

Navigating CTE Claims: A guide for insurers

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General Insurance

Health & Life Sciences

CTE

Chronic traumatic encephalopathy (CTE) is a neurodegenerative brain condition that is linked to symptoms including memory loss, confusion, changes in gait and speech, impaired judgement, difficulties with impulse control, aggression, depression, parkinsonism, and progressive dementia. Currently, a definitive diagnosis of CTE is only possible following post-mortem examination.

Most medical research is currently directed towards understanding the association of CTE with repeated head injuries and blows to the head (i.e. concussions), most prevalent in the sporting arena. However, while there is growing concern about CTE and its possible relationship with concussions, a causative link is yet to be clearly established in medical science. Accordingly, case law and legislative regulation of CTE is still in its infancy and known claims in this area have so far been limited to elite athletes.

The CTE claims landscape is expected to develop rapidly over the coming years. This guide provides a comprehensive overview of emerging trends in CTE claims, legal developments in Australia and globally, and the evolving implications for insurers as medical understanding and litigation continues to advance.

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Understanding CTE: A medico-legal overview

Global trends

While the first reported case of CTE emerged in 2005, with the autopsy of a National Football League (NFL) player published in an American neurosurgery journal,¹ concern surrounding the risks of repeated head trauma has a much longer history. Dating back to 1906, medical professionals have been on notice of the potentially significant ramifications of concussion mismanagement, including secondary neurodegenerative change.²

However, there has not been a consensus in the scientific community regarding the link between repeated head impacts and CTE. Notably, in 2023, the international Concussion in Sport Group (CISG) released a statement updating its definition of sport-related concussion, highlighting that extensive exposure to repetitive head impacts experienced by professional athletes is 'potentially associated' with CTE.

Developments in Australia

As medical understanding of CTE has progressed, so too has the number of inquiries aimed at reducing its prevalence. In September 2023, the Australian Government's Senate Standing Committee on Community Affairs released a report on concussions and repeated head trauma in contact sport.³ In this report, the government outlined 13 recommendations relating to head trauma in contact sport, which focused on increasing research, community and medical awareness of CTE, and modifying rules and protocols in contact sport to reflect emerging evidence on the causes of CTE. Over the past year, sports such as soccer, Australian Football League (AFL), and National Rugby League (NRL) have implemented the use of concussion spotters, head impact assessments, and return-to-play protocols.

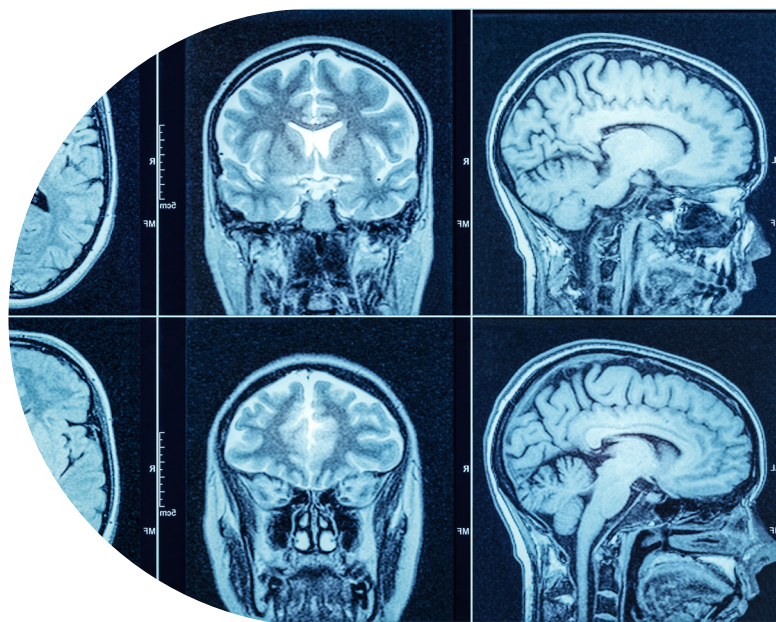
A growing number of elite athletes have voluntarily pledged to donate their brains posthumously to support ongoing CTE research. This includes Adam Hunter, a former West Coast Eagles player, and Shane Christie, a former Highlanders and All Blacks rugby player, who recently passed away at ages 43 and 39 respectively, with suspected CTE. The Australian Sports Brain Bank has confirmed that Hunter's brain exhibited stage II CTE lesions, consistent with a reported history of concussions and suspected symptoms of CTE. Christie's brain is currently undergoing examination.⁴

In addition to posthumous donations, a number of living athletes have also come forward after receiving medical advice suggesting probable CTE. Among them is former Socceroos captain, Paul Wade, as well

as former NRL player Wally Lewis, whose public advocacy has played a significant role in securing \$12.5 million in federal government funding to improve awareness and understanding of the impacts of CTE.⁵

In June 2026, an ABC Four Corners investigation revealed that 33 Australian Rules Football players (19 of them professional or semi-professional) have now been diagnosed with CTE via the Australian Sports Brain Bank, a sharp increase from just five previously known professional AFL cases. The findings include several high-profile players who died in their 20s, 30s and 40s, including 23-year-old Nick Lowden, the youngest AFL player diagnosed to date. Dr Ann McKee, a leading CTE researcher at Boston University, described the scientific evidence linking head impacts in contact sports to CTE as "incontrovertible" and noted that Australia was still catching up with developments in the United States.⁶

Due to this growing awareness, there has been an increase in CTE-related claims in Australia. At present, these claims appear focused on alleged CTE suffered as a result of repeated head injuries while playing competitive sport. Notably, in 2022, former Richmond Football Club player, Ty Zantuck, set a precedent in his case against the Club in the Supreme Court of Victoria.⁷ The Court's judgment clarified that statutory time limits could be extended to allow injured athletes to initiate claims that would otherwise have been outside the limitation period.



CTE claims in Australia

Since the Zantuck decision, there has been an influx of claims brought by sports players in relation to head injuries.

Shane Tuck class action

On 17 March 2023, a class action was filed by Shaun Smith, Darren Jarman, and Katherine Tuck (the widow of Shane Tuck), along with other ex-players and dependants against the AFL and its Richmond, Adelaide, Port Adelaide and Hawthorn football clubs. The claims alleged that it was foreseeable to the AFL and its clubs that the players were young men who were likely to attempt playing in AFL games despite receiving head knocks, including immediately following concussion incidents.

The late Shane Tuck was diagnosed with CTE post-mortem. His wife alleged that it was reasonably foreseeable to the AFL and its clubs that repeated head knocks could cause trauma to the brain. The group definition of the class action was:

- a. former AFL players who had been diagnosed with probable Traumatic Encephalopathy Syndrome (TES) and were exhibiting symptoms of TES, or
- b. deceased players who had been diagnosed with CTE.

The Shane Tuck class action was discontinued due to multiplicity in early 2024, noting the subject matter is entirely captured by the Rooke class action, which covers a significantly longer time period, as well as the same group members, injuries, and claims, as outlined below.⁸

In 2021, the Victorian Coroner held an inquest into Tuck's death and delivered its findings.⁹ The Coroner did not make any findings into the nature of Tuck's death, instead looking at preventative measures in sport to reduce concussion. Since the report, the AFL has implemented a number of the Coroner's recommendations, including the use of concussion spotters at AFL games and increased education on concussions and repeated head trauma, and is considering implementing independent doctors at all AFL and Australian Football League Women's (AFLW) games to assist club staff with head injury assessments.

Rooke class action

Jarad Rooke, commonly known as Max Rooke, played 135 AFL games for the Geelong Football Club between 2001 and 2010, and is the representative plaintiff of an ongoing class action brought against the AFL on 6 December 2023.¹⁰

He claims to have suffered an acquired brain injury and psychiatric injury and is seeking compensation.

During his career, Rooke alleges he experienced 23 incidents where he sustained significant head knocks and/or suffered from, and/or showed symptoms consistent with, concussions, and/or suffered from loss of consciousness.

The claims are brought on behalf of 'the injured players' who:

- a. played in the AFL Competition during the 'period' (1 January 1985 to 14 March 2023)
- b. sustained head knocks during the course of matches or training
- c. after sustaining head knocks, suffered from temporary loss of normal brain function or symptoms consistent with temporary loss of normal brain function, known as concussion, and
- d. suffered an acquired brain injury after sustaining concussions.¹¹

The claim contends that the AFL owed the players a common law duty, as well as a statutory duty under the Occupational Health and Safety Regulations (OHS Regulations) in Victoria, to take reasonable care for their safety, and to avoid exposing them to unnecessary risk of long-term and/or permanent personal injury or death as a result of head injury or concussion during matches and training.

Rooke claims that during the period, the AFL failed to take reasonable care by not implementing reasonable precautions, including failing to create and enforce relevant AFL Competition-wide rules, protocols, guidelines and procedures applicable to AFL players and clubs, amounting to a breach of its duty of care and negligence.

In September 2024, the class action added the Geelong Football Club as a second respondent to the claim. Class action counsel, Stella Gold, informed Justice Andrew Keogh that counsel for the proceeding would file a second writ naming the AFL's 17 other clubs to preserve players' rights against them but would seek to stay that case pending the outcome of the Rooke class action.¹²

Notably, Justice Keogh recently rejected applications by the AFL and the Geelong Football Club to declass the action, highlighting that despite the differences between each case, there will be critically important common questions relevant to risk of harm, the scope of the duty owed by the AFL and the Geelong Football Club, and the reasonableness of the systemic precautions claimed by Rooke. However, Justice Keogh has limited the initial trial to the nine-year period claimed by Rooke (a fraction of the 38-year claim period in the case), with a view to narrowing the primary issues in dispute.¹³

In September 2025, the Geelong Football Club issued a third-party notice against 12 current and former club doctors seeking an indemnity and/or contribution to any compensation award for their alleged failures in concussion management.¹⁴

Recently, the defendants successfully applied to have Rooke's alternative claim for breach of statutory duty under the OHS Regulations, relating to 'hazardous manual handling', struck out. Rooke claimed, in effect, that AFL players engaged in hazardous manual handling and the AFL breached its obligation under the OHS Regulations by exposing them to 'musculoskeletal disorders' during training and games. In striking out the claim, Justice Keogh, relying on High Court authority, determined that the OHS Regulations were designed to be preventative, rather than to govern post-injury management or risks like concussion protocols.

The Court found that there was nothing in the OHS Regulations to suggest that the statutory duties imposed on employers in relation to musculoskeletal injuries arising from or associated with hazardous manual handling tasks extend to precautions directed to reducing consequences of a musculoskeletal injury after it has occurred.¹⁵ Ultimately, the class action elected not to replead the statutory claim,¹⁶ noting it is unlikely to have any bearing on the outcome of the case.

On 25 March 2026, eight former players were joined as lead plaintiffs to the Rooke class action, as well as 10 additional clubs. It has been reported that more than 100 former players have now come forward to join the class action.

The Rooke class action has now been listed for a 12-week trial commencing 26 July 2027.

Interestingly, in a hearing in May 2026, the Court told group members in the class action that they would need to be prepared to hand over medical information for an upcoming mediation to be successful. Unsurprisingly, the class action's barrister raised confidentiality concerns regarding the disclosure of personal health information, citing that it may disincentivise individuals from joining the class action. However, the AFL's barrister argued that the information was necessary since the 'group definition' did not require a formal diagnosis of CTE, which was relevant to an assessment of damages for mediation. Justice Keogh agreed that the information would be required for the mediation to be successful, although he indicated a discussion could be had at a case management conference in September regarding a sampling/de-identification process.

Given the ongoing nature of the proceeding, including the potential for further expansion of the claimant cohort, the Rooke class action is likely to continue to shape the legal and risk landscape for concussion-related claims in Australian football.

Gary Ablett v Australian Football League & Ors

Former AFL player, Gary Ablett Sr., has also commenced legal action against the AFL over injuries allegedly caused by multiple concussions sustained during his football career. The Geelong and Hawthorn football clubs are co-defendants in the claim.¹⁷ Ablett claims that 'at all relevant times the defendants owed [Ablett] a duty to take reasonable care for his safety and avoid exposing him to unnecessary risk of harm arising from concussion'.

This claim is currently on hold, pending determination of the Rooke class action.

Liam Picken v Australian Football League & Ors

Former Western Bulldogs player, Liam Picken, has alleged that the AFL, the Western Bulldogs, and two former Club doctors breached their duty of care by mismanaging his head injuries.¹⁸ His claim alleges that the AFL breached its duty of care by failing to provide a safe system of work, develop and enforce an adequate return-to-play policy after concussion, ensure that best practice medical treatment was provided following concussion, and provide sufficient education to clubs and players regarding concussions.

Picken alleges that six of nine baseline cognitive tests undertaken at the club between 2011 to 2017 'expressly stated that [Picken] performed below the normal range as compared to his peer group'. The lawsuit further alleges that Club doctors breached their duty of care by failing to refer Picken for further testing despite his abnormal baseline tests, allowing



him to continue playing and training despite the irregular tests, and failing to prioritise his recovery over his return to play.¹⁹

This matter has been stayed pending the outcome of the Rooke class action, which has recently expanded in scope and is expected to resolve common questions, such as duty, foreseeability and systemic concussion management, that could have a material impact on the outcome of Picken's case.²⁰

Geelong concussion waiver controversy

In August 2026, media reports revealed that Geelong Football Club had, in 2024, entered into a confidential

agreement with a player with a concussion history under which the player assumed legal responsibility for future head trauma. The arrangement was reportedly intended to protect the club and its medical staff from future litigation. The AFL Players' Association said it was unaware of the arrangement and, in a joint statement with the AFL, indicated that clubs cannot unilaterally contract out of their obligations under the Collective Bargaining Agreement, the Standard Playing Contract, or health and safety laws. Geelong has since agreed to remove the waiver, although it retained an acknowledgement of risk.²¹

Global developments in CTE claims

United States

In re: National Football League Players' Concussion Injury Litigation

In 2011, nearly 5,000 former National Football League (NFL) players sued the NFL over head trauma they received during their football careers, which in many cases led to long-term neurocognitive diseases, including CTE. The plaintiffs alleged that the NFL and NFL Properties (NFL Parties) breached their duty to warn and protect NFL players from the long-term health problems associated with concussions, and that the NFL Parties allegedly concealed and misrepresented the connection between concussions and long-term chronic brain injury.²²

On 25 June 2014, the NFL Parties agreed to a class action settlement. Although the settlement has no monetary cap, it has already exceeded \$1 billion. The settlement did not establish any wrongdoing on the part of the NFL Parties.

The settlement class included all retired players of the NFL, World League of American Football, NFL Europe League and NFL Europa League, as well as immediate family members of retired players and legal representatives of incapacitated, incompetent or deceased players.

The settlement provided money for three benefits:

- a. baseline medical exams to determine if retired players suffer from neurocognitive impairment and are entitled to additional testing and/or treatment (\$75 million)
- b. monetary awards for diagnoses of ALS (Lou Gehrig's disease), Alzheimer's disease, Parkinson's disease, dementia and certain cases of CTE (a

neuropathological finding) diagnosed after death. The maximum monetary awards range from \$1.5 million to \$5 million depending on the diagnosis. All valid claims will be paid in full for 65 years, and

- c. education programs and initiatives related to football safety (\$10 million).

In re: National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation

In 2011, then-current and former student-athletes of the National Collegiate Athletic Association (NCAA) commenced a class action lawsuit against the NCAA, alleging that it had been negligent and breached its duty to the plaintiffs by:

- a. failing to adopt appropriate rules regarding protection from concussions, and/or
- b. inadequately managing the risks resulting from concussions.²³

The named plaintiffs sought medical monitoring for all qualifying current and former student-athletes, among other benefits.

On 13 August 2019, a U.S. District Court judge granted final approval of a settlement that ended the class action lawsuit. The settlement agreement required all NCAA member institutions to certify that they had implemented a concussion management plan that meets the requirements contained in the settlement agreement, which included the following:

- a. every student-athlete at every NCAA member institution will undergo pre-season baseline testing for each sport in which they participate prior to participating in practice or competition

- b. an NCAA student-athlete who has been diagnosed with a concussion will be prohibited from returning to play or participating in any practice or game on the same day on which he or she sustained such concussion, and
- c. any NCAA student-athlete diagnosed with a concussion by medical personnel must be cleared by a physician before being permitted to return to play in practice or competition.

Members of the settlement class included anyone who played an NCAA-sanctioned sport at an NCAA member institution at any time on or prior to 15 July 2016 and had not opted out from the settlement class. A person did not have to be diagnosed with a concussion to be a member of the settlement class.

The NCAA denied and continues to deny all allegations of liability and wrongdoing.

United Kingdom

World Rugby, RFU and WRU class action

In December 2020, nine former professional rugby union players initiated legal action against the Rugby Football Union, the Welsh Rugby Union and World Rugby. The number of players joining the legal action continues to increase, totalling nearly 1,100 at the time of publication.

The players argued that the governing bodies failed to adequately protect them from the risks associated with concussion and repeated concussion, resulting in players being diagnosed with disorders such as motor neurone disease, early onset dementia, CTE, epilepsy, and Parkinson's disease. They claimed that the defendants owed each individual professional player a duty to take reasonable care for their safety by establishing and implementing rules and regulations for the assessment, diagnosis, and treatment of actual or suspected concussive and sub-concussive injuries during matches and training sessions.²⁴

The claimants' lawyer, Susan Rodway, stated in court filings that the defendants 'ought to have known of the likelihood of long-term neurological complications due to cumulative concussive or sub-concussive blows to the head'.

World Rugby recently filed its defence in which it denies any liability and alleges that the injuries are a 'foreseeable and inherent risk' in playing the sport and that the players adopted a voluntary assumption of this risk.

Notably, the class action is now at risk of substantial reduction. Following a December 2025 High Court ruling requiring full disclosure of medical records and neurological testing for each of the roughly 1,200 claimants, the defendants have applied to strike out a

large proportion of claims for non-compliance with the production order. A hearing to determine whether the disclosure deadline would be extended again occurred in late July 2026 and the judge has reserved his decision. If the defendants are successful, around 95% of the claims could be struck out.²⁵

Inquest into the death of Gordon McQueen

A recently finalised coronial inquest into the death of former Scotland and Manchester United footballer, Gordon McQueen has found that repeatedly 'heading' a football is likely to have contributed to him suffering CTE, and ultimately his death.²⁶

During the inquest, Professor Willie Stewart – a consultant neuropathologist at the Queen Elizabeth University Hospital, Glasgow – gave evidence that CTE 'more than minimally, negligibly or trivially' contributed to the death and that 'heading the ball' contributed to the CTE.

The inquest has led to renewed calls for the Football Association (FA) to take more action on brain injuries. In particular, there is significant commentary voicing concerns around the efficacy of the FA's current concussion protections (e.g. phasing out heading the ball at the youth level), and whether the measures are being complied with around the country.

In response, the FA released the following statement:

'While any association between heading a football and later life brain health outcomes remains an area of ongoing scientific and medical research and debate, we continue to take a leading role in reviewing and improving the safety of our game together with all stakeholders and international governing bodies.'



While there is no litigation on foot, Mr McQueen's family was represented by Slater & Gordon at the inquest and expressed extreme dissatisfaction with the FA and Professional Footballers' Association's lack of support for players.

Diagnosis of former Dallas Cowboys player

In July 2026, Marshawn Kneeland, former NFL player for the Dallas Cowboys, was posthumously diagnosed with stage 1 CTE at age 24, one of the youngest

cases reported to date. The Concussion & CTE Foundation noted that CTE has now been found in nearly half of studied athletes who died before age 30 and said that despite modern measures, the risk of CTE amongst athletes has not reduced. It called for more prevention protocols to be implemented to "aggressively reduce the number and strength of head impacts at every level of the game".²⁷ There is no indication of a legal claim against the NFL from Mr Kneeland's family at the time of publication.

Legislative and regulatory framework in Australia

There is currently no legislation directly responding to CTE in Australia. However, legislative efforts are underway to define and regulate the assessment and compensation for traumatic brain injuries, including conditions that may lead to, or be associated with, CTE. These laws include:

- a. the *Motor Vehicle (Catastrophic Injuries) Regulations 2016* (WA),²⁸ which outline the criteria for assessing traumatic brain injury in different age groups, including significant brain imaging abnormalities and prolonged post-traumatic amnesia. It also specifies the conditions under which a traumatic brain injury must occur, such as in a motor vehicle or workplace injury, with specific dates for applicability
- b. the *National Injury Insurance Scheme (Queensland) Regulation 2016* (Qld),²⁹ which details the eligibility criteria for traumatic brain injury resulting in permanent impairment for both adults and children of various age groups. It sets out requirements such as post-traumatic amnesia lasting seven days or more, coma duration for one hour or more, significant brain abnormalities shown by imaging, and functional impairments assessed using specific tools, and
- c. the *Workers' Compensation and Rehabilitation Regulation 2014* (Qld),³⁰ which provides a detailed scale for assessing the severity of injuries, including traumatic brain injuries. It also outlines the impact on physical and cognitive functions, and the necessity for ongoing medical assessments.

The criteria and scales provided in these regulations are essential for ensuring that individuals who sustain traumatic brain injuries receive appropriate evaluation and support.

In September 2023, the Australian Senate tabled a report on concussions and repeated head trauma in contact sports.³¹

The report provided 13 recommendations, including:

- a. encouraging professional sports organisations to ensure their athletes have insurance coverage for head trauma
- b. considering rule changes within professional sporting codes to prevent head trauma, and establishing a best practice model for ongoing support – financial and otherwise, and
- c. engaging the Department of Health and Aged Care, in consultation with relevant stakeholders, to provide education to health professionals on recognising acute signs and symptoms, responding appropriately to injuries, and understanding the short and long-term effects of concussion and repeated head trauma.

Individual sports codes, such as the AFL, have introduced more than 30 changes to their rules and protocols relating to concussion and head trauma over the past decade. In 2021, the AFL implemented minimum return-to-play protocols at the elite level, requiring any player diagnosed with a concussion to miss at least one match (based on standard fixturing), with additional downtime depending on their recovery and concussion history.³²

The AFL also released updated concussion guidelines for community football, which mandate a minimum 21-day rest period following a concussion before a player can return to play. In most cases, this rest period will exceed the 21-day period.³³ These guidelines place a greater focus on the effects of head trauma on young people.

It is also noteworthy that the AFL has recently implemented a new national 'PlayHQ' system for concussion management in amateur leagues. The system requires the immediate recording of suspected concussions and manages the 21-day recovery period with automated notifications and clearances. Its objective is to enhance player safety

by transforming paper-based processes into an automated and efficient system.³⁴

The AFL and AFLW are also studying the susceptibility of female footballers to concussion, with early studies indicating a higher incidence of concussion was demonstrated in female compared to male players. The studies indicate that mechanisms associated with concussion differ between male and female competitions, suggesting a review of injury prevention mechanisms, such as tackling and bumping skills training and education in the AFLW may reduce the risk of concussion.³⁵ The AFL and AFLW are actively reviewing their concussion protocols.

In November 2025, new guidelines were released for the treatment of concussions, which will be implemented across Australian and New Zealand healthcare systems through a model of care called 'Mind the Gap'. Developed by a multidisciplinary team led by the University of Queensland, these guidelines represent the first unified clinical practice framework across Australia and New Zealand spanning injury through to recovery. While not mandatory, they are expected to shape the emerging standard of care, providing a comprehensive toolbox for general practitioners and other frontline clinicians.

The guidelines place strong emphasis on safe return to activity, management of persisting symptoms, and the interrelationship between sleep, mental health, and recovery. They also highlight the importance of recognising and managing repeat concussions, acknowledging cumulative risk and the need for more consistent clinical pathways.

More recently, in January 2026, the AFL released its first ever Australian Football Headgear Standards and subsequently endorsed and approved GameGear, a new soft-shell headgear product and the first helmet to pass these standards. The headgear is sold online to the public. However, the move has drawn widespread criticism from neuroscientists, who note there is no concrete scientific evidence that the helmets assist with concussion reduction. Leading sports neuroscientist, Alan Pearce, described the AFL's endorsement as "potentially dangerous", noting that parents are likely to buy the headgear believing it will protect their children from concussions. Further criticism has been directed at the AFL's new standards, which state that headgear approval does not guarantee protection from head or brain injury.³⁶ GameGear is currently funding a two-year Monash University trial involving 600 athletes across AFL and NRL to assess whether, and to what extent, the helmets reduce concussions.

Significantly, the NRL has introduced formal limits on full-contact training, becoming the first Australian contact sport to cap training contact specifically as a brain injury prevention measure, targeting cumulative sub-concussive exposure rather than diagnosed concussion alone.³⁷ In light of this change, we anticipate pressure on other major contact sporting codes to follow suit.

Health sector response to CTE

While the Australian health sector's response to CTE is in its infancy, treatment and support for affected individuals remain a clear priority.

Most recently, the TGA approved blood-based biomarker tests for Alzheimer's disease, which achieved over 90% diagnostic accuracy in Australian trials. While not a diagnostic test for CTE, the approval offers hope that blood-based diagnosis of CTE, another tau-linked neurodegenerative condition, may soon become clinically available in Australia.³⁸

Other recent developments include:

- the opening of several specialist concussion clinics across Australia to provide care for individuals who have experienced an acute concussion within the last six months, including early assessments, education, and rehabilitation. These clinics operate as outpatient services for persons aged 16 to 80 years old. For example, in Victoria, the Alfred Health and Epworth HealthCare concussion clinics have an acute concussion focus (0-6 months post-injury)
- the commencement of very early treatment trials, with the Cingulum Clinic in Sydney exploring transcranial magnetic stimulation,³⁹ a non-invasive brain stimulation technique, as a modality for alleviating symptoms associated with brain injuries and conditions such as CTE
- the emergence of support networks such as Dementia Australia, the Concussion Legacy Foundation Australia, and ConneCTers Australia, which provide resources and support for individuals affected by CTE, and
- a federal funding package of \$12.5 million to Dementia Australia to help deliver its national pilot program to those with probable CTE, as well as a national awareness and education program in schools.

Implications for insurers

For insurers, it is evident that CTE claims will continue to rise in volume as medical science and legislative regulations evolve. We anticipate that these claims will become a significant part of the Australian claims landscape, particularly if a definitive link is established between concussions and CTE, and/or if CTE becomes diagnosable pre-mortem.

Potential claimant cohorts and exposure pathways

Although currently limited to elite athletes, we anticipate that CTE claims will increasingly extend beyond the professional sporting realm.

Most recently, in July 2026, the Australian Defence Force commenced a four-year study with Monash University tracking approximately 300 recruits undertaking artillery training, cross-referencing helmet-mounted blast sensors with blood and neurological testing. The study is a direct, government-funded response to findings of the Royal Commission into Defence and Veteran Suicide that low-level blast exposure may cause traumatic brain injury.⁴⁰

Potential claimant cohorts and exposure pathways include:

- amateur or local athletes, clubs, leagues, governing bodies, associations and schools participating in contact sport (such as boxing, football, and rugby)
- military personnel exposed to blast injuries
- motor vehicle accidents
- slips and falls
- falling objects (such as metal pipes) in construction jobs
- victims of frequent physical assault, with recent studies demonstrating domestic and family violence victim-survivors as a population at risk of CTE,⁴¹ and
- with the rise in nervous shock claims in Australia, potential dependency claims, including against medical practitioners for missed or delayed diagnoses of concussion-like symptoms causing or contributing to CTE.

From an exposure perspective, insurers are already taking steps to mitigate the ongoing uncertainty surrounding long-term CTE risk, with Zurich Insurance recently limiting its total and permanent disability benefit scheme to exclude AFL players making claims for traumatic head injury, concussion, CTE, post-concussion syndrome, and other neurological impairments linked to brain injury.⁴²

Quantum risk and overseas benchmarks

While CTE litigation is in its infancy, American case law has already set a benchmark for up to \$5 million awards where CTE is established post-mortem. In Australia, concussion claims have settled for up to \$1.4 million,⁴³ with the plaintiffs' solicitors in the Rooke class action potentially seeking up to \$2 million per plaintiff in general damages for pain and suffering plus medical expenses. Accordingly, if CTE becomes diagnosable pre-mortem, we anticipate plaintiffs will seek to expand straightforward concussion claims by incorporating allegations of potential future CTE diagnoses, thereby laying the foundation for more significant awards.

Importantly, significant components of the settlement agreements overseas have included requirements for regulators and enforcement bodies to improve concussion guidance and protocols. With such significant sums involved, we expect regulators across industries in Australia will aim to stay ahead of emerging legal and health-related challenges and proactively implement new measures.

Beyond developments within Australian sporting codes, further sector-wide responses have included:

- the Royal Australian College of General Practitioners' guidelines for 'Assessment and management of sport-related concussion in general practice', which outline requirements for general practitioners in managing concussion presentations,⁴⁴ and
- 'CTE Dementia' guidelines issued by Dementia Australia, which provide guidance on prevention strategies to decrease the risk of developing CTE.⁴⁵

With growing attention on CTE, we anticipate that peak enforcement bodies, such as the Australian Health Practitioner Regulation Agency (AHPRA), may consider issuing guidelines for practitioners involved in managing concussion and CTE presentations – particularly in light of the third-party claim against the Geelong Club doctors in the Rooke class action.

While proactive regulation can help insurers reduce the severity of claims, it may also contribute to a higher overall volume of claims as public awareness and understanding of CTE increases. Additionally, if bodies such as AHPRA seek to enforce such guidance, notifications and regulatory complaints or inquiries may similarly rise.

Underwriting and policy design considerations

Until medical science provides more definitive answers, insurers face a challenging balancing act in assessing a complex neurological clinical condition against mitigating financial exposure. In the meantime, underwriters may consider the following:

1. revising underwriting models to account for concussion-related risks. This may include incorporating evidence-based risk assessments and exclusions that apply to individuals with a history of concussions, who have an increased likelihood of developing CTE
2. using policy sub-limits, particularly relating to brain or latent injuries (including CTE), thereby limiting insurers' exposure to concussion-related claims
3. policy structures may require adjustments to balance adequate coverage for concussion-related injuries and CTE with sustainability
4. training for claims assessors to effectively manage complex CTE claims, which may span several years as the condition progresses, requiring vigilance from claims handlers
5. establishing a 'retroactive date' in a policy that is more limited for CTE claims, and
6. educating policyholders on prevention, early recognition of symptoms, and the importance of timely treatment.

Risk mitigation

Disputes involving CTE are likely to turn on what the organisation/governing body knew or ought to have known about repetitive head impacts, and how effectively they translated that knowledge into operational controls.

With a continuing shift toward negligence-based concussion litigation against sporting clubs, leagues and governing bodies, driven by greater medical understanding of cumulative brain injury and CTE risk, insured sporting clubs, leagues and governing bodies might consider the following from a risk mitigation view:

1. concussion record-keeping (i.e. operating central information systems)
2. sufficient warnings about cumulative risk (e.g. publishing concussion guides)
3. enforcing stand-down/return-to-play requirements when athletes are symptomatic (i.e. mandating protocols), and
4. governance structures that demonstrate reasonable precautions.

Insurers and insureds should not be alarmed by the prospect of CTE-related claims. The increasing spotlight on CTE and emerging claims is likely to prompt sporting bodies, employers, regulators and other relevant industries to review and strengthen their rules, protocols and support frameworks. Over time, these proactive measures may assist in better mitigating the risk of head injuries and, in turn, reducing potential future claims.

As the medical and legal landscape surrounding CTE continues to evolve, we expect further developments across the insurance industry and will continue to monitor these shifts to inform future guidance.



Our national Health & Life Sciences team

Barry Nilsson's national Insurance & Health practice combines deep industry knowledge with local expertise and the highest standards of client service. With expertise across all lines of insurance, we partner with our clients to tailor strategies that are designed to achieve the best outcomes. This includes a team of more than 40 Health & Life Sciences specialist lawyers dedicated to solving complex problems for the healthcare industry.

Our team frequently appears in coronial inquests and Commissions of Inquiry, and is highly experienced in defending regulatory investigations, disciplinary proceedings, and medical negligence claims, as well as product and general liability matters.

With qualifications in science, nursing and other health-related disciplines, our team has significant insight and understanding of the legal issues that arise within the healthcare industry. This focus is central to our ability to help clients navigate a complex and ever evolving risk landscape, delivering practical, considered solutions across the lifecycle of every claim.

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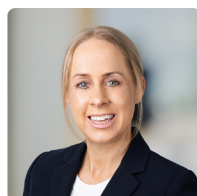


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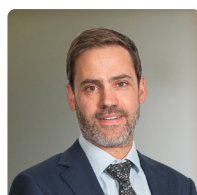


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