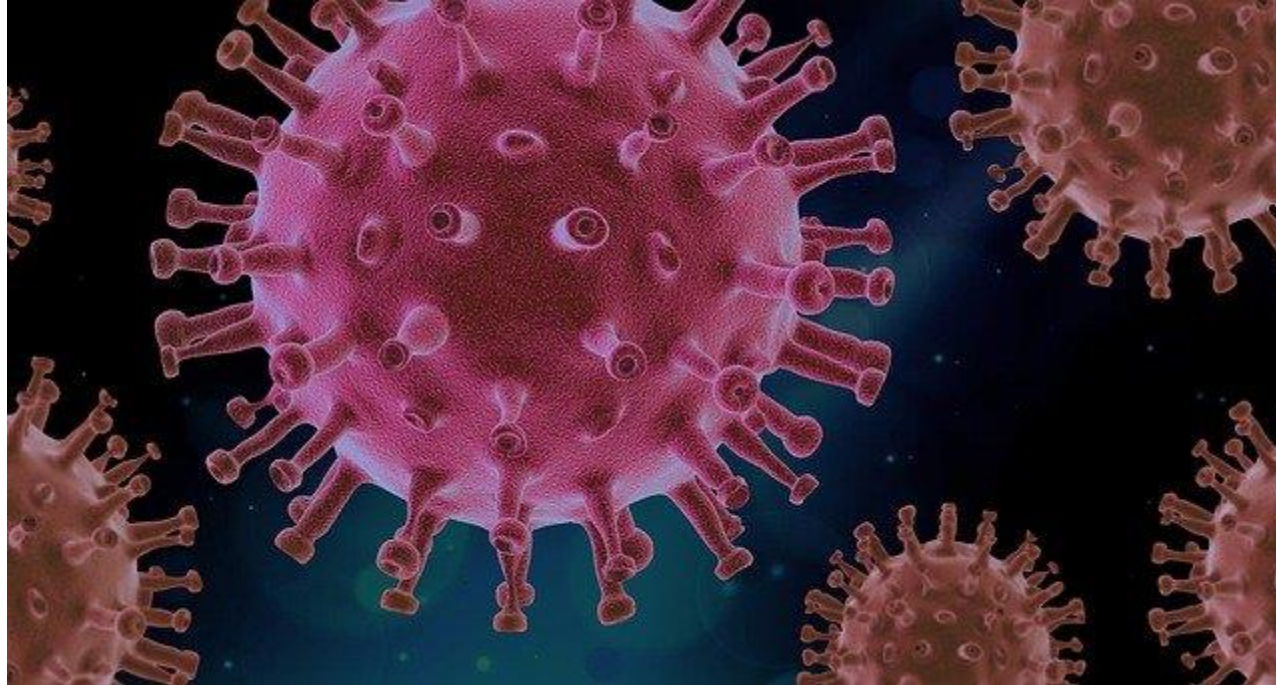
“More than 90 per cent of patients with whiplash attending a Dublin pain management clinic failed to return for additional treatment once their legal action was completed.”

(study of 100 patients at Mater Hospital pain management services)

Evidence *“points to an alleged injury syndrome which is present in Western societies with a culture of legal action”*. Jack Phillips, neurosurgeon at Beaumont Hospital



Government action





Action Plan for Insurance Reform (Dec 2020)

Press release

Government publishes plan to reform Insurance Sector

From [Department of Enterprise, Trade and Employment](#); [Department of Finance](#)

Published on 8 December 2020

Last updated on 8 December 2020

The government has today (Tuesday 8 December) published the first [Action Plan for Insurance Reform](#), with actions across Government to make Ireland's insurance sector more competitive and consumer-friendly, supporting enterprise and job creation.

The Plan sets out 66 actions to bring down costs for consumers and business; introduce more competition into the market; prevent fraud and reduce the burden on business, community and voluntary organisations.



Action Plan for Insurance Reform (details)

- The Plan will:
 - replace the Book of Quantum with new guidelines on the appropriate level of personal injury awards
 - enhance the role of the Personal Injuries Assessment Board
 - examine the duty of care to strengthen waivers and notices to increase protections for consumers, businesses, sporting clubs and community groups
 - further strengthen transparency through the expansion of the National Claims Information Database
 - monitor whether personal injury award levels need to be capped
 - reduce insurance fraud including placing perjury on a statutory footing, making the offence easier to prosecute
 - strengthen the enforcement powers of the Competition and Consumer Protection Commission (CCPC)
 - examine dual pricing
 - establish an office within Government to encourage greater insurance market competition

(copied from Press Release)

But does this go far enough?

How do we, as a society, want to care for our injured?



Can we learn from other countries



2: Australia



Australia



- Traditional owners of the land are numerous Aboriginal groups – who have lived there for about 70,000 years
- 6th largest country by size, but population is ~25.7m.

- Only continent without an active volcano
- Australia is home to 10 of the world's 15 most poisonous snakes as well as a disproportionate number of venomous spiders.
- Plenty of other things can kill you – box jellyfish, saltwater crocodiles, sharks, cassowaries. Kangaroos might kick you too.
- Slang
 - Stubby (beer bottle)
 - Thongs (flip flops)
 - Manchester (household linen)



Injury compensation in Australia

Motor: Third party bodily injury (CTP)
Covered by insurance.
Varies by state – fault and no-fault schemes

Motor: Bodily injury to driver of vehicle
Covered by insurance in states with no-fault schemes
National Injury Insurance Scheme for catastrophic injuries
Otherwise hospital system / health insurance / welfare

Injury

Work injury
Covered by insurance (workers compensation).
Mostly no-fault state based schemes

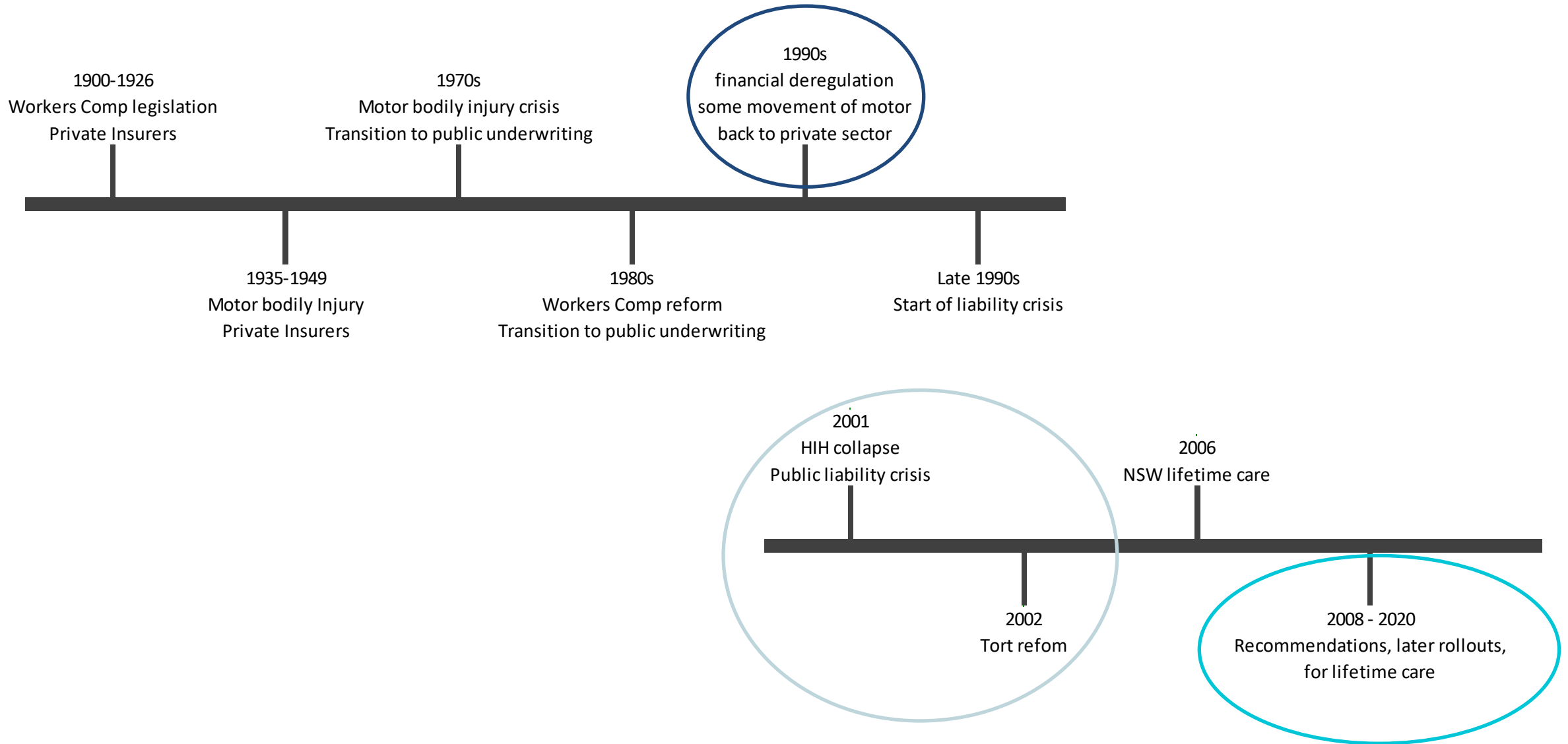
Other accident
Some covered by insurance (medical malpractice, public liability)
National Disability Insurance Scheme
Hospital / health insurance / welfare

Lessons from Australia (summary of following slides)

- 6 states, 2 territories, **8 different experiments in insurance**
 - Mixture of private insurers and government underwriting
- Possibilities for **motor bodily injury insurance oversight**
 - Fault and no-fault schemes
- **Reform in court awards**
 - Period of tort reform around 2002
- Mind the gap – **helping the catastrophically injured**
 - National Injury Insurance Scheme
 - National Disability Insurance Scheme

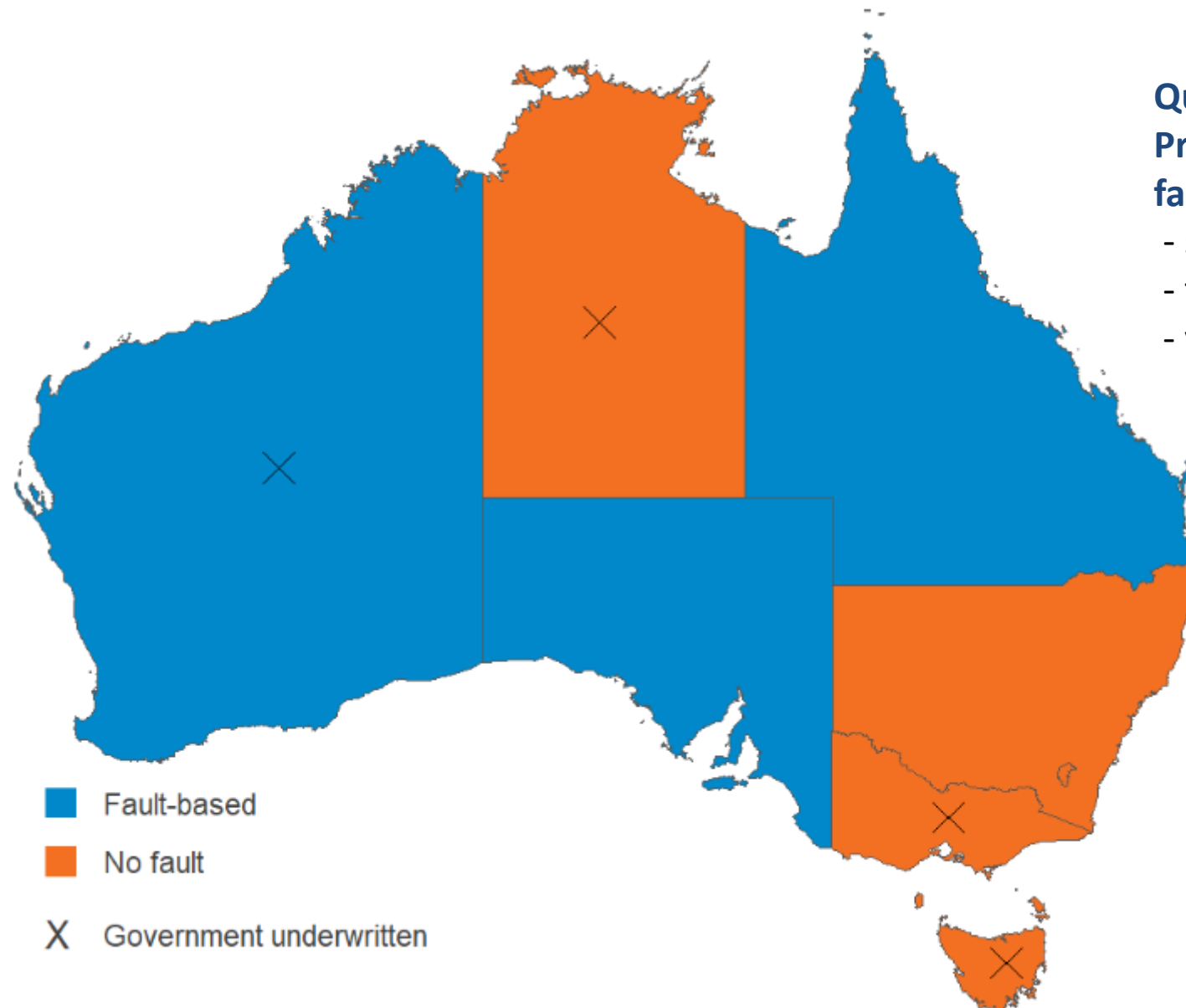


Australia's accident compensation timeline





Motor bodily injury schemes in Australia (CTP)



Queensland
Privately underwritten,
fault based but
- state oversight
- floors and ceilings
- vehicle type relativities



Tort reform

- Varied by state. Often differences between Public liability and the statutory schemes (workers compensation and motor bodily injury)
- Focused on reducing general damages payments for minor claims, removing trivial claims. E.g.
 - Thresholds on when general damages apply
 - Sliding scales of general damages relating to injury measurement
 - Maximum general damages specified
 - Medical panel assessment of injury to determine if it exceeds threshold
- Other changes:
 - Procedural changes to speed up claim reporting and settlement
 - Limitations to legal costs on small and medium claims



Plugging the gaps

National Injury Insurance Scheme

Lifetime care for catastrophically injured people in work or motor accidents

National Disability Insurance Scheme

Support for those with a disability

Still a gap – NIIS support for accidents higher than NDIS support.

3 : New Zealand



Ireland vs New Zealand

Measure	Ireland	NZ
Population	4.9m	5.1m
% in largest city	25%	31%
Rural population	36%	13%
Area (km ²)	70,273	268,838
Sheep	3.8m	26.7m
GDP (USD)	\$388b	\$207b
Milk (USD per litre)	\$1.19	\$1.69
Rugby Test Wins (H2H)	2 (1 draw)	29
Capital's average temperature (°c)	9.7	13.2
Capital's annual rainfall (mm)	767	1,098
Big Mac combo (USD)	\$9.47	\$7.53
Potato consumption per capita	69.4kg	46.7kg





History of the ACC

- Workers Compensation Act first introduced in 1900. Only provided compensation for six years from date of accident.
- Woodhouse review was commissioned in 1967 to report on workers' compensation. This recommended a 'no-fault' accident compensation programme that should:
 - Cover all motor vehicle injuries
 - Cover all injuries to employees, whether they happened at work or not
 - Remove the right to sue for any type of injury
- The Woodhouse review also recommend that the scheme be based on five basic principles:
 - Community responsibility
 - Comprehensive entitlement
 - Complete rehabilitation
 - Real compensation
 - Administrative efficiency
- The Accident Compensation Act was introduced in 1972. In 1973 it was expanded to cover people not already covered in the 1972 Act (i.e. students, people not working, and visitors to NZ). ACC began operating in April 1974.



How the ACC scheme works

- How scheme works
 - ACC provides no-fault cover for **everyone** in New Zealand (including visitors) if they're injured in an accident
 - It also provides cover for some conditions that come on gradually from work (e.g. hearing loss and asbestosis), injuries caused by treatments (e.g. birth injuries), mental injuries relating to a physical injury and victims of sexual violence
 - By providing full cover, injured parties are not able to sue for damages arising from their injury
- How the scheme is funded
 - There have been various changes to the funding of the scheme over time, including periods when it was funded as a pay-as-you-go scheme
 - The scheme has been fully funded (i.e. levies collected in a year cover all future costs for accidents incurred in that year) since 1999
 - The scheme is split into five accounts which are funded through separate sources
 - As the scheme is government backed, it does not need to meet statutory solvency levels. It has target funding levels, however in calculating these ACC are excluding any risk margins attached to the liabilities.
 - Given the size of the scheme and the long-term nature of the liabilities ACC has a sizeable investment asset (\$47b as at 30 June 2020)



Benefits provided by ACC

- ACC provides a range of benefits for claimants
 - Weekly compensation payments for people who are unable to work due to an injury (payments are 80% of income to a maximum of \$107k p.a.)
 - Financial support for dependents of people who have died due to an accident
 - Lump sum payments for permanent injuries
 - Costs of treatment (e.g. doctors, physios, specialists, imaging), although some services require claimants to make co-payments
 - Costs of surgery
 - Additional support (e.g. aids & equipment, childcare support, home help and care, transport, travel for treatment or rehabilitation, and counselling and therapy)
- For the vast majority of claimants benefits are short term
- However, for more seriously injured claimants benefits may need to be provided for the rest of their lives



A personal example of ACC benefits

- Twisted knee playing football
 - Go to the physio, complete ACC form at the initial consultation. Claim is later accepted by ACC. Physio requires a co-payment for each visit.
 - Initial diagnosis is unclear, as I'm not a professional athlete the initial treatment plan is to do basic rehabilitation until swelling reduces and a more accurate assessment can be done.
 - Knee starts to lock intermittently. This suggests there is torn cartilage and so physio refers me to a specialist and x-rays.
 - Specialist recommends arthroscopy surgery as he doesn't think ACL is torn, but needs to remove the torn cartilage. Sends a request for surgery to ACC.
 - Surgery is approved after a couple of weeks and booked for a months time, in a private hospital (but equally could have been in a public hospital depending on the surgeon).
 - Following surgery more physio to complete rehabilitation.
- As an office based worker my injury meant I was able to continue to work throughout
 - If I was a manual labourer (e.g. a builder) and I wasn't able to work, then there would have also been a weekly compensation component



How the ACC scheme is funded

- Each account is funded by levies or Government appropriation. The funding targets are set by the Government.
- Levies are set every two years, based on funding targets. The process includes a public consultation on proposed levies. Final levies are approved by the Cabinet and passed through regulations.
- Currently all levied accounts are meeting their funding targets, however increasing claims costs and reducing interest rates are expected to require increases in levy rates in the future.

Account	How is it funded	Levy rate	Total levies collected in FY20	OCL as at 30 June 2020
Earners'	Income tax	1.21%	\$1,664m	\$12,553m
Motor	Vehicle registration & petrol levy	\$46 + 6c per litre	\$444m	\$16,385m
Non-Earners'	Government appropriation	N/A	\$1,278m	\$13,755m
Treatment Injury	Through Earners' & Non-Earners'	N/A	\$267m	\$9,176m
Work	Wage levies based on industry	0.72%	\$815m	\$9,594m
			\$4,468m	\$61,463m



ACC scheme – additional information

- Injury prevention
 - ACC has a strong focus on injury prevention. It works with a number of community partners on injury prevention programmes for communities, road safety and sport and recreation.
 - There is a separate government entity (Worksafe) which is responsible for workplace safety. Serious work place accidents are investigated by Worksafe and can result in prosecutions under the Health and Safety at Work Act.
 - ACC work levies include experience ratings which reduce levies for employers with good claims records. ACC also provides workplace injury prevention grants to businesses.
- Fraud is investigated by ACC and generally takes two main forms:
 - Fraud by providers (e.g. providers falsely invoicing for services they didn't provide)
 - Fraud by claimants (e.g. claimants working whilst receiving weekly compensation payments or claimants exaggerating the extent of their injuries)



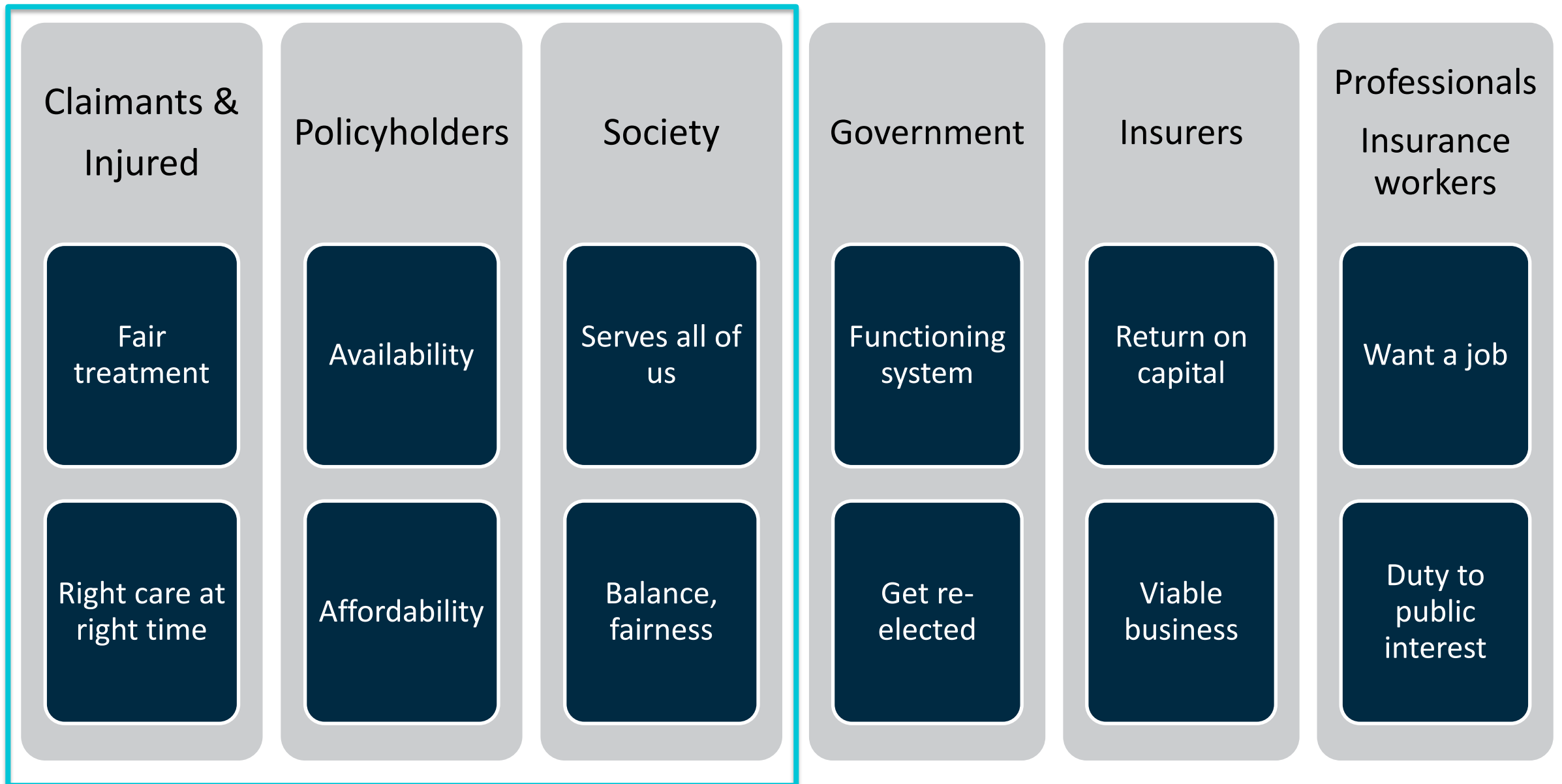
ACC scheme – strengths and weaknesses

- Weaknesses:
 - Only covers accidents, so doesn't cover the full health spectrum.
 - There are some grey areas around coverage, such as injuries due to age / wear and tear. ACC decline around 60,000 claims a year (~3% decline rate), and have an independent review process for declined claims.
 - Focus of the scheme can change under different governments.
- Strengths:
 - Scheme seems to be fully accepted by both sides of the political spectrum.
 - No fault basis seems to have resulted in less litigious culture.
 - Large investment fund provides investment in injury prevention.

4: Ireland



Stakeholders – what do they want?





ACC for Ireland?

Claimants &
Injured

Policyholders

Society

Government

Insurers

Insurance
workers

National no fault Injury support

- Puts focus on injured person
- Covers everyone
- Lower claims costs
- Better for society?

But

- Radical change – only works as a nationalised scheme?
- Loss of right to sue?
- NI border? EU?
- Good behaviour incentives?

5: Conclusion

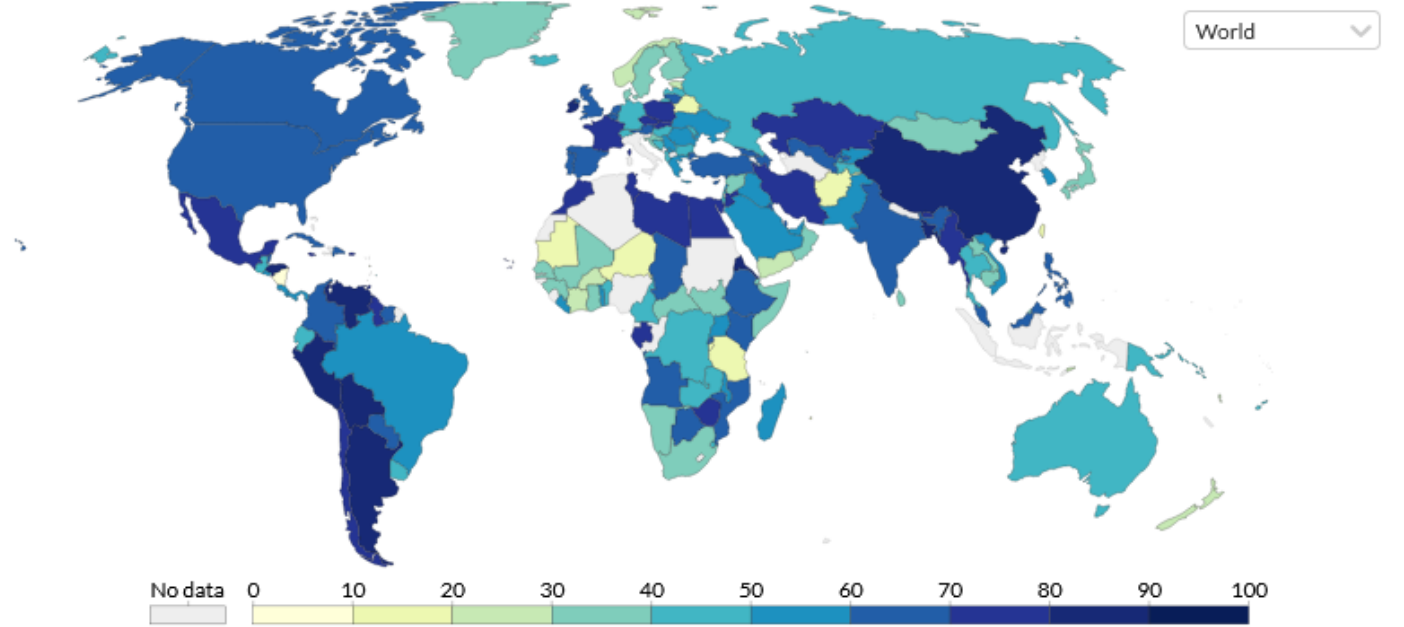


COVID lessons: We can take unprecedented action

COVID-19: Government Response Stringency Index, Nov 3, 2020

Our World
in Data

This is a composite measure based on nine response indicators including school closures, workplace closures, and travel bans, rescaled to a value from 0 to 100 (100 = strictest). If policies vary at the subnational level, the index is shown as the response level of the strictest sub-region.



Source: Hale, Webster, Petherick, Phillips, and Kira (2020). Oxford COVID-19 Government Response Tracker – Last updated 3 November, 16:31 (London time) CC BY

Note: This index simply records the number and strictness of government policies, and should not be interpreted as 'scoring' the appropriateness or effectiveness of a country's response.

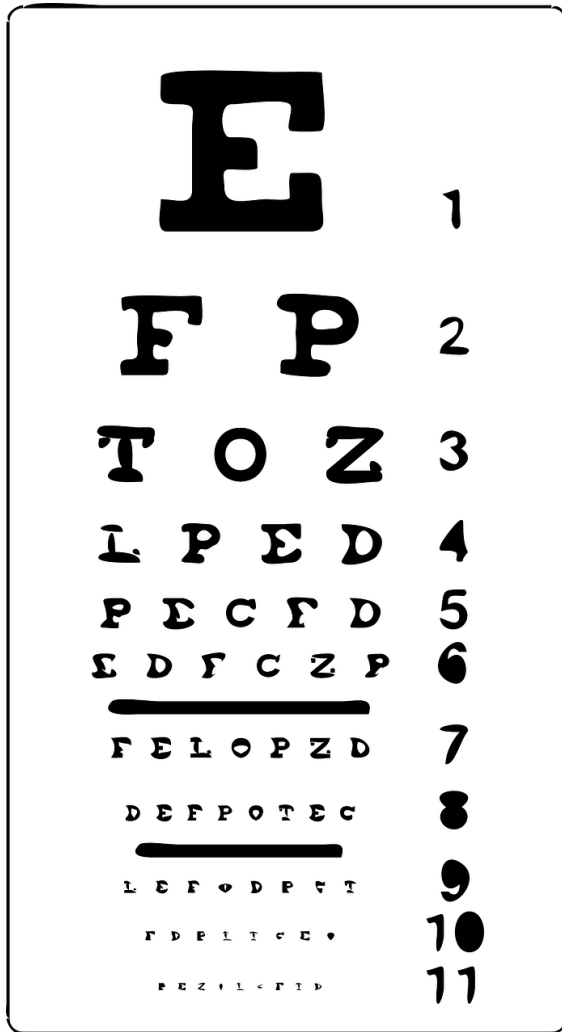
▶ Jan 21, 2020 ○ Nov 3, 2020

CHART MAP TABLE SOURCES DOWNLOAD

<https://ourworldindata.org/policy-responses-covid>



Is it time to think radically?



What gets the balance right between the different stakeholders? Especially for the three most important - claimants, policyholders and society?

Should we consider a national injury support scheme like New Zealand?

Questions

Please click on the 'Raise Hand' icon to ask a question

and

wait to be unmuted

or

Use the Q&A function

