



ABI Briefing: Personal Injury Fraud

Background

- In recent years there has been significant reform to the regulatory landscape covering the personal injury compensation system. As a result of the reforms introduced, the insurance industry has passed on to consumers savings of over £1.1 billion through lower insurance premiums. However, the focus of the reforms to date has been on improving the efficiency of the claims system rather than tackle the underlying cause of claims, i.e. the UK's compensation culture.
- Insurance fraud, and in particular personal injury insurance fraud, underpins the compensation culture and until this is addressed through bold reform, car insurance premiums will continue to remain higher than they need to be and honest motorists will continue to suffer.

Average car insurance premiums

- The average private comprehensive motor insurance premium for full licence holders has started to increase after a sustained period of premium reductions from 2012-2014. The ABI Motor Premium Tracker indicates that the average premium in Q3 2015 was £379 which is 9% lower than the average premium in Q1 2012 but is 4% higher than it was at the start of 2015.

Insurance fraud

- Insurance fraud cuts across every type of insurance. In 2014, the industry detected almost 130,000 cases of insurance fraud with a combined value of £1.32 billion – a 3% increase in value compared to 2013. Of this, £837 million related to 67,000 detected fraudulent motor insurance claims.

Industry efforts to tackle insurance fraud

- Collectively the insurance industry invests more than £200 million per year in counter-fraud measures to ensure that we catch the cheats. We have also:
 - Established the Insurance Fraud Bureau (IFB) to spearhead the fight against organised motor insurance fraud. Since the IFB was set up in 2006, it has assisted police with over 1,100 arrests, securing prison sentences totalling over 340 years for criminals orchestrating 'crash for cash' scams. As a result of a major crackdown by insurers and the police, the IFB announced (16 November 2015) that the cost of 'crash for cash' fraud has dropped by almost £60m, with total scams now valued at £336m (compared to £392m in 2012). However, 1 in 10 personal injury claims can be linked to suspected 'crash for cash' scams, with the average value of an organised scam standing at £1.3m.
 - Established the Insurance Fraud Register – a database of known insurance fraudsters
 - Invested over £20 million to establish and develop the Insurance Fraud Enforcement Department (IFED) – a dedicated police unit within the City of London Police (but operating nationally) which brings insurance fraudsters to justice. Since its inception in January 2012, IFED has made more than 720 arrests, secured more than 180 convictions, issued more than 250 cautions and confiscated around £1.2m assets from insurance fraudsters.



Government's Insurance Fraud Taskforce

- The Insurance Fraud Taskforce was established by the Lord Chancellor in December last year to explore further options for combating insurance fraud. The Taskforce is chaired by David Hertzell and has been meeting regularly throughout the year and has held a number of roundtable events with wider stakeholders to discuss the Taskforce's provisional recommendations.
- The Taskforce will finalise its recommendations and publish its final report in December. As an early recommendation, the ABI has been leading work to review the cross-sector Good Practice Guidance on Application Fraud. This will be published in January.
- The Taskforce is currently looking at a range of recommendations focusing on consumer behaviour, data sharing, legal and regulatory reform (particularly in the personal injury space) and looking at practices in the wider industry that may be encouraging insurance fraud. The Taskforce is also contributing to the CMC and CJC reviews.
- The industry has been supportive of the work of the Taskforce and we are working with it to help try and deliver the meaningful reform required to crack down on fraud and help reduce premiums for honest consumers.

Claims Management Companies (CMC) review

- One of the main drivers of increased costs has been the activities of CMCs. In the summer budget, the Government announced a review of CMC regulation, to be chaired by Carol Brady (chair of the Chartered Trading Standards Institute's Board). The ABI believes that CMCs can provide a useful service for some customers, but bad practice by many firms has undermined the integrity of the whole sector. In 2014, the Claims Management Regulator struck off 105 CMCs and issued warnings to a further 296, 23% of the total number of accredited firms faced regulatory sanction.
- The IFB has received more than 400 intelligence reports about suspected CMC fraud and more than half of its live investigations feature a CMC, including 56 separate CMCs under investigation for involvement in 'crash for cash' scams. A recent ABI survey shows that 83% of people have received unwanted cold calls or texts from CMCs, 92% of those had not been in an accident or taken out a relevant policy.
- From this review, the ABI would like to see the FCA take responsibility for regulating CMCs. The regulatory regime must focus on protecting consumers and ensuring effective competition in the market, and the FCA is best placed to achieve this by understanding the financial incentives driving CMC activity.
- A stronger regulatory regime must raise professional standards in the CMC sector with a more robust licensing process, an approved person's regime, more prescriptive conduct rules and more transparency over fees and over when a CMC is involved in a claim. When someone is caught handling unsubstantiated or fraudulent claims, they must lose their accreditation – they can't just resurface as a new claims management company.
- We also want to see the review consider whether the current definition of a CMC is adequate to ensure firms do not slip through the gaps between different regulatory regimes. Stronger regulation will raise standards, ensuring that the links between the CMC sector, nuisance calls and fraud are broken, while also bringing down costs for all by reducing the number of speculative claims.



Further reform

- While the CMC review and Insurance Fraud Taskforce are welcome, the number of motor insurance claims submitted through the Claims Portal has increased by 12% in the last year. For this reason, we would like to see the following regulatory reform:

Increase Small Claims Track (SCT) limit

- The current SCT limit was set in 1991 when 50% of personal injury claims fell within its scope, now under 10% do. The previous Government consulted on increasing the SCT in 2013 and concluded:
- *We have deferred the decision on raising the small claims threshold for personal injury cases, but fully intend to return to this issue in due course. We believe there are strong reasons for raising this threshold, but evidence from stakeholders showed that the time is not right to do so now. We are clear however, that we expect to see insurers meet their commitment to pass on to consumers and businesses the savings from these and other Government reforms which are driving down the costs of civil litigation.*

In our view, it is time to revisit whether the time is now right to increase the SCT limit to at least £5,000. However, access to justice for genuinely injured claimants should be preserved. We have long argued that it is important to introduce safeguards for claimants in an environment where the SCT limit is higher and the industry would welcome the opportunity to work with the Government to help ensure these safeguards are properly introduced.

The safeguards could include:

- a regulated predictable damages framework
- improved education and training for consumers on how to make a claim
- creation of a web interface to enable litigants in person to submit claims

Late notification of claims

- A claimant has three years from the date of an accident to file a claim for personal injury, a timeframe set in the Limitation Act. Such a lengthy limitation period increases the incentives on CMCs to “farm” older claims with a view to encouraging the non-fault motorist to submit a claim for compensation. Approximately 20% of claims are submitted 12 months after the RTA. Furthermore, when a claim is submitted months or years after the accident, the claimant is likely to have fully recovered from any injuries and therefore a medical report will be meaningless. It cannot be right that the limitation period is so long – all medical evidence suggests that a claimant will know within hours or days if they have sustained an injury in an a car accident.
- A change in the Limitation Act would not be required to address these issues. It is possible, for example, to amend the Civil Procedure Rules so that there is a defined period in which to submit a claim following an RTA. If this is done, then solicitor costs would not be payable except in exceptional circumstances. The advantage of such an approach is that it restricts access to costs for solicitors (and in turn one of the drivers of fraud) but does not affect access to justice for claimants – instead it incentivises early presentation of genuine claims.

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