



House of Commons
Transport Committee

The cost of motor insurance

Fourth Report of Session 2010–11

Volume I

Report, together with formal minutes, oral and written evidence

Additional written evidence is contained in Volume II, available on the Committee website at www.parliament.uk/transcom

*Ordered by the House of Commons
to be printed 1 March 2011*

The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Transport and its Associate Public Bodies.

Current membership

Mrs Louise Ellman MP (Labour/Co-operative, Liverpool Riverside) (Chair)
Steve Baker (Conservative, Wycombe)
Mr Tom Harris (Labour, Glasgow South)
Julie Hilling (Labour, Bolton West)
Kelvin Hopkins (Labour, Luton North)
Kwasi Kwarteng (Conservative, Spelthorne)
Mr John Leech (Liberal Democrat, Manchester Withington)
Paul Maynard (Conservative, Blackpool North and Cleveleys)
Gavin Shuker (Labour/Co-operative, Luton South)
Iain Stewart (Conservative, Milton Keynes South)
Julian Sturdy (Conservative, York Outer)

The following were also members of the committee during the Parliament.

Angie Bray (Conservative, Ealing Central and Acton)
Lilian Greenwood (Labour, Nottingham South)
Angela Smith (Labour, Penistone and Stocksbridge)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/transcom>. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are Mark Egan (Clerk), Marek Kubala (Second Clerk), David Davies (Committee Specialist), Alison Mara (Senior Committee Assistant), Edward Faulkner (Committee Assistant), Stewart McIlvenna (Committee Support Assistant) and Hannah Pearce (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Transport Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6263; the Committee's email address is transcom@parliament.uk

Contents

Report	<i>Page</i>
Summary	3
1 Introduction	5
The cost of motor insurance	5
Cost of motor insurance: a policy problem?	7
2 Personal injury claims and referral fees	9
Why has the number of personal injury claims increased?	10
Legal costs and referral fees	11
Bolder reform?	13
3 Uninsured drivers	15
4 Fraud	17
5 Young drivers	20
What should the Department do?	20
What can insurers do?	21
6 Conclusion	23
Conclusions and recommendations	24
Formal Minutes	27
Witnesses	28
List of printed written evidence	28
List of additional written evidence	29
List of unprinted evidence	29
List of Reports from the Committee during the current Parliament	30

Summary

Motor insurance premiums are rising rapidly, despite the long-term trend towards there being fewer casualties from road accidents. Young drivers, in particular, must pay particularly large insurance premiums. The high cost of motor insurance can cause a number of policy problems for the Government to deal with, for example it can:

- adversely affect the lives of people who depend on their cars to get to and from work and for social reasons, particularly in areas where the provision of public transport is limited;
- encourage some people to drive without insurance; and
- increase the incidence of insurance fraud.

There is general agreement that premiums have increased because of the increased number of personal injury claims arising from road traffic accidents. Motor insurance premiums must now pay for compensation for personal injuries and legal costs on a far greater scale than before. Although we welcome wider access to justice, it should not provide an opportunity for people to make fraudulent claims for non-existent or pre-existing injuries. We call on the main players in the insurance industry to do more to tackle fraud, including by funding a dedicated police unit on insurance fraud, and we expect the Government to help in achieving this. We also call on the Government to specify more precisely when insurers will be enabled to gain access to DVLA information about drivers purchasing insurance.

Referral fees are a feature of the insurance industry, with fees being paid and received by insurers, solicitors, claims management firms and others. The Government is currently considering a recommendation by Lord Justice Jackson's review of civil litigation to ban or cap referral fees. This issue has ramifications which extend beyond the scope of our Report. In our view, where referral arrangements exist they should be more transparent to consumers and we make detailed recommendations to achieve this.

Uninsured driving is beginning to decrease because of better enforcement action by the authorities, supplemented by the recent introduction of a scheme for the registered keepers of uninsured cars to be warned and fined by the DVLA. We recommend that the new scheme should be accompanied by a promotional campaign, aimed at young drivers, to alert them to the requirement to have valid motor insurance. We also recommend that the penalties for the offences relating to uninsured driving be reviewed next year.

We recommend that the Government's forthcoming road safety strategy should aim to bring down the casualty rate amongst young drivers. We welcome the Minister's commitment to making the driving test more rigorous and exploring other ways of ensuring that young drivers are well trained but the proposals in this area are not new and the debate does not seem to have moved on since our predecessors looked at this issue in 2007. We recommend that specific proposals be published for consultation within the next six months, with a view to changes being implemented during this Parliament.

We also recommend that the Government facilitate investigation of effective means of deploying and publicising new technology which can assess how cars are driven by young drivers and sponsor research into international experience in restraining the number of personal injury claims relating to motor insurance.

1 Introduction

The cost of motor insurance

1. Many motorists have had an unpleasant surprise in recent months in discovering that the cost of their motor insurance has increased significantly. The AA's British Insurance Premium index reported that average quoted premiums for comprehensive cover increased by 11.7% in the third quarter of 2010 and by 29.9% in the year to October 2010.¹ The average of the lowest three quotes from 90 providers (known as the "Shoparound" average) increased by 39.3% in the year to October 2010, to £792.² The Confused.com/EMB insurance price index has reported similarly hefty increases in premiums quoted to motorists over the last 18 months.³

2. Although most witnesses accepted that motor insurance premiums were rising quickly, the Credit Hire Organisation denied this, pointing out that the published indices of quoted premiums did not necessarily reflect the premiums paid by drivers:⁴

There is a difference with what the AA Index suggests is the cost of insurance and what motorists end up paying as a result of shopping around/changing insurer/no-claim discounts.

Duncan Anderson of EMB (now Towers Watson) consultants explained the difficulty in identifying trends in actual, rather than quoted, premiums, and provided further evidence to support the widely accepted notion that premiums are increasing.⁵

3. We were told that premiums would continue to increase because insurers needed to make up for several recent lean years; that insurers currently spent around £1.20 for every £1 collected in premiums; and that the underwriters of motor insurance had been loss-making since 1994.⁶ Other witnesses pointed out that insurers were not entirely dependent on premiums for income, earning money from investing premiums, for example, as well as from referral fees.⁷ Some witnesses suggested that premiums moved in cycles,⁸ although the AA's Premium Index provides little support for this theory for the period from 1994.⁹ Bearing out the predictions of the Association of British Insurers (ABI) and others, premiums have continued to rise into 2011.¹⁰

1 Ev 66.

2 Ev 61, paragraph 2.3.1.

3 Ev 43, paragraphs 3-5. The index has recently changed named and is now the Confused.com/Towers Watson index.

4 Ev 80 and Qq198-201, 244.

5 Ev 89.

6 Ev 44 paragraph 11, Ev 44-45, section 2, Ev 50-51 paragraphs 2.6 and 3.2, Ev 61, paragraph 2.43, Ev 69, paragraph 1.1 and Qq 35-37, 137, 158, 207, 209, 213-14.

7 Ev 55 paragraph 3.6, Ev 79 paragraph 6.5 and Qq 143-44, 233.

8 Q177.

9 Ev 67.

10 Announcement by AA "Bad news for motorists and home owners as insurance premiums keep rising, AA Index shows", 21 January 2011.

4. Young motorists must pay particularly large insurance premiums. The AA's Shoparound average for men aged 17 to 22 increased by 46.6% in the year to October 2010, to a staggering £2,457. The Shoparound average for women of the same age increased by 58.8% during the same period, to £1,423.¹¹

5. Insurance premiums are calculated on the basis of risk factors and it has long been recognised that younger drivers, particularly young men, are more likely to be involved in motor accidents than other groups. Duncan Anderson said "if you look at a graph of male accident rates by age and a graph of testosterone by age, they are remarkably similar".¹² Confused.com told us that people under 25 accounted for 31% of motor accidents and 40% of claims costs.¹³ The AA said that "under age-21 male drivers are 10 times more likely to have an accident than those aged 35 or over [and the] average claim value for under-21s is three times greater than for those aged 30 or above".¹⁴ The Government told us that "as many as a fifth of newly-qualified drivers make a claim within six months of passing their test".¹⁵

6. Nevertheless, the number of casualties in road accidents is decreasing. There were 163,554 road accidents involving personal injury in 2009, the most recent year for which figures are available, 31 per cent fewer than the average figure for the years from 1994 to 1998. Of these, 24,054 accidents involved death or serious injury, a reduction of 41% over the same period.¹⁶ This is part of a longer term trend: the number of casualties per 100 million vehicle kilometres has fallen by 75% since 1967.¹⁷

7. We launched our inquiry in October 2010 in order to investigate how insurance premiums could be increasing so quickly even though the long-term trend towards safer roads is continuing. We chose to focus on:

- the reasons and consequences of recent increases in the cost of motor insurance;
- the impact on young people of the high costs of motor insurance;
- the extent to which the cost of motor insurance is influenced by the prevalence of road accidents, insurance fraud, legal costs and the number of uninsured drivers; and
- whether there are public policy implications of the rise in the cost of motor insurance and, if so, what steps the Government might take in response to them.

We took oral evidence on 9 November 2010 and 11 January 2011 and are grateful for all those who contributed evidence, both written and oral.

11 Ev 66. The European Court of Justice ruled on 1 March that insurers will no longer be able to charge different premiums to men and women because of their gender.

12 Q69.

13 Ev 58, paragraph 7.1.1.

14 Ev 62, paragraphs 3.3.1, 3.3.6 and see 3.3.7.

15 Ev 73.

16 Reported Road Casualties Great Britain, Main Results 2009, DfT, Statistics Bulletin 10 (17) and <http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/casualtiesmr/rccgbmainresults2009>.

17 Information from the Office for National Statistics, <http://www.statistics.gov.uk/cci/nugget.asp?id=1208>.

Cost of motor insurance: a policy problem?

8. It is compulsory for motorists in the UK to insure their vehicles against third party risks—the risk of damaging someone else’s property or causing death or bodily injury to others.¹⁸ Most drivers purchase comprehensive insurance, to cover risks to themselves as well, and some buy extra cover so that they can recover excess payments when involved in accidents for which they were not at fault or pursue personal injury claims without risk of incurring costs to themselves. Motor insurance in the UK is provided under a fault-based scheme, whereby the company that insured the party who was at fault for a motor accident foots the bill for vehicle repair, the provision of a replacement vehicle, damages because of personal injury, legal costs, and any other costs associated with the claim. Insurance firms often dispute liability for an accident and such disputes must sometimes be resolved in court.

9. The high cost of motor insurance can cause a number of policy problems for the Government to deal with:

- Many people are reliant on their cars to get to and from work and for social reasons, particularly in rural and semi-rural areas where public transport provision is limited. There is a risk that high premiums will force some people to give up their cars, or deter young people from driving at all, which would have a significant effect on their lives and on local communities.
- High premiums are likely to encourage some people to drive without insurance, in contravention of the law.¹⁹ The costs incurred by uninsured drivers when they are involved in accidents are borne collectively by the insurance industry and are therefore reflected in premiums. An increase in the number of uninsured drivers leads to still higher premiums.
- High premiums are also likely to increase the incidence of insurance fraud. Several forms of insurance fraud were mentioned by witnesses, including “fronting”, whereby young drivers avoid high premiums by claiming that their parents are the main drivers of their cars and providing false information, or failing to provide relevant information, to an insurer, for example about previous claims.²⁰ Fraud is, of course, illegal and, as with uninsured driving, law-abiding drivers pick up the bill.

10. There was widespread agreement amongst witnesses that motor insurance is sold in a competitive market,²¹ although with a divergence of views about whether the market was working well.²² We note that the Office of Fair Trading has been investigating the use by

18 Road Traffic Act 1988, part VI.

19 Ev 56 paragraph 5.3.1.

20 Ev 48 paragraphs 2.20-2.21, Ev 56-57 paragraphs 5.3.2-5.3.4 and Qq29-32.

21 For example, Q191 and Ev 46-47 paragraph 2.6.

22 Ev w10-11, Ev w24 paragraph 1.1 and Q191.

insurers of specialist software to access information about their competitors' future pricing intentions, and identified an increased risk of price co-ordination.²³

11. One of the principal issues raised with us was the payment of referral fees for business within the insurance market: for example, many solicitors pay a fee to insurance or claims management firms in order to pursue a personal injury claim on behalf of someone injured in a motor accident. The Association of British Insurers referred to this as a “dysfunctional system”.²⁴ The Government is currently considering proposals from Lord Justice Jackson to abolish or cap referral fees.²⁵ Enterprise Rent-A-Car suggested that the involvement in the market of claims management and credit hire firms inflated costs because of under-regulation of these sectors.²⁶ This was disputed by the organisations representing firms in these sectors.²⁷

12. The Minister, Mike Penning MP, was clear that responsibility for the level of premiums rested with the market, not the Government. He accepted, however, that high premiums were problematic in various respect and said “there are measures we are taking now which I feel will hopefully lower premiums, but I am not necessarily doing it for that specific reason. I am doing it predominantly for road safety and justice reasons”.²⁸ Witnesses broadly agreed with this view.²⁹ **None of our witnesses suggested that it would be desirable for the Government to regulate the provision of motor insurance so that premiums were lowered. Nevertheless, there is scope for the Government to:**

- **investigate the role played by legal and regulatory rules in generating the continuing increase in personal injury claims relating to motor accidents and to assess the impact of changing these rules on access to justice;**
- **assist the police and the insurance industry in tackling fraud more effectively;**
- **clamp down on uninsured driving; and**
- **ensure that the driving test properly prepares young drivers for motoring and look at other ways of ensuring that young drivers are encouraged to drive safely and can demonstrate to insurers their commitment to doing so.**

13. These areas of activity would all be likely to assist in lowering premiums, particularly for young drivers, without interfering with the functioning of the market. We consider each in turn in the chapters which follow.

23 “Motor insurers agree to limit data exchange after OFT investigation”, OFT press release, 04/11, 13 Jan 2011.

24 Q116 and Ev 77 paragraph 4.8.

25 *Proposals for Reform of Civil Litigation Funding and Costs in England and Wales: Implementation of Lord Justice Jackson’s Recommendations*, Ministry of Justice, Consultation Paper Cp 13/10, November 2010, Cm 7947, (hereafter *Government response to Jackson*), section 3.1.

26 Ev w 29-30 sections 3 and 4; and also Ev 45-46 paragraph 1.5, Ev 51 paragraph 3.6, Ev 69 paragraph 2.4, Ev w34-35 section 3 and Q157.

27 For example Ev 79 section 7.

28 Q287.

29 For example Q191.

2 Personal injury claims and referral fees

14. In summarising its reasons for the recent increase in the cost of motor insurance, the British Insurance Brokers' Association (BIBA) put:

the increase in the propensity to claim, the increase in the amounts awarded, the impact of claims management companies and the increases in the number of whiplash claims.

at the top of the list.³⁰ The AA told us that “the effect of increasing numbers and costs of personal injury claims has increased insurers’ costs by at least 30% per annum” in recent years.³¹ Most other witnesses identified personal injury claims as one of, if not the, main driver of higher premiums.³²

Table 1: Number of motor insurance injury claims notified to the Compensation Recovery Unit

2000–05 average	2005–06	2006–07	2007–08	2008–09	2009–10
395,735	466,097	518,821	551,905	625,072	674,997

15. Table 1 shows that the number of personal injury claims relating to motor accidents increased by over 70% in the latter half of the last decade.³³ The number of personal injury claims now far outstrips the number of accidents: several people, including both drivers and both sets of passengers, can make claims in relation to a single accident but it is unsurprising from these figures that concerns have been expressed about the scale of fraud in this area.

16. Around 70% of motor insurance personal injury claims arise from whiplash injuries.³⁴ Witnesses were divided as to whether these were always genuine. RBS Insurance suggested that many whiplash claims were fraudulent³⁵ and Nick Starling of the Association of British Insurers argued that people were tempted to claim whiplash injuries because “it is a soft tissue injury. There is no physiological evidence, as I understand it, that you’ve got that injury”.³⁶ A favourable comparison was drawn with Germany, where fewer claims for whiplash injuries are allowed by the courts.³⁷ David Powell of the Lloyd’s Market Association explained why it was difficult for insurance firms to challenge claims, given

30 Ev 72 paragraph 4.2.

31 Ev 62 paragraph 2.4.6 and also see Ev 43 paragraph 6, Ev 44 section 2 and Q35.

32 For example Qq92,174,Ev 43 paragraph 6, Ev 57 paragraph 6.1, and Ev w8. But see Qq 232-34 for a different perspective.

33 Insurers and other compensation providers are required to provide details of personal injury claims to the Department for Work and Pensions’ Compensation Recovery Unit. See Ev w28, paragraph 12 and Richard Lewis, Annette Morris and Ken Oliphant, Tort personal injury claims statistics: Is there a compensation culture in the United Kingdom?,(2006) 14 Torts Law Journal, pp158-75.

34 Ev 52 paragraph 3.14.

35 Ev w20.

36 Q100.

37 Ev 64 paragraph 5.3.3, Ev w19 paragraph 24, Qq 16, 106.

that they were based on a doctor's certificate.³⁸ However, John Spencer of the Motor Accident Solicitors Society (MASS) contested "the inference that a whiplash injury is not an injury".³⁹

17. Several witnesses said that the average amount awarded to personal injury claimants was increasing rapidly: the ABI suggested that average awards were increasing by 20% per annum.⁴⁰ Our attention was also drawn to the very high awards made in relation to severe injuries, particularly to young people.⁴¹ The Association of Personal Injury Lawyers (APIL) cautioned against measures which would cap or reduce awards, arguing that awards in the UK were "too low in any event".⁴² The ABI disagreed with this view and cautioned against a reduction in the discount rate applied to lump-sum payments which could lead to higher payouts.⁴³

Why has the number of personal injury claims increased?

18. Mark Boleat and the Claims Standards Council attributed the rise in the number of personal injury claims to the introduction of conditional fee arrangements (otherwise known as 'no win, no fee') and a number of subsequent reforms.⁴⁴ These changes would appear to account for the significant and continuing growth in the number of claims. The Claims Standards Council said that the introduction of conditional fee arrangements had led to the establishment of claims management firms, which "promoted themselves to consumers offering advice to people wishing to make a claim and referring them on to a solicitor".⁴⁵

19. We heard criticism of claims management firms for generating personal injury claims, particularly as a result of "aggressive" marketing techniques.⁴⁶ David Brown of the Institute and Faculty of Actuaries said that there were specific parts of the country, particularly north west England, Yorkshire and the north east, where claims management firms are particularly active and have generated "at least half" of the total number of claims in those areas.⁴⁷ He observed that personal injury claims were significantly lower in Scotland, where claims management companies do not operate because of differences in the legal regime.⁴⁸

20. Mark Boleat defended claims management firms, arguing that they had "contributed to access to justice" and that enabling people to claim compensation for injuries they had

38 Q180 and Ev w35 paragraph 4.2.1.

39 Q111.

40 Ev 51 paragraph 3.4 and Ev 69 paragraph 2.2.

41 Ev 74 and Ev w14.

42 Ev 83 paragraph 20.

43 Ev 53-54.

44 Q122, Ev 86-87 and annex C to the appendix to the memorandum from the Institute and Faculty of Actuaries, which is available in the Parliamentary Archives.

45 Ev 86.

46 Ev 43 paragraph 8, Ev 50 paragraph 2.5, Ev 61 paragraph 2.4.1, Ev 69 paragraph 2.3, Ev w11, Ev w17-19 paragraphs 8 and 19 and Ev w36 section 5.

47 Q14, Ev w18 paragraph 12 and Ev w35 paragraph 4.2.1.

48 Q15.

suffered was no bad thing.⁴⁹ The Claims Standards Council said that there were “only very small pockets of abuse” in the sector following the introduction of self-regulation in 2006. It pointed out that “every part of the sector operates claims management activity” including law firms and “insurance brokers using telesales services to secure personal injury clients”.⁵⁰ National Accident Helpline “strongly oppose[d] the view that the main cause of the increase in personal injury claims from 2005–10 is advertising of claims management companies and TV advertising”.⁵¹

21. The possibility of incurring legal costs will have dissuaded some people injured in motor accidents before conditional fee arrangements were brought in from claiming compensation for their injuries. **The provision of wider access to justice is to be welcomed, but it has come at a cost. Motor insurance premiums must now pay for compensation for personal injuries and legal costs on a far greater scale than before.**

22. Lord Justice Jackson’s review of civil litigation funding and costs recommended that conditional fee arrangement success fees should no longer be recoverable from the losing party in any case. The Government is currently consulting on this proposal.⁵² This issue has ramifications which extend well beyond the scope of this Report. **In our view, the Government should ensure that arrangements exist to enable people injured in a motor accident to claim compensation, regardless of their income. However, wider access to justice should not provide an opportunity for people to make fraudulent claims for compensation for non-existent or pre-existing aches and pains.** We return to this issue below.

Legal costs and referral fees

23. According to the ABI, some 10% of motor insurance premiums pay for the legal costs associated with personal injury claims and the average legal cost associated with a claim (£2,100) is almost as great as the average amount paid to the claimant (£2,430).⁵³ It complained of “disproportionate fees”⁵⁴ but this was disputed by MASS which said that insurers were involved in agreeing the legal costs’ regime in 2003 and 2010.⁵⁵ In oral evidence, Mr Spencer argued that the average legal cost per claim had decreased in recent years.⁵⁶ APIL cited evidence that “legal costs as a percentage of total payouts by insurers have remained constant at 30 per cent for many years”.⁵⁷ A web-based portal for processing smaller claims of under £10,000 was introduced in 2010: witnesses could not agree on whether or not it had yet proved beneficial in reducing costs.⁵⁸ The ABI said it

49 Ev 83 paragraph 4; see also Ev 87 and Qq 177 and 240.

50 Ev 87.

51 Ev w28 paragraph 11.

52 *Government Response to Jackson*, section 2.1.

53 Ev 50-51 paragraphs 2.4, 3.7. Saga said that legal costs accounted for 20% of premiums, see Ev w18 paragraph 17. Also see Ev 47-48 paragraphs 2.14 and 2.17 and Q12.

54 Ev 50-51 paragraphs 2.4, 3.7.

55 Q96.

56 Q97.

57 Ev 81 paragraph 6.

58 Qq107, 231, Ev 72 paragraph 3.13, Ev 82 paragraph 11, Ev 88 and Ev w10.

was encouraging claimants “to go direct to the company insuring the driver who caused the accident and get [their] redress through them” but this practice was not supported by APIL, who feared that claimants might be “under-compensated”,⁵⁹ or National Accident Helpline, which suggested that this practice had led to an increase in claims.⁶⁰

24. Over 40% of personal injury lawyers pay referral fees to receive work from insurers or claims management firms.⁶¹ Fees range on average from £200 to £1,000 per referral and there can be several referrals in relation to a single insurance claim.⁶² Fees may be paid and received by insurance firms, vehicle repairers, rescue truck drivers, credit hire firms,⁶³ claims and accident management firms, law firms and medical experts.⁶⁴ Swiftcover.com sent us evidence that some police forces charge fees for collecting vehicles which are unfit to drive following an accident.⁶⁵ ABP Club, which represents vehicle repairers said “innocent policyholders are often ‘encouraged’ by their own insurer to pursue a claim as their insurer will gain financially from this in the form of a referral fee from the lawyer they pass the case to.” It referred to this practice as a “great merry-go-round with each insurer gaining at the cost of another insurer”.⁶⁶ Insurers Aviva said that solicitors’ marketing costs, including referral fees, can now total as much as 40% of their base costs, which are reclaimable under conditional fee arrangements.⁶⁷ John Spencer of MASS said “there are large amounts of insurance company income deriving from the very referral fees that are complained about”.⁶⁸

25. Mark Boleat argued strongly that referral fees were a form of marketing cost and did not add to overall costs in the insurance industry.⁶⁹ APIL said “there are no circumstances of which we are aware which would result in referral fees generating an increase in insurance premiums”.⁷⁰

26. Referral fees are another aspect of the Jackson review of litigation costs: he recommended abolition or capping.⁷¹ Witnesses were divided over what to do about referral fees, some agreeing with Jackson, at least in part,⁷² and others arguing that he had got it completely wrong.⁷³ Laurence Beck of the Claims Standards Council said “some of the intentions [of the Jackson recommendations] are very good but I think most of the

59 Ev 81 paragraph 8.

60 Ev w28 paragraph 18.

61 *Referral Arrangements*, Legal Services Consumer Panel, May 2010 (hereafter *LSCP*) p13.

62 *Ibid*, para 1.3 and p14 and see Qq217 and 219.

63 which supply drivers with a replacement vehicle.

64 *LSCP* p15.

65 Ev w35 section 4.1.

66 also see Ev 45, 47 on the credit hire market, paragraphs 1.5 and 2.8 to 2.12.

67 Ev w24-25 paragraph 1.2.

68 Qq 98, 117.

69 Qq 148-154 and Ev 83 paragraphs 4 and 5.

70 Ev 82 paragraph 13 and Qq 225-26, 230.

71 *Review of Civil Litigation Costs: Final Reports*, Lord Justice Jackson, Dec 09, chapter 20.

72 Q179, Ev 46 paragraph 1.6, Ev 72 paragraph 3.13, Ev w10-11 and Ev w31-32 section 10.

73 Ev 83 paragraphs 19-20, Ev 88, Qq 191, 252-53.

good that will come out of Jackson happens already to be in place”.⁷⁴ It was suggested that if referral fees were outlawed claims management firms would buy up solicitors’ practices.⁷⁵

27. The Legal Services Board’s study of referral fees thoroughly examined the case for and against the payment of such fees by solicitors, including the impact on costs and the independence of legal advice. It accepted the view of its consumer panel that there was not sufficient detriment to consumers to merit a ban on such fees but there were concerns about transparency.⁷⁶ The panel concluded that transparency “alerts consumers to the possibility of conflict, counters pressure selling, encourages consumers to compare prices to find the best deal and helps regulators to monitor the market”.⁷⁷

28. In our view, consumers are largely unaware of how much money moves around the insurance industry when they make a claim, particularly if they were not at fault for the accident. We suspect consumers are often confused about why their insurer insists that they use a specific vehicle repairer or solicitor and about whether they are entitled to make their own choice. The Legal Services Board has made recommendations about the transparency of referral fee arrangements in the legal sector which we consider should form the basis for a transparency regime throughout the motor insurance market. **Insurers should publish on their websites a list of the firms with which they have referral arrangements, an indication of the level of the fees paid, and a clear explanation of how referral arrangements work and their purpose. Policy holders should be sent this information with their insurance documents. When claims are made, insurers should make it clear to claimants that they need not use the solicitor, vehicle repairer or credit hire firm which is recommended by the insurer. We look to the insurance industry to implement a more transparent regime for referral fees by the end of next year and to the Government to step in, with legislation if necessary, if the industry is unwilling or unable to agree on this.**

Bolder reform?

29. Witnesses mentioned the different approaches to dealing with personal injury claims arising from motor accidents in Scotland and Germany, which have different legal jurisdictions.⁷⁸ In some jurisdictions, including in certain parts of Canada, motor insurance is provided on a ‘no fault’ basis, whereby each party claims against their own insurer for their own losses irrespective of who was responsible for the accident which led to the claim. There is evidence that switching to no fault insurance can reduce personal injury claims and, therefore, premiums.⁷⁹ We put this suggestion to the Department which

74 Q256.

75 Q105.

76 *LSCP*, chapter 9.

77 *LSCP*, paragraph 8.23.

78 Ev 45 section 4 and annex E to the appendix to the memorandum from the Institute and Faculty of Actuaries, which is available in the Parliamentary Archives and Ev w19 paragraph 24. Premiums are capped in some jurisdictions, see for example “The Impact of Rate Regulation on Claims Evidence from Massachusetts, Automobiles Insurance”, R. A. Dering and S. Tennyson, Casualty Actuarial Society, 2008 Discussion Paper Program.

79 “The Influence of Motor Vehicle Legislation on Injury Claim Incidence”, M. Lemstra and W. P. Olszynski, *Canadian Journal of Public Health*, Jan – Feb 2005, Vol. 96, No. 1, pp65-68.

described it as “interesting” but said “it is always difficult to compare legal systems in different jurisdictions”.⁸⁰

30. Another issue we explored was whether it would be preferable for drivers, rather than vehicles, to be insured. This would prevent ‘fronting’, for example. The Minister said “that is a lot easier said than done” and would require legislative change. He pointed out that some firms were now offering family policies, with named drivers keeping separate no claims discounts.⁸¹ We also received evidence arguing for motorists to be held more strictly liable for injuries caused to cyclists and pedestrians.⁸²

31. It would seem that a number of countries have taken steps to restrain the number of personal injury claims in relation to motor insurance, for example by changing the nature of the insurance system or making other legal adjustments. Although we accept the Minister’s point that not all of these changes will be applicable to the UK, because of differing legal regimes,⁸³ we would be surprised if the UK had nothing to learn from international experience. **We recommend that the Department sponsor a research project on international experience in restraining the number of personal injury claims relating to motor insurance, with the aim of publishing a discussion paper on this issue during 2012 outlining possible options for change.**

80 Ev 88 and Q217. The Royal Commission on Civil Liabilities and Compensation for Personal Injury recommended in 1978 a switch to a no fault compensation scheme for people injured in road accidents funded by increased petrol duty, but its recommendations were not accepted by the Government – Command 7054 and the then Prime Minister’s statement to the House, 14 March 1978.

81 Q270.

82 Ev w37-39 paragraphs 11-29 and Ev w39-40.

83 Q273.

3 Uninsured drivers

32. The Government has estimated that some 4% of motorists drive, illegally, without insurance.⁸⁴ The Motor Insurers Bureau (MIB), which administers the scheme whereby motorists involved in accidents with uninsured drivers can pursue claims for damages, told us that this figure compared badly with other European countries.⁸⁵ The MIB is funded by a levy on insurers, which increased from £39 million in 1991 to £417 million in 2008.⁸⁶ As a result, uninsured driving adds around £30 to the average premium.

33. Although uninsured driving adds to the cost of motor insurance it has not contributed to the recent steep increase in premiums.⁸⁷ The MIB told us that driving without insurance has decreased by 20% since 2006 due to the introduction of a motor insurance database and better collaboration with police forces.⁸⁸ As a consequence, the MIB levy on insurers has reduced: MASS said it was “surprising why insurers are not releasing money back to their policy holders through reduced motor insurance premiums”.⁸⁹ **We welcome the action which has been taken in recent years to reduce uninsured driving.**

34. The Road Traffic Act 2006 made it an offence to be a registered keeper of a vehicle on the road without insurance.⁹⁰ In order to enforce this offence, the Government has developed a scheme (known as Continuous Insurance Enforcement (CIE)) to enable the DVLA’s list of registered keepers of vehicles to be compared with insurers’ records of which vehicles are insured. The relevant regulations⁹¹ were long in the gestation⁹² but were finally published on 11 January, the day of our oral evidence session with the Minister. He described the introduction of CIE as “one of the most dramatic changes in motor insurance ... since insurance was brought in”.⁹³

35. Under CIE:

- The DVLA will work in partnership with the MIB to identify uninsured vehicles
- Registered keepers will receive a letter warning them that they appear to own an uninsured vehicle and that they risk being fined if it is not insured⁹⁴
- Keepers will be fined £100 if they fail to insure their vehicle

84 CIE Evidence Base, DfT, paragraph 8: the AA’s estimate is 5%, Ev 64 paragraph 4.5.1. Also see Ev 84-85 and Ev w31 section 8.

85 Ev 59-60 section 1, Q131 and CIE Evidence Base, DfT, paragraph 1.

86 without adjustment for inflation; Ev 59, section 2.

87 Ev 64 paragraph 4.5.1.

88 Ev 59-60 section 2.

89 Ev 68 paragraph 5.2.

90 Section 22; see Ev 59-60 section 3, Ev 73 and Q130.

91 Motor Vehicles (Insurance Requirements) Regulations 2011.

92 See, for example, Transport Committee, Eleventh Report, 2007-08, *Ending the Scandal of Complacency: Road Safety beyond 2010*, HC 460, Q95.

93 Q263.

94 vehicles with a valid Statutory Off Road Notification will be exempt.

- If the vehicle remains uninsured it could then be seized and destroyed.

We have not received any detailed comments on the regulations but in evidence submitted before they were published witnesses were supportive of the Government's aims.⁹⁵

36. We welcome the introduction of Continuous Insurance Enforcement: it is a sensible measure which should help reduce the prevalence of uninsured driving. During our inquiry, however, we were told that 10% of drivers under the age of 34 are unaware of the legal obligation to have motor insurance.⁹⁶ **We recommend that the introduction of CIE should be accompanied by a promotional campaign, aimed at young drivers, to alert them to the requirement to have valid motor insurance. We also recommend that the first letter sent to registered keepers who appear not to have motor insurance should focus on reminding drivers of the legal requirement to insure their vehicles and should not be based on the assumption that all recipients have deliberately flouted the law. Once vehicle owners have been reminded of the requirement to take out insurance pursuit of those who fail to do so should be vigorous.**

37. MASS suggested that the £100 penalty for keeping a car without insurance is too low.⁹⁷ In addition, several witnesses argued that the penalty for driving without insurance is also too low, particularly when compared to the cost of insurance.⁹⁸ The current penalty is a fine of up to £5,000, 6 to 8 penalty points and a period of disqualification but Confused.com said the average penalty imposed by the courts for the offence is less than £200.⁹⁹ Current sentencing guidelines state that for a first-time offender pleading not guilty, an appropriate penalty would be a band C fine (equivalent to 150% of weekly disposable income), 6 penalty points and a 12 month disqualification. As an alternative, the police can issue a £200 fixed penalty as well as 6 penalty points on a driving licence. Ashton West of the MIB pointed out that, in addition to these penalties, the police may seize an uninsured vehicle and return it only once a fee of £150 has been paid and proof of valid insurance provided.¹⁰⁰ Around 180,000 cars were seized in 2009 because they were not insured.¹⁰¹ **Although we can see the argument to increase the minimum penalties for driving, and for keeping a car, without insurance, the Government's focus should at this stage be on better enforcement of the existing law. We recommend that the penalties for these offences should be reviewed one year after CIE has been implemented.**

95 For example, Ev 46 paragraph 1.7, Ev 71 paragraph 3 and Ev w10 section 3.

96 Ev 59-60 section 2.

97 Ev 68 paragraph 3.3.2.

98 Ev 68 paragraph 3.3.1, Qq 23, 132, Ev w6 paragraph 2.6 and Ev w 31-32 section 10.

99 Ev 58 paragraph 7.3.1.

100 Qq 132 and 296 (Minister).

101 CIE Evidence Base, DfT, paragraph 8.

4 Fraud

38. The National Fraud Authority estimates that the insurance industry loses £2.1 billion per annum to fraud.¹⁰² The Association of British Insurers told us that £930 million of motor insurance fraud went undetected each year, adding £39 to the cost of every premium.¹⁰³ Some estimates of undetected fraud are higher and motor insurance also accounts for a proportion of the detected insurance fraud which the ABI estimates adds £44 to every household's total insurance costs each year.¹⁰⁴

39. Fraud takes a number of forms. Moneysupermarket.com informed us of research showing that 41% of parents claim to be the main drivers of cars actually driven for the most part by their children.¹⁰⁵ The MIB said that 17% of consumers under-declared driving licence data, such as penalty points, to their insurers.¹⁰⁶ The British Insurers Brokers Association said:¹⁰⁷

some comparison websites prompt people to get cheaper premiums by making changes to their proposal and some personal finance websites such as 'Money Saving Expert' have even encouraged people to change their job title to seek a lower quote ... It is far easier for a customer to lie or fail to include a fact on a comparison website that makes assumptions about people and does not even ask them all the questions directly.

40. We also received worrying evidence about the scale of organised motor insurance fraud. The Association of Chief Police Officers referred to there being 30,000 staged accidents in 2009 and explained in some detail how such accidents are arranged to enable claims to be made. For example, Deputy Chief Constable Ainsworth said:¹⁰⁸

I can give you an example without going into specific details where they set up their own claims management company. They have a doctor who could be a member of the family. On the legal side, a solicitor could be a member of the family. The victim of the collision is also part of that organised crime group, as well as the offender being part of the organised crime group. The entire incident is contained within a group who are well known, and often related, to each other. ... Others are staged collisions, and then there are collisions that are fictional. There is an audit trail of the collision having occurred and there is a vehicle. All the main players are there but, actually, a collision never did occur. It is quite varied in its nature, but it's very highly organised and clearly very profitable, but it is a high-risk activity.

102 National Fraud Indicator for 2011.

103 Ev 52 paragraph 3.11.

104 Ev 61, 63 paragraphs 2.4.2 and 4.3.1 and see Ev 43 paragraph 9 and Ev 48 paragraph 2.21 for other estimates.

105 Ev w5-6 paragraphs 2.2 and 3.4.

106 Q94. BIBA said 23% of endorsements were wrongly declared, Q95 and Aviva said one in six consumers misrepresent their conviction history, Ev w26 paragraph 3.2.

107 Ev 70 paragraph 2.15.

108 Ev 86 and Qq 166 and 168, Ev 55 paragraph 3.5.1 (on hotspots), Ev 63 paragraph 4.3.2, Ev w5 paragraph 2.2 and Ev w30-31 section 7.

DCC Ainsworth also said that it was lucky that there had not yet been fatalities as a result of staged crashes.¹⁰⁹ Saga claimed that some claims management firms encouraged fraud and that there was evidence of “sophisticated fraud rings” involving solicitors.¹¹⁰ The ABI concluded that fraud was a “growing problem”¹¹¹ but this was disputed by MASS.¹¹²

41. Whether or not insurance fraud is a growing problem, it is a criminal activity which adds to the costs borne by drivers and may in some cases cause injuries or even deaths. We were surprised, therefore, to hear some witnesses suggest that the insurance industry was not doing enough to combat fraud. Mark Boleat, for example, said:¹¹³

It is surprising that insurers have not spent rather more money dealing with the problem [of fraud]. However, ultimately they do not meet most of the cost. Given that motor insurance is, to some extent, a compulsory product it makes little difference to insurance companies collectively whether fraud puts £10 or £50 on the cost of the average premium; it matters rather more to their customers.

The Credit Hire Organisation complained of “continual frustration in ... attempts to work with the insurance industry to identify and deal with suspect claims” and, similarly, the European Vehicle Secure Alliance (EVSA) said the insurers had shown a “disappointing reluctance to adopt a broad and collaborative approach to reducing vehicle related crime and disorder”.¹¹⁴

42. Will Thomas of Confused.com said his firm took on good faith the information which was provided by customers seeking premiums although he recognised that more could be done to check for misrepresentation.¹¹⁵ Duncan Anderson said “detecting with accuracy suspicious behaviour on a website is not trivial”. In his view, this was an area insurers took seriously but “there is probably more that can be done”.¹¹⁶ The ABI refuted the suggestion that the industry was reluctant to tackle fraud, arguing that “our members are investing more resources in detecting fraud than ever before”.¹¹⁷ A number of witnesses called for more information sharing between the DVLA and the insurers to verify information provided by drivers.¹¹⁸ The Minister said a detailed plan to enable such information sharing to occur would be in place “certainly within six months”.¹¹⁹ **We welcome the Government’s aim to ensure that insurers can gain access to information held by the DVLA about drivers when insurance is being arranged. We recommend that, in reply**

109 Q166

110 Ev w18 paragraph 16.

111 Ev 52 paragraph 3.11.

112 Q125.

113 Ev 84 paragraph 6.

114 Ev 74 and Ev 78 paragraph 6.1.

115 Qq28-32.

116 Qq32-33.

117 Ev 54.

118 Q188, Ev 52 paragraph 3.12, Ev 63 paragraph 4.3.3, Ev 72 paragraph 3.15, Ev w26 paragraph 3.2 and Ev w36 paragraph 4.2.3.

119 Qq 265-66, 274, 288 and Ev 88.

to this Report, the Government should specify more precisely when the new data sharing arrangements will be introduced.

43. Mark Boleat proposed that the insurance industry should fund a dedicated police unit aimed at tackling insurance fraud, modelled on the City of London Police's Cheque and Plastic Card Unit, which is funded by the banks. He said that "productive discussions" on the establishment of such a unit had begun.¹²⁰ EVSA gave examples of similar initiatives elsewhere in Europe.¹²¹ DCC Ainsworth of ACPO spoke of both capacity and capability constraints on effective police action against insurance fraud. He argued that "we could work more collaboratively with the insurance sector".¹²² The Minister said "in DVLA we already had embedded police working with us on fraud" and agreed that he would discuss "closer working" with the insurers.¹²³ In relation to the proposal to establish a dedicated police unit, Mr Penning said "that is something that has been pointed out to me literally in the last couple of days that we will look at".¹²⁴

44. There appears to be significant scope for the insurance industry to do much more to combat motor insurance fraud. We call on the main players in the industry—particularly the insurance firms, brokers and comparison websites—to work together more proactively to achieve this. In particular, we welcome the initiative to establish a dedicated police unit on insurance fraud, paid for by the industry. We note the Minister's commitment to look at this proposal: he has a responsibility to law-abiding drivers to ensure that fraud is taken seriously by the industry and minimised. We recommend that, in reply to this Report, he update us on progress in discussions on this issue and on the action the Government has taken to assist in ensuring that a successful outcome is achieved, preferably by the start of the 2012–13 financial year.

120 Ev 84 paragraphs 7-9 and see Q184.

121 Ev 74-75 and Q185.

122 Q160.

123 Q268.

124 Q292.

5 Young drivers

45. The exceptionally high cost of motor insurance for young drivers was one of the main reasons why we undertook our inquiry. While we accept that insurance is provided on the basis of detailed risk assessments not all young drivers behave recklessly behind the wheel and many safe, young drivers are penalised because of the actions of those who are involved in accidents.¹²⁵ In addition, as the previous Government acknowledged, “most young drivers do not intentionally engage in high-risk behaviour but are hampered by a lack of experience and poor self-assessment”.¹²⁶ We were therefore keen to explore what action young drivers could take to indicate to insurers that they are safe and skilled; and how the Government could assist with this and raise the standard of driving amongst young people.

What should the Department do?

46. We received a number of suggestions of action the Government could take to ensure that young drivers were safer and better equipped with the full range of driving skills. The ABI called for a minimum one-year learning period for drivers and argued that “newly-qualified drivers aged under 20 should be limited to carrying no more than one passenger aged under 20 during the first six months of driving”.¹²⁷ Cadence Driver Development advocated a two-tier licensing system in which novice drivers would hold a restricted licence for two years, at the end of which time there would be a further test.¹²⁸ Edmund King, President of the AA, argued that there ought to be a greater focus on road safety in the school curriculum.¹²⁹ We also questioned witnesses about the desirability of increasing the minimum driving age.¹³⁰

47. The Department for Transport ruled out “additional regulation” in this area, which it argued would “bear down even on those who want to be safe and responsible” and which might have perverse consequences.¹³¹ It said it was “working on measures to improve driver training and testing, and is considering whether further measures should be developed”.¹³² The Minister said that the Department was considering:¹³³

125 The Road Haulage Association submitted evidence on the impact of high premiums on young HGV drivers – Ev w23-24.

126 Transport Committee, Eleventh Special Report, 2006-07, *Novice Drivers: Government Response to the Committee’s Seventh Report of Session 2006-07*, HC 1051, (hereafter *Government response to Novice Drivers*) response to recommendation 3.

127 Ev 52 paragraph 4.1, Ev 71-72 paragraph 3.12 and Ev w9.

128 Ev w1-4. Aviva also called for a “complete revamp of driver training”, Ev w26 paragraph 2.3 and see Ev 46 paragraph 1.9.

129 Q55.

130 Qq 155-56, 269.

131 Ev 74.

132 Ibid.

133 Q269.

- pre-driving tests for 14 to 16 year olds, “to get them more aware at school as to the sort of pressures they are going to be under and the sort of skills they are going to need before they start taking their driving tests”;
- changing the driving test, to “make it more difficult and more suitable for the skills they are going to need once they pass the test”. This would include making candidates navigate their own route during the test;
- looking at ways of training learner drivers in motorway driving and other aspects of “independent driving”; and
- replacing the unsuccessful Pass Plus advanced driving course for novice drivers with other means of enabling such drivers to show insurers that they are safe,

48. Many of these issues were under consideration when our predecessors published a Report on novice drivers in 2007.¹³⁴ In response to that Report, the then Government said that the need for modernisation of the driving test was “pressing” and that it was committed to “fundamental reform of driver training and testing”.¹³⁵ The debate does not appear to have moved on, despite the continuing appalling accident rate for young drivers. The Government’s claim that it does not wish to bear down on the responsible by introducing more stringent requirements on novice drivers is somewhat hollow if this stance contributes to higher premiums for young drivers, who are consequently unable to afford to drive.

49. We welcome the Minister’s commitment to making the driving test more rigorous, exploring other ways of ensuring that young drivers are fully trained before they are licensed, and to making an advanced driving course available which can effectively signal to insurers that drivers who have completed it are safer. Many of these ideas were discussed in our predecessors’ Report into novice drivers. The Minister’s commitment must now be backed up by a consultation document setting out the measures the Government wishes to explore, a timetable for implementing any legislative and procedural changes, and an indication of likely costs and how they will be budgeted for. We recommend that the Government publish such a document within the next six months, with a view to implementing changes to the driving tests and other measures during this Parliament. We will pay close attention to the Government’s proposals.

What can insurers do?

50. One consequence of the high accident rate amongst young drivers is that the market for insurance for young drivers “is less competitive” so “young drivers have less choice”.¹³⁶ The Department shared this concern, which it attributed to the high cost of long-term medical care arising from serious accidents involving young drivers.¹³⁷ BIBA suggested that better

134 Seventh Report, 2006-07, *Novice Drivers*, HC 355.

135 *Government response to Novice Drivers*, responses to recommendations 1 and 45.

136 Ev 62 paragraph 3.2.

137 Ev 74.

signposting of brokers specialising in policies for young drivers might help alleviate this problem but the ABI was unconvinced.¹³⁸

51. There were various references in the evidence we received to new technology which could be fitted in cars to assess how they were driven and thereby influence the premiums offered to drivers.¹³⁹ However, ESVA questioned why the ‘first wave’ of such ‘black box’ technology had not achieved better market penetration.¹⁴⁰ The Department said it would “work with the insurance industry on whether new insurance products can be developed, with discounts where young drivers have chosen enhanced training pre- and/or post-test; or are happy to accept in return restrictions such as not driving at night”.¹⁴¹

52. Insurers clearly have a part to play in helping young drivers find affordable insurance, without compromising the risk assessments on which insurance is based. Given the importance of this issue from a public policy perspective, **we recommend that the Department for Transport facilitate investigation of effective means of deploying and publicising new technology which can assess how cars are driven by young drivers and thereby provide more information on which risk assessments can be made. For example, we suggest that the Department could host a conference on this issue involving all relevant parties, during the summer, and establish and participate in an industry working group on how this technology can be most effectively used.**

138 Ev 72 paragraph 5.3, Ev 74 paragraph 1.3 and Q127; and Q133

139 Qq 37, 56, 74, Ev 58 paragraph 7.2, Ev 63 paragraph 3.9, Ev w6 paragraphs 4.1-4.4, Ev w37 and Ev w40-41.

140 Ev 75.

141 HC Deb, 7 Feb 11, c57W.

6 Conclusion

53. Although the Government is not responsible for the cost of motor insurance there are several good reasons for it to be concerned at the recent increases in premiums for what is a compulsory requirement on drivers and we have identified a number of actions it can take to help bring premiums down. In particular, the Minister pointed out that other departments are responsible for issues such as referral fees and action against insurance fraud but we look to him to press the case across Whitehall for the measures we have recommended. Within his own remit, the Minister has already acted decisively to help reduce uninsured driving. We now look to him to turn his attention to making the driving test more rigorous and bringing down the casualty rate amongst young drivers, something which in our view should be central to the Government's forthcoming road safety strategy.

54. The insurance industry also has a big part to play in bringing premiums under control. If referral fees continue they should be more transparent. We are not convinced that the increasing prevalence of referral fees throughout the sector has left premiums unaffected and we suspect that the market will be less "dysfunctional" if consumers have a better grasp of where their money goes. We would also like to see the insurance industry do more to tackle fraud. The Department for Transport should bring pressure to bear on the main players to work together, and with the police and other authorities.

Conclusions and recommendations

Introduction

1. None of our witnesses suggested that it would be desirable for the Government to regulate the provision of motor insurance so that premiums were lowered. Nevertheless, there is scope for the Government to:
 - investigate the role played by legal and regulatory rules in generating the continuing increase in personal injury claims relating to motor accidents and to assess the impact of changing these rules on access to justice;
 - assist the police and the insurance industry in tackling fraud more effectively;
 - clamp down on uninsured driving; and
 - ensure that the driving test properly prepares young drivers for motoring and look at other ways of ensuring that young drivers are encouraged to drive safely and can demonstrate to insurers their commitment to doing so. (Paragraph 12)

Personal injury claims and referral fees

2. The provision of wider access to justice is to be welcomed, but it has come at a cost. Motor insurance premiums must now pay for compensation for personal injuries and legal costs on a far greater scale than before. (Paragraph 21)
3. In our view, the Government should ensure that arrangements exist to enable people injured in a motor accident to claim compensation, regardless of their income. However, wider access to justice should not provide an opportunity for people to make fraudulent claims for compensation for non-existent or pre-existing aches and pains. (Paragraph 22)
4. Insurers should publish on their websites a list of the firms with which they have referral arrangements, an indication of the level of the fees paid, and a clear explanation of how referral arrangements work and their purpose. Policy holders should be sent this information with their insurance documents. When claims are made, insurers should make it clear to claimants that they need not use the solicitor, vehicle repairer or credit hire firm which is recommended by the insurer. We look to the insurance industry to implement a more transparent regime for referral fees by the end of next year and to the Government to step in, with legislation if necessary, if the industry is unwilling or unable to agree on this. (Paragraph 28)
5. We recommend that the Department sponsor a research project on international experience in restraining the number of personal injury claims relating to motor insurance, with the aim of publishing a discussion paper on this issue during 2012 outlining possible options for change. (Paragraph 31)

Uninsured driving

6. We welcome the action which has been taken in recent years to reduce uninsured driving. (Paragraph 33)
7. We welcome the introduction of Continuous Insurance Enforcement: it is a sensible measure which should help reduce the prevalence of uninsured driving. We recommend that the introduction of CIE should be accompanied by a promotional campaign, aimed at young drivers, to alert them to the requirement to have valid motor insurance. We also recommend that the first letter sent to registered keepers who appear not to have motor insurance should focus on reminding drivers of the legal requirement to insure their vehicles and should not be based on the assumption that all recipients have deliberately flouted the law. Once vehicle owners have been reminded of the requirement to take out insurance pursuit of those who fail to do so should be vigorous. (Paragraph 36)
8. Although we can see the argument to increase the minimum penalties for driving, and for keeping a car, without insurance, the Government's focus should at this stage be on better enforcement of the existing law. We recommend that the penalties for these offences should be reviewed one year after CIE has been implemented. (Paragraph 37)

Fraud

9. We welcome the Government's aim to ensure that insurers can gain access to information held by the DVLA about drivers when insurance is being arranged. We recommend that, in reply to this Report, the Government should specify more precisely when the new data sharing arrangements will be introduced. (Paragraph 42)
10. There appears to be significant scope for the insurance industry to do much more to combat motor insurance fraud. We call on the main players in the industry—particularly the insurance firms, brokers and comparison websites—to work together more proactively to achieve this. In particular, we welcome the initiative to establish a dedicated police unit on insurance fraud, paid for by the industry. We note the Minister's commitment to look at this proposal: he has a responsibility to law-abiding drivers to ensure that fraud is taken seriously by the industry and minimised. We recommend that, in reply to this Report, he update us on progress in discussions on this issue and on the action the Government has taken to assist in ensuring that a successful outcome is achieved, preferably by the start of the 2012–13 financial year. (Paragraph 44)

Young drivers

11. We welcome the Minister's commitment to making the driving test more rigorous, exploring other ways of ensuring that young drivers are fully trained before they are licensed, and to making an advanced driving course available which can effectively signal to insurers that drivers who have completed it are safer. Many of these ideas were discussed in our predecessors' Report into novice

drivers. The Minister's commitment must now be backed up by a consultation document setting out the measures the Government wishes to explore, a timetable for implementing any legislative and procedural changes, and an indication of likely costs and how they will be budgeted for. We recommend that the Government publish such a document within the next six months, with a view to implementing changes to the driving tests and other measures during this Parliament. We will pay close attention to the Government's proposals. (Paragraph 49)

12. We recommend that the Department for Transport facilitate investigation of effective means of deploying and publicising new technology which can assess how cars are driven by young drivers and thereby provide more information on which risk assessments can be made. For example, we suggest that the Department could host a conference on this issue involving all relevant parties, during the summer, and establish and participate in an industry working group on how this technology can be most effectively used. (Paragraph 52)

Conclusion

13. Although the Government is not responsible for the cost of motor insurance there are several good reasons for it to be concerned at the recent increases in premiums for what is a compulsory requirement on drivers and we have identified a number of actions it can take to help bring premiums down. In particular, the Minister pointed out that other departments are responsible for issues such as referral fees and action against insurance fraud but we look to him to press the case across Whitehall for the measures we have recommended. Within his own remit, the Minister has already acted decisively to help reduce uninsured driving. We now look to him to turn his attention to making the driving test more rigorous and bringing down the casualty rate amongst young drivers, something which in our view should be central to the Government's forthcoming road safety strategy. (Paragraph 53)
14. The insurance industry also has a big part to play in bringing premiums under control. If referral fees continue they should be more transparent. We are not convinced that the increasing prevalence of referral fees throughout the sector has left premiums unaffected and we suspect that the market will be less "dysfunctional" if consumers have a better grasp of where their money goes. We would also like to see the insurance industry do more to tackle fraud. The Department for Transport should bring pressure to bear on the main players to work together, and with the police and other authorities. (Paragraph 54)

Formal Minutes

Tuesday 1 March 2011

Members present:

Mrs Louise Ellman, in the Chair

Steve Baker
Kelvin Hopkins
Kwasi Kwarteng

Mr John Leech
Gavin Shuker

Draft Report (*The cost of motor insurance*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 54 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for placing in the Library and Parliamentary Archives.

[Adjourned till Tuesday 8 March at 10.00 am

Witnesses

Tuesday 9 November 2010

Page

Edmund King, President, AA, and **Will Thomas**, Head of Car Insurance, Confused.com, and **Dr David Brown**, Chair of the Actuarial Profession's Third Party (Motor) Working Group, Institute and Faculty of Actuaries, and **Duncan Anderson**, EMB Consultancy Ev 1

Nick Starling, Director of General Insurance and Health, Association of British Insurers, and **Graeme Trudgill**, Head of Corporate Affairs, British Insurance Brokers Association, and **Ashton West**, Chief Executive, Motors Insurers Bureau, and **John Spencer**, Chairman, Motor Accident Solicitors Society Ev 12

Tuesday 11 January 2011

Deputy Chief Constable David Ainsworth (lead on vehicle crime), and **Chief Superintendent Geraint Anwyl** (representing Roads Policing), Association of Chief Police Officers, and **Viv Nicholas**, Executive Director, European Secure Vehicle Alliance, and **David Powell**, Manager, Underwriting, Lloyd's Market Association, and **Mark Boleat** Ev 21

David Bott, Vice President, Association of Personal Injury Lawyers, and **Laurence Beck**, Managing Director of Accident Advice Helpline, Claims Standards Council, and **Tony Baker**, Director General, and **Steve Evans**, CEO, Accident Exchange, The Credit Hire Organisation Ev 29

Mike Penning MP, Under-Secretary of State, and **Pauline Morgan**, Head of Driver Licensing and Insurance Team, Department for Transport Ev 36

List of printed written evidence

1	Duncan Anderson, EMB Consultancy LLP (now Towers Watson)	Ev 43	Ev 89
2	Institute and Faculty of Actuaries		Ev 44
3	Lloyd's Market Association (LMA)		Ev 45
4	Association of British Insurers (ABI)	Ev 50	Ev 53 Ev 54
5	Confused.com		Ev 55
6	Motor Insurers' Bureau (MIB)		Ev 59
7	AA Insurance		Ev 61
8	Motor Accident Solicitors Society (MASS)		Ev 67
9	British Insurance Brokers' Association (BIBA)		Ev 69
10	Department for Transport (DfT)	Ev 73	Ev 88
11	European Secure Vehicle Alliance (ESVA)		Ev 74
12	The Credit Hire Organisation	Ev 75	Ev 80
13	Association of Personal Injury Lawyers		Ev 80
14	Mark Boleat		Ev 83
15	Association of Chief Police Officers (ACPO)		Ev 84
16	Claims Standards Council		Ev 86

List of additional written evidence

(published in Volume II on the Committee's website www.parliament.uk/transcom)

1	Martin Prosser	Ev w1
2	Cadence Driver Development	Ev w1
3	moneysupermarket.com	Ev w4
4	Zurich Financial Services Group	Ev w7
5	esure insurance Ltd	Ev w11
6	ABP Club	Ev w11
7	Saga Group Ltd	Ev w17
8	RBS Insurance	Ev w20
9	Road Haulage Association (RHA)	Ev w23
10	Aviva	Ev w24
11	Nick Ross	Ev w26
12	National Accident Helpline Ltd	Ev w27
13	Enterprise Rent-A-Car	Ev w29
14	Mark Thompson	Ev w32
15	swiftcover.com	Ev w34
16	CTC	Ev w36
17	RoadPeace	Ev w39
18	Nigel Lacy, Young Marmalade	Ev w40

List of unprinted evidence

The following written evidence has been reported to the House, but to save printing costs has not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives (www.parliament.uk/archives), and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074; email archives@parliament.uk). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

- 1 Ian Heathfield
- 2 Joey Pierce

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–11

First Special Report	The major road network: Government response to the Committee's Eighth Report of Session 2009–10	HC 421
Second Special Report	Update on the London Underground and the public-private (PPP) partnership agreements: Government response to the Committee's Seventh Report of Session 2009–10	HC 467
Third Special Report	The performance of the Department for Transport: Government response to the Committee's Fourth Report of Session 2009–10	HC 549
First Report	Drink and drug driving law	HC 460
Second Report	Financial Scrutiny of the Department for Transport	HC 683
Third Report	Transport and the economy	HC 473
Fourth Report	The cost of motor insurance	HC591

Oral evidence

Taken before the Transport Committee

on Tuesday 9 November 2010

Members present:

Mrs Louise Ellman (Chair)

Steve Baker
Julie Hilling
Kelvin Hopkins
Kwasi Kwarteng

Paul Maynard
Gavin Shuker
Iain Stewart
Julian Sturdy

Examination of Witnesses

Witnesses: **Edmund King**, President, Automobile Association, **Will Thomas**, Head of Car Insurance, Confused.com, **Dr David Brown**, Chair of the Actuarial Profession's Third Party (Motor) Working Party, Institute and Faculty of Actuaries, and **Duncan Anderson**, EMB Consultancy LLP, gave evidence.

Chair: Good morning, gentlemen, and welcome to the Transport Select Committee and our inquiry. Could you identify yourselves please for our records? Could you just give your names and the organisation you are representing? I will start at this end with Mr King.

Edmund King: Thank you. Good morning. My name is Edmund King. I am President of the Automobile Association.

Will Thomas: Good morning. My name is Will Thomas and I am Head of Car Insurance at Confused.com.

Dr David Brown: Good morning. My name is David Brown. I am Chair of the Institute and Faculty of Actuaries Working Party on Third Party Motor Claims.

Duncan Anderson: My name is Duncan Anderson. I am a partner in EMB Consultancy LLP, a firm of consulting actuaries.

Q1 Chair: Thank you. We have received a lot of evidence for this inquiry, including some very interesting evidence from all of you. It appears that the cost of motor insurance has rocketed through a combination of aggressive marketing by claims management companies; escalating legal costs, including the issue of referrals; fraud and collusion; uninsured driving; and the escalating costs of personal injury accidents. That is quite a combination. Which of those matters is the most important and who do you feel is responsible for this situation? Mr King, could you help us?

Edmund King: I look at this from both sides. From the consumer side, the AA represents some 15 million motorists. We are also an insurance broker and we have a driving school. I think there are two sides. There is one to look at it from the industry side, which most of the evidence seems to reflect, but also from the consumer side the big worry is that since having relatively stable insurance premiums probably until about mid-2009 we have seen a rapid increase. Over the last 12 months in particular the AA's insurance premium index shows increases generally of about 40%, but for young drivers it is 51%.

I think from the consumer point of view this is pricing a lot of young drivers out of the market; the insurance

premiums are costing four or five times the cost of their vehicle. This has effects on road safety and deaths on the road because what it means is that young drivers generally cannot afford the newer, safer vehicles. A lot of improvements have been made over the last 10 years, particularly with the Euro NCAP crash test programme, which means that newer cars today are 10 times safer than cars of 10 years ago and yet the majority of young drivers have cars over 10 years old.

Q2 Chair: But what are the major reasons for the general escalation of cost? We hear about aggressive marketing and escalating legal costs where the payments to the legal profession are almost as much as the payments for personal injuries. We are told there is fraud and collusion and uninsured driving. What is the main driver for this increase?

Edmund King: It is a combination of personal injury claims that have escalated in this country much higher than in other countries—even Scotland, Ireland and Germany, where they have restrictions on claims for whiplash or restrictions on the limits. Those have escalated and that puts up premiums.

Also alongside that, there is fraud as well as part of personal injury: the so-called "cash for crash". Staged accidents are becoming more commonplace, where a car in front will stop suddenly and the car behind it hits it. There will be a witness there who is compliant with the people in the first car. They will then all make claims for whiplash. This is going on. It is helped by aggressive marketing by some of the personal injury management companies. Colleagues of mine at the AA who've had minor crashes two or three years ago have had telephone calls out of the blue suggesting that they may wish to make claims when they weren't even injured. This is obviously going on and this is pushing up premiums.

I think fraud is a major factor and, of course, with young drivers it is still about level of risk. Young drivers are 10 times more likely to have an accident in their first year than a 30 or 40-year old driver and therefore there is the likelihood of having that accident. Then there are the costs of the claims. If a young driver is scarred for life, it costs something like

£3 million in insurance. If they are put in a wheelchair it might be £19 million. So there are large costs for the insurance companies. We do have to address how we can reduce the number of accidents involving young drivers. There is a lot around education and enforcement around that.

Q3 Chair: Do any other witnesses want to give their views on the major reason for the very big escalation in the cost? Premiums almost doubled from 1997 to 2001, were stable to 2005, and then have doubled again, and we are up to enormous figures. Would anyone like to give me a view on the major reason for this? We have heard about aggressive marketing, about fraud, about legal costs. What is the real driver for this increase?

Duncan Anderson: I think I would like to add to what the AA said. It is certainly the case, in my view, that the main driver of the increased claims cost is the increased cost of bodily injury claims. Until relatively recently, there was not that much data in the public domain across the whole industry. Now the Institute of Actuaries Working Party has pooled data to make it clear that across the industry there is very much an increase both in the number of bodily injury claims and the average amount of such claims. I think that is one of the key drivers, and my view would be that it is the claims-farming culture, the referral fees and the claims management companies that are behind that.

But there is a point I would like to add to this as to why we've seen such a relatively dramatic increase recently, in the last year, and I concur with the AA's views based on the EMB-Confused.com Index: we see increases of around about 37.5% and even more for third party cover. There is a higher increase at younger ages because younger drivers have a higher propensity for bodily injury claims, and so if such claims are increasing at a high rate proportionately the younger drivers will receive a higher increase. So for young men there is maybe a 44% increase in premium in the last year.

What I would like to say, though, is that during 2007 and 2008, rates were relatively stable. In fact, during 2007 and 2008 there was almost no increase in the average motor insurance premium. I think one extra factor to throw into the mix is that the distribution of motor insurance in the UK has undertaken a little bit of a revolution in recent years with the introduction and the increased popularity of comparison websites. It is now very easy for consumers to compare across many different insurers and select the cheapest premium. What that did for a year or two was to suppress the increases in motor insurance rates that might normally have been put through whilst insurers got their minds round how to deal with this revolution.

Q4 Chair: Is there any proper regulation over those comparison websites? Are they comparing like with like or are they misleading?

Duncan Anderson: There is regulation, I guess.

Q5 Chair: I am going to ask Mr Thomas.

Will Thomas: Absolutely. We are regulated under the Financial Services Authority and we have an honest and open relationship with them. I think regulation

improves any industry that it is engaged with and we welcome any further recommendations from the FSA regarding that.

Q6 Chair: But we have received evidence that suggests that those websites encourage people not to give full disclosure of their situation and may not always be comparable in the claims that they make. Have you received any complaints about that?

Will Thomas: With regards to Confused.com, we ask every single question that could be asked to a customer going through a car insurance quotation. We accurately represent all that data across to our third-party providers, which are insurance companies. We have to accurately represent, when the prices are brought back, the customer's circumstances and that nothing has changed; no assumptions are made at all.

Q7 Chair: But you are not aware of complaints about the way those sites operate?

Will Thomas: Not at all. I think that there is—

Q8 Chair: You've never had a complaint?

Will Thomas: We don't have complaints about our own accuracy due to the fact that we ask a comprehensive set of questions to accurately map the client's risk across to our insurance providers.

Q9 Chair: Are you aware of any problems with any other similar websites?

Will Thomas: I am not aware of any, but I know for a fact that Confused.com has always asked 100% accurate questions and we've always passed that risk on.

Q10 Chair: Dr Brown, from the actuary's point of view are we going to anticipate continually rising premiums?

Dr David Brown: I think it is more likely than not. The indicators of the inflation that has been seen and the costs of bodily injury have been fairly continuous, certainly over the last couple of years. Some of the work that we did in the Working Party did establish a link with the rise of claims management companies. One of the interesting findings is the geographical correlation. There are particular areas of the country where there are a lot of claims management companies, particularly in the north-west. In other areas of the country there are fewer. High numbers of claims management companies do correlate with the high percentage of accidents with a bodily injury component in those areas. That was how we were able to establish a correlation between the rise of claims management companies and bodily injury, to the extent—

Q11 Chair: Could you just clarify the role of the claims management companies in escalating—is it the number of claims and the extent of the claims? How is this operating? Why did you say it was the north-west particularly?

Dr David Brown: It is kind of both. If you go to page 10 in the presentation attached to the submission that you have, you have a chart which shows the geographical hotspots. The north-west is a particular

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

one. I think it is really interesting that in the north-west 40% of accidents do have a bodily injury component, whereas across the whole of the country that is 25%. The north of England is generally high, but the north-west is particularly high. London is—

Q12 Chair: Do you think that that reflects the activities of the companies rather than the incidence of accidents?

Dr David Brown: Definitely, yes, because there has been a drop in accidents. The general context in the UK is that there have been fewer and fewer accidents indeed over the last couple of years involving third parties¹ and third-party vehicles as well. It is definitely an increased propensity either for bodily injury or to make bodily injury claims.

I think the influence of the claims management company would potentially be in two things. We have observed an increase in the frequency and we have observed an increase in the amount of individual claims made. In terms of the frequency, arguably it is that people are making claims who did not make them before. There is a question as to the extent to which that is simply people exercising their right to make a claim that they always had the right to make but were not making before.

The second element is the increase in cost that there has been: an increase in the number of claimants, so the number of passengers in the third-party vehicle or the number of passengers in the insured car who are making claims.

Thirdly, there are additional costs which are potentially the legal costs which go with the claim, so legal costs making up about 40% of the claim amount. If a referral comes from a claims management company, that is a referral fee that is generally paid by a solicitor. A solicitor having it will necessarily and clearly entail legal costs.

Q13 Iain Stewart: Just to get some data on the claims management companies, what percentage of claims are now managed by these companies and how has that changed over the last few years?

Dr David Brown: I am afraid we don't have that data. Individual companies may have it.

Edmund King: What we can say on that, though, is that the number of claims management companies has doubled in two years. There are now something like 3,000 claims management companies, so the actual number of companies has doubled. One would assume that they are touting for more business as a result of there being more companies.

Q14 Iain Stewart: What is your best guess on the percentage of claims that are now managed by these companies?

Dr David Brown: If you presume that at least half in the areas of the country that have particularly high exposure to claims management companies, you have about twice as many bodily injury claims. Certainly in those areas there would be at least half which are caused by claims management companies. It is very

hard to say in areas of the country that don't have high densities of claims management companies.

Q15 Iain Stewart: Just one follow-up question, if I may. You mentioned the north-west as an area where there is a high concentration. What other parts of the country have a similar degree?

Dr David Brown: The north-west is absolutely a hotspot. There is Yorkshire and the north-east to a lesser extent. London, but not the areas around London, is a hotspot as well. London is interesting, as I say, because it's had the strongest growth in claims management companies over the last couple of years.

Q16 Chair: Mr Anderson, did you want to add something?

Duncan Anderson: I was just going to say that London also has the highest increase in bodily injury claims as well, from a lower base. That is an interesting statistic.

Dr David Brown: The other benchmark you can look at is Scotland, of course, where there are no referral fees and the absence of claims management companies. There the rates of bodily injury claims that are made per accident are about 10% to 20%; let us say 15%. That gives you an idea of the extent of the uplift that comes from that activity.

Q17 Gavin Shuker: Obviously, insurers will seek referral fees when they pass on a case to personal injury lawyers. Is there any estimate of what size of the business that represents or what the average amount on a referral fee there is?

Q18 Chair: Referral fees: how much is involved? Could somebody perhaps explain the process to us on how the system actually works and who benefits? You are all very shy. Who gets the money? Who does the referring and who benefits?

Dr David Brown: There are a number of different parties that will do the referring. There can be referrals that come from accident management companies that deal with physical damage. Of the referral fees claims management companies may pass on an element directly to claimants. There are referral fees that can be paid to insurers who pass on details of their own customers who are third party claimants of other insurers. There are referral fees that can be paid to legal insurers.

Q19 Chair: Who is doing the paying?

Dr David Brown: The solicitors, as I understand it. I am sorry, the claims management companies will receive a referral fee from the solicitor. What the claims management companies may in turn do is pay others to source business. So they may go directly to—

Q20 Chair: Is there a kind of merry-go-round of referral fees that end up being a charge on the public purse?

Dr David Brown: That is a strong possibility.

Duncan Anderson: Not so much the public purse as the insurance premiums.

Dr David Brown: Yes.

¹ Note by witness: replace 'third parties' with 'own damage insurance claims'

Q21 Chair: So this is a kind of referrals merry-go-round that ends up escalating the cost of premiums to the driver?

Duncan Anderson: That is correct.

Q22 Gavin Shuker: Just to clarify, you were stating that insurers sometimes receive referral fees on their own customers—claims that they are involved with?

Dr David Brown: No, this would be on third-party—sorry, it would be on their customers, where their customers are third-party claimants to other insurers. I have no data from the Institute of Actuaries on the extent to which that goes on.

Duncan Anderson: Anecdotally, I would say it is not the major source, but there is no data.

Dr David Brown: I would agree with that.

Q23 Kelvin Hopkins: You must be losing a considerable sum of money from uninsured drivers—people driving who have not been insured. Have you any idea how much that might be? For this particular form of insurance, is there a global sum you might have a feel for?

Will Thomas: The MIB state that it is around £400 million to £500 million, which adds about £30 to every honest driver's policy in this country. We see instances of the fines for driving uninsured often being dramatically less than the price of a policy in these areas. With that deterrent being quite small, sometimes you can understand a young driver—well, you can't understand, but when young drivers are seeing premiums of £2,000 or £3,000 and having penalties on average that were paid out in 2008 of between £200 and £300, the penalty doesn't really fit the crime.

Q24 Kelvin Hopkins: Indeed. That is my next question; you have anticipated it. My suggestion is what if uninsured drivers were subject immediately to their cars being confiscated and crushed, and with a three-year driving ban or something of that kind? It would immediately have an effect, but there is also the matter enforcement. It strikes me that DVLA Licensing is not a problem because the police can immediately spot a car and check it, but it is more difficult to do that with insurance. Is there not a way of making it so that the police can check insurance at the same time?

Will Thomas: I think that is something that is pushing through in March 2011, which is continuous insurance enforcement, which is where the Motor Insurance Database and the DVLA will combine to recognise cars that are on the road that do not have insurance associated with them. We believe this will be a great step in reducing the number of uninsured motorists.

Q25 Kelvin Hopkins: You also have a scheme, I understand, for compensating insured drivers who are hit by drivers who aren't insured. That costs as well, I understand.

Will Thomas: It does. All insurers pay into that pot and that obviously gets reflected in people's premiums.

Q26 Kelvin Hopkins: So targeting uninsured drivers and driving them off the road, literally, would make a great difference?

Will Thomas: Absolutely. It would reduce one of the factors that are contributing to increasing premiums.

Duncan Anderson: I wonder also if there is an education thing here, which is that 20 years ago, when I started out, bodily injury was 20% of claims cost and a motor insurance policy was largely about bent metal and protecting the car. Bodily injury now counts for over half the claims cost in many cases—particularly with younger drivers, where it is much more than half the claims costs, so young drivers actually buy a liability policy. They don't really buy a property damage policy.

Q27 Chair: When insurance is being sold over the internet, how much care is taken on checking the details of the person who wants to be insured? Mr Thomas, can you tell me what checks are in place?

Will Thomas: Absolutely. The internet, as we all know, is not the same as face-to-face or over the telephone. There are steps that we need to do to recognise that, in times of economic downturn, there is a propensity for fraud to increase. We recognise this and we are trying to hit it head-on with our insurance providers. There are things that can be manipulated potentially, like age, your driving experience or claims and convictions, and we are working with our insurers to recognise when this happens so they can determine how they want to contact or engage with that customer—whether it be to refuse to quote or that they would prefer to speak to them over a channel such as the phone.

We also see the use of sharing databases with the DVLA and the MIB and also those claims underwriting exchange databases. Really, if we all work together, we can help consumers and insurers alike because it is not in anyone's interests to make the consumer misrepresent themselves.

Q28 Chair: How much checking do you actually do?

Will Thomas: How much checking do we actually do? This is something that we are starting to work with our insurers on moving forward early next year.

Q29 Chair: Does that mean that you are not doing any checking at the moment?

Will Thomas: The checking that we do do is on the vehicle details and everything that is put into the internet is through utmost good faith that the customer is accurately representing themselves, while insurers equally—

Q30 Chair: Sorry, could you just repeat that end bit? "Everything that is put into"?

Will Thomas: It is a process of utmost good faith that consumers—

Q31 Chair: Good faith. So you take on good faith the information given to you?

Will Thomas: Absolutely, but we do recognise that there are things that we can do to help combat areas that consumers might be misrepresenting themselves through.

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

Q32 Chair: Which are the areas do you think that might be?

Will Thomas: There are instances where we can recognise where people may have done a quote that had a claim and then it may be removed. We can let the insurers know that that is the situation so they can decide how they wish to engage with that customer.

Duncan Anderson: It is probably just worth saying that identification of this underwriting fraud effectively can be quite hard. A lot of insurers do use a lot of external data relating to the individual, to the vehicle, to the geographical area and to do checks that these people exist and there is relevant information about these people with vehicles from external data. But detecting with accuracy suspicious behaviour on a website is not trivial. It involves looking for patterns where someone might get a quote and then just amend a few things in an unnatural way. It is not as straightforward as just doing some simple checks. It is quite a lot of detail where mathematics would be required to see how—

Q33 Chair: Mr Anderson, do you think that this area is taken seriously enough?

Duncan Anderson: I think insurers do take it seriously. I think it is a hard area to do well. I think there is probably more that can be done in this area.

Q34 Chair: What would you say is the extent of fraudulent information given in this way?

Duncan Anderson: I think it is very hard to say. I have no real data. Measuring fraud, and measuring changes in fraud in particular, is very difficult. By its nature, if it was easy to detect it could be stopped.

Q35 Kwasi Kwarteng: I am picking up from material in the written statements that the position is unsustainable. You have rising costs. I think there was one person who suggested that the insurers are paying out £1.23 for every £1.00 they are getting in. Clearly, the state of the market means that their investments aren't giving the returns that they should be.

I was just wondering, against that backdrop, what do you think is going to happen in this industry? It seems to me that if you were looking at market economics, you would assume that a lot of these players, these insurance providers, would exit the market and that that would somehow be a correction. I was just wondering what your thoughts were on that.

Duncan Anderson: My view is that the increase we have recently seen had a little bit of catch-up. We've had relatively fast premium rate increases in 2007 and 2008. I think the recent increases we've seen are catching up. I think once the insurance market as a whole gets to a sustainable rate of premiums, if claims continue to increase at the rate they are currently increasing, the rates will continue to increase as well. Bodily injury claims are going up at approximately 30% per year. That is part of the cost. The other claims types may be more like 5% per annum. So overall, there might be a 15% to 20% natural increase in claims cost if things continue as they are, which will be reflected into ever-increasing premiums, which are increasing in real terms.

Q36 Kwasi Kwarteng: But that isn't sustainable, is it? This was the whole point of the paper. We can't live in a world where you have ever-increasing—

Duncan Anderson: That is what I think will happen with the current free market. Insurance companies will have to make an acceptable return and some may exit as a result as they struggle to do that. The question then is, if rates increase and insurance becomes less and less affordable at young ages, I think it then becomes a political question as to whether that is an acceptable state of affairs for the country. But I think the free market is adjusting and coping with the various congruent forces and effects that have happened over the last year or two. I think the real question is whether the increases for policyholders are acceptable or whether the Government should consider doing something.

Q37 Chair: Mr King, do you want to come in there?

Edmund King: Yes. Our view is that it is unsustainable if it continues increasing in this fashion. For young drivers, it is an average of £2,500. They cannot afford that with tuition fees and everything. It has an effect on society because what then happens is that some people take a risk to drive uninsured or to start driving mopeds, scooters or motorcycles and injury rates can go up.

I think it has to be addressed on a number of levels. There is the Lord Justice Jackson review that looked at civil litigation and fixing legal fees for personal injury, curbing cold-call advertising that pushes up the premiums. Lord Young has recently looked at the compensation culture, restricting the type of volume of advertising by these companies. I think that all has to be done and at the same time as efforts are continuing at making our roads safer. We do have some of the safest roads in Europe. The recent figures showed that.

However, among young drivers there is still much more that we can do in terms of training of young drivers and enforcement and the kind of policies we offer to young drivers: offering policies that regulate the way they drive; whether they drive at night and how fast they drive; and using telematics to show what risks they are taking. Those things can help bring premiums down. I think if we do nothing, yes, the costs will not increase as fast as we have seen over the last 12 months because there has been a catching up—those 50% increases. We will not see that, but we will see continual increases unless we take decisive action from Government, from education, from police and from DVLA links. We need to do all these things.

Q38 Chair: But, Mr King, there are other areas as well. You mentioned referral fees. How much does the AA get itself in referral fees for passing cases on?

Edmund King: I'm not aware of that level of detail, I am afraid. I don't work on insurance.

Q39 Chair: But does AA Insurance receive referral fees?

Edmund King: I believe that there are some referral fees and that is in a regulated part of the industry, whereas cold-call marketing is not regulated at all.

Q40 Chair: But have you any information on how much AA Insurance receives?

Edmund King: I'm afraid I don't. It's not a part of the industry I'm involved with.

Q41 Chair: So we would need to ask somebody from a different part of the AA?

Edmund King: Unfortunately, the Director of AA Insurance is on holiday, so I am sitting in. It's not an area of my expertise.

Chair: Perhaps we will talk to him when he comes back from holiday.

Q42 Kwasi Kwarteng: I think you helped me. I will try and reformulate my question in slightly clearer terms. When you say the rate of increase is unsustainable, does that mean that there will be a natural market correction to that rate, or are you saying it's unsustainable in a wider sense and that society shouldn't tolerate it?

Edmund King: I was talking about it from the consumers' point of view. The kind of increases that we are seeing are unsustainable. Young drivers will not be able to afford to drive vehicles at current rates.

Q43 Kwasi Kwarteng: But presumably, that means that at some point these rates will come down. The root of my question is: to what extent do you think the Government should be intervening to cap or prevent these increases? If you were a market economist, you would assume that at some point these rates are not going to carry on increasing indefinitely. That was my understanding when you, or whichever report it was, used the word "unsustainable". You are suggesting to me that you feel this thing is just going to carry on going up for ever—

Edmund King: Unless—

Q44 Kwasi Kwarteng: Unless we actually have something positive. That is what I want to get a sense of.

Edmund King: The rates reflect the risks and the costs to the insurance companies, so if there are more bodily injury claims, the insurance premiums will go up. If we allow more claims management companies more cold calling, they will go up. Unless we address that part of it, we cannot reduce it.

Unless we address fraud with better links to the DVLA and more police ANPR enforcement, premiums will keep going up. There are things that we can do, and of course there is lots of education for young drivers that we're involved with. There are BTECs in driving so that people don't just pass their test; they're safer drivers. There's a lot of work we are doing on that side. I am saying that unless we do all those things, the pricing will be unsustainable for consumers. Young drivers will not be able to afford to drive until they're 25.

Q45 Kwasi Kwarteng: And the premiums will keep going up?

Edmund King: Yes. Already the premiums are costing far more than the cars that people can afford, and that's pricing people out of the market. It does have an effect on society. For many young people in rural

areas, to get and keep a job they need mobility in areas where there aren't buses. There have been grants in the past. I think in Gordon Brown's constituency a few years ago, there was a mobility grant to help young people buy motorcycles or mopeds to keep them mobile, to keep their jobs, because people weren't keeping jobs. I do think there is a broader issue here for society.

Q46 Kwasi Kwarteng: Is that something that the other members of the panel agree with? Do they think that there must be some sort of intervention to curb this?

Q47 Chair: Does anybody have a different view on it?

Will Thomas: I think we've seen symptoms of the higher premium rises, as Edmund says, due to the risk of being evaluated as such. We sometimes need to look at the causes of that. When we see a group of young drivers, 17 to 25-year-olds, they are 15% of the driving population. They have 31% of all accidents and the proportion of the whole claims cost is 40% for that group. I think there is an education piece there, as Edmund rightly said.

Q48 Chair: But do you think anything should be done in the other areas as well—the areas to do with the aggressive marketing that goes on, to do with referral fees and escalating legal costs? Do you think there needs to be any Government intervention or regulation in that area?

Will Thomas: I think there are a number of different areas we could focus on.

Q49 Chair: Yes, but I'm asking you about those areas.

Will Thomas: We touched on the fraud element earlier. We are striving to make sure that—

Q50 Chair: The question is: do you feel there should be any intervention by Government in those areas in terms of regulation or any other way, or do we just let it go?

Will Thomas: With facilitating and engagement with the DVLA.

Q51 Chair: Do you think that would be an area of helpfulness?

Will Thomas: Definitely. To get more accurate representation of the individual's risk when they are inputting their details would help greatly down the chain and potentially remove that element of fraud out of the industry.

Q52 Chair: Mr Anderson, do you want to say something?

Duncan Anderson: I think it's a political question. We're balancing the freedom of solicitors to have referral fees and insuring the resulting claims against the effect on young drivers. My personal view is that the balance is wrong. My personal view is that things like the Lord Justice Jackson review should be implemented quickly to ban referral fees, and maybe we should introduce fixed legal costs for a wider range

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

of claims and set a fixed lower rate of costs for some of those claims, and that these steps would help address the prevalence of this claims farming activity. It is my personal view that the current situation is not in the wider interests of society, but that is just a personal view.

Q53 Chair: Any views you give here are evidence to this Committee, so they are presumably from your knowledge and experience. Dr Brown, is there anything extra you would like to add to this?

Dr David Brown: No. I think there is very clearly a connection with the claims management companies and the referral fees. That is, in a sense, the engine. If an unacceptable consequence of that is that insurance becomes unaffordable, then action must be taken at root cause.

Q54 Iain Stewart: I wanted to ask about the experience in other countries that operate a system for young drivers after they pass their test. I think in France they have an "A" plate for a period of time. Is there any evidence from abroad that that would reduce premiums for younger drivers?

Edmund King: Yes. There are a number of things that the Government here have looked at. In Canada for example, after your first year of passing your test, there are various restrictions on numbers of passengers, etcetera.

The evidence actually shows, though, that on many of these things you can just be deferring the problem from 17 to 18, or 18 to 19. In many of the states in the United States of America that have graduated licences, people begin to learn to drive at 16, so the restriction is at 17. You can do those things, but our view is that fundamentally you have to start before then. We have actually asked young drivers recently on this and surveyed them, and part of this is that there ought to be more about road safety in the school curriculum before you learn to drive as a life skill.

We did a survey of 18,000 adults and asked them what was the biggest accidental cause of death of teenagers and they got it totally wrong. Only 10% got it as road crashes. They would talk about guns, knives, stabbing, HIV and drugs. But there is the risk. So there is the awareness. If you can introduce that awareness at a younger stage in the school curriculum, that will help. I then think you do have to look at learning to drive and the driving test. Much of it is still focused on passing the test rather than becoming a better driver. That is where we are promoting a BTEC system. So it is not just learning to drive: it is learning how to be a safer driver and hazard perception. There's post-test training as well, so when you pass your test you're not a good driver; you need to do motorway driving, night-time driving, etcetera. We are developing that.

The AA Charitable Trust are working with the police and asking the police to tell us which young drivers are most at risk. Then we are giving them free Drive Smart courses. The police don't always want to prosecute when someone's wrapped a car into a tree, but they know that the next time that driver goes out they'll kill themselves and kill others. We need to stop that, so we're offering training there. I think there is

more that can be done on education to reduce the risks and therefore reduce the costs.

Q55 Gavin Shuker: I have two questions around the distribution of premiums because it seems to me there is a major problem at either end of the curve in a sense. The first one, really simply, is should safer drivers have to pay more in order that less safe drivers can afford their premiums? Would anyone like to come in?

Edmund King: No. What I'm saying about safer drivers, for example, is that if you're talking about young drivers who do this BTEC qualification, we're talking to insurance companies—the BTEC probably costs £150 more than doing your driving lessons—and if we can get them insurance discounts of 15% in the first year, they're just about getting their money back.

With Pass Plus, there was an incentive for young drivers to get a discount, but what you tended to find was that the insurance companies that offered that discount were more expensive to begin with, so many of the young drivers thought, "Well, it's not worth doing Pass Plus because it doesn't really affect us." I think there is more that we can do when drivers show, and we can prove statistically, that the courses that they're doing are reducing their risk. There should be lower premiums.

Q56 Gavin Shuker: Just on that though, you stated previously that young people's premiums went up by about 50% in the last 12 months. So when you say 15%, the maths doesn't quite work in terms of an incentive to drive down the premium cost. Young people's premiums seem to be a major factor.

Edmund King: I accept that. It will make a difference but still will not reduce it to the levels we saw last year.

Will Thomas: Might I just touch on telematics? With the advances in technology nowadays, there are two companies that I can mention—GreenRoad and Coverbox—that will insert technology in your car that will monitor the way you drive: whether you brake hard or you accelerate quickly, or whether you turn round corners at higher G-forces. This is monitored closely by parents, guardians and insurance companies to understand the way these drivers are driving, and it also provides an incentive for the drivers to have this technology installed. It is a deterrent to driving erratically. Over a period of time, if it is evaluated that they are driving erratically, their insurance premiums go up, and if they drive better then they get rewarded for that, for being a safer driver on the road.

Q57 Chair: Dr Brown, looking at it from an actuarial point of view, do you think enough is done to distinguish between the risk posed by safer drivers and more dangerous drivers, following Mr Shuker's point?

Dr David Brown: I believe so, and from what I know of the rating of different insurance companies, they try to differentiate the risk as much as possible.

Q58 Chair: Do you think more could be done to differentiate the risk?

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

Dr David Brown: Certainly the more data that there is, the more distinction can be carried out. I think certainly telematics does offer one solution. The question there is about just how you can do that in a way that is relatively low cost and also how that would work in terms of the relationship with an insurer and would alter people's ability to be able to change insurers easily.

Chair: Mr Shuker, do you have just one more point on that?

Q59 Gavin Shuker: Yes. In the absence of telematics, of course, you're relying on modelling around risk factors. One witness previously stated that bodily injury claims now make up about 50% of the cost, up from 20%. Postcode seems to play a massive role in determining the cost, which to me certainly would look as though that's relying maybe on theft as opposed to modelling of the people that are living there. Is that correct?

Dr David Brown: It's all modelled at a peril level.

Q60 Gavin Shuker: So people living in a certain postcode, in your opinion, are much more likely to display reckless behaviour on the roads?

Dr David Brown: That's what statistics show, although I'm not suggesting that behaviour is reckless, simply that it leads to more third-party insurance claims for bodily injury.

Duncan Anderson: Let me just clarify. On the issue of assessing risk and trying to charge premiums with that risk, the nature of the free market is that those insurers that do that more accurately will do better, and so there's been a huge amount of work over the last 20 years in building complicated statistical models that use every piece of data available about a policyholder to try and assess as accurately as possible, given the actual claims—

Chair: But nevertheless there's been this great escalation of costs for everybody.

Q61 Steve Baker: Mr King, I was hugely encouraged by some of the things you said. In particular, you talked about driving as a life skill and you talked about starting early. It points to the value of motoring and encouraging personal responsibility. I was also encouraged by some of the things you sketched that the industry is already doing in this regard. The question is this: should industry or Government lead in these long-term efforts? Either way, what can Government be doing at a low cost to catalyse and multiply the benefits of what you are already doing?

Q62 Chair: We had some points before about what Government should do, but we didn't talk about what the industry should do.

Edmund King: From the insurance industry point of view, you mean?

Q63 Chair: Yes; insurance or the legal profession, or any part of the industry involved in this area, Mr King.

Edmund King: In terms of young drivers and making the premiums more affordable, it's got to be embracing the changes in training that actually

produce safer drivers. I have to say with this BTEC qualification we are going to be offering software free to every school in the UK, so every 16 and 17-year old can have access to it.

I have to say that convincing the insurance companies, going round to get the second part of the deal to get the discounts, has been incredibly difficult. Our actuaries will say, "Well, you haven't got the evidence already because the course is only just starting." It is chicken and egg to some extent. Now we have got a couple of insurance companies to help. I think on that the industry has to think of their customers of the future. You can't just close your eyes to young drivers and say, "Well, hey guys, you're a big risk. We're not going to take you on."

Q64 Chair: No, but the question is, what should they be doing?

Edmund King: What I'm saying is that the insurance industry should be more open to the training of drivers to show that it makes safer drivers to give greater discounts. You've got to do something for the customers of the future.

Q65 Chair: Are there any other points that the industry should be doing—any of the industries or professions associated with driving and insurance?

Will Thomas: I think working together to create a recognised qualification that insurers will recognise to give discounts to young drivers is a positive step. I think looking at the Pass Plus scheme and understanding where in certain areas that succeeded and failed would be a good start. Traditionally, when the Pass Plus scheme came in, discounts of up to 30% were provided by insurers. Some anecdotal evidence we are getting back is that, on evaluating risk of people with these qualifications, there seems to be no difference between people that have it or don't have it. Maybe it's an option for us to go forward and look at how we can change that to improve experience.

Q66 Chair: Are there any other suggestions on what the industry might do?

Duncan Anderson: I would just concur with the attraction of telematics as a solution, not only to assess risk but also to train drivers and provide feedback in real time, as evidence is that machines that beep if you do wrong things do improve driving behaviour, and that as device costs are coming down, in a year or two they will be quite viable for a wider group.

Q67 Steve Baker: May I just ask the insurers whether it is possible to imagine coming on to a trajectory where premiums are coming down but actually your margins are going up because the standard of driving has improved to that extent? Is it even possible to imagine that?

Edmund King: I would love to imagine it. The one thing we are doing in this country is that deaths from driving are going down. It was 2,222 last year. Yes, that's too many but we are making improvements in terms of road safety generally. So I would like to imagine that, but I think these other issues of fraud and personal injury claims have countered, if you like,

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

the good work that has gone on. Cars are safer, accidents are down and yet the premiums are up.

Q68 Chair: It is the issues that we identified at the beginning, isn't it, that are causing the problems despite the reduction in deaths on the road?

Edmund King: Yes.

Q69 Julie Hilling: Can I ask a question generally about gender because we are talking about young drivers, but actually is there a marked difference in terms of young women and young men in their accident rates, etcetera?

Edmund King: Yes. From our Insurance Premium Index, the average for young males is 2,500 and for young females it is 1,400; so young males are over-represented in the accident figures. Females are generally safer drivers.

Duncan Anderson: The statistical modelling which every insurer will do will assess the true effects of things like gender, age and driving experience and 20 or 30 or 40 other factors. It will assess which of those factors are actually causal and which have just a superfluous correlation with other factors.

It is very clear that young males do have a higher propensity to have accidents than young females. The effect of gender becomes much less of an issue at higher ages because experience is more similar as they get older. But at those younger ages there is absolutely clear evidence. If you look at a graph of male accident rates by age and a graph of testosterone by age, they are remarkably similar. It is just fundamentally things to do with how young males have an attitude to risk that do affect claims experience, and that's reflected in these figures.

Q70 Chair: Dr Brown, do you have anything you would add to that from the information you have?

Dr David Brown: No, that's exactly the way the analysis is done in the industry.

Q71 Julie Hilling: Is there adequate targeting then of young men, because if machismo is the problem is there enough targeting of that, rather than just talking about "young people"?

Dr David Brown: In terms of the differentiation of the premiums between males and females?

Julie Hilling: Yes.

Dr David Brown: From my experience I believe so, yes. The actual premium charged reflects the risk. In an intensely competitive market, which is clearly what we have—so intensely competitive that in fact it's loss-making—insurers will be trying to find those segments of business that they can do where they're not going to lose money and charge cheaper premiums in line with the lower risk in order to acquire more of that business.

Q72 Julie Hilling: In terms of those solutions then, are we adequately targeting? When you're talking about telematics or whatever else it is, is that adequately targeted on boys?

Q73 Chair: You are talking in terms of better training, education and things of that nature?

Edmund King: Yes. I am sure there is much more that we can do in targeting particularly young males, starting at an early age. The other issue here is whether the EU gender discrimination comes in and actually pushes up the premiums of females who are safer drivers. There is some talk about that as well.

With young males, whether it is their upbringing or how they approach thrills and spills on the road, there is some evidence that this Committee took, I think last year, from the Under 17 Car Club that did show that if you can get young males at a younger age and train them off road and develop their skills—if you like, get rid of some of that adrenalin before they take to the road—they turn out as safer drivers. Unfortunately this Under 17 Car Club is relatively middle class, relatively small in terms of geographical area, so probably the people most at risk do not have access to things like that.

Chair: We did take evidence when this Committee's predecessor looked at novice and young drivers. We did identify this problem. We had some suggestions. Some have been taken up; some haven't. Some are now being repeated by our witnesses, so maybe we will make further progress.

Q74 Julian Sturdy: Could I go back to a point raised by Mr Stewart earlier on about what other countries are doing regarding young drivers? I take on board the points that have already been mentioned about education being key. I think that has been covered in one of the other questions, which I entirely agree with. I had some experience in Australia some time ago. I think they still run what is called a "P" plate system for maybe one or two years after people pass their test, which means that they've got restricted road use, restricted speed and potentially even restricted driving time, I seem to remember as well.

Do you think that that sort of system—I am not saying with the same sort of restrictions—where younger drivers in their first or second year of driving have a restricted speed, etcetera, coinciding with better education together can help? So it is not just education and not just restrictions. I accept the point you made earlier that, if we just restrict, then it is only delaying the potential for further accidents.

Edmund King: Sure. There is no doubt that young drivers are more likely to have a crash in the first six to eight months of driving. That is the time they are more at risk. We have introduced some restrictions in this country. For example, if a new driver gets to six penalty points within the first year, they lose their licence and have to take it again, rather than that happening at 12 penalty points. So there are some restrictions there. I think restrictions in speed are extremely complicated. When we look at it with trucks with different speeds on the motorways, with flows of traffic, that can cause other problems.

I think what we have to look at more—and this is where telematics could help restrict—is when and where a young driver is most at risk. It is between 11 o'clock at night and five in the morning when there are three or more males in the car and when they don't wear seatbelts. We shouldn't overlook the practical things: 30% of young drivers who are killed are not wearing a seatbelt and 20% of young drivers are over

the drink-drive limit or drug-drive limit. We've got to enforce those things. Telematics could offer the solution that if a young driver goes out after 11 o'clock at night in the car, the cost per mile is doubled. It is minimising the risk, so I think telematics could help.

But I do also think parents' pressure is important as well. If your 18-year-old is getting into a car with four other kids, do you know who the driver is? Do you know what that driver's reputation is? The teenagers tend to know. Certainly nephews and nieces of mine that have done the Under 17 Car Club knew the risks. They would actually say, "No, I'm not going to the party in Johnny's car because he's a dangerous driver." I think parents have a heck of a lot to do, to ask those questions—"Who are you driving with? Who's driving back?" and even, "What kind of car is it?"

If you had seen crash tests on the original Mini Metro that Euro NCAP did and had seen the damage that happened to that car, with the steering wheel into the chest—I would not put any kid of mine in one of those cars because of the risk. I think parents have a lot to do, knowing the risk, because the number one cause of accidental death for teenagers will be in car accidents, so it is that crucial.

Q75 Kelvin Hopkins: All these other factors are important, but there is a quotation in our papers from Moneysupermarket.com who say, "Insurance policies fail to incentivise responsible driving." In a sense, it is laying responsibility on insurers to do better in incentivising better driving.

We have talked about young males. If young men under 25 were not permitted to drive, it would probably save hundreds of lives and thousands of pounds on our policies, but obviously that politically would be rather difficult to introduce. Indeed, you could even have an age differential. If women could drive from 16 and men could drive only from 21, in a sense it would make a point about young men being rather stupid when it comes to driving behind the wheel of a car.

Are there differences in driving ages in other countries? I am not sure. If, for example, our driving age was raised by a year, that would make a significant difference. Do other countries have different driving ages?

Edmund King: Other countries do. The evidence I've looked at is that raising the driving age by a year would have benefits in the first year alone. The difference between a 17-year-old and an 18-year-old in terms of mental development is very small. I think the research from Cranfield university shows that the real difference actually comes at about 21 in terms of mental development to risk-taking and things. I think the difference between 17 and 18 would not make much difference apart from the first year.

Q76 Kelvin Hopkins: There is another suggestion in our papers that some young drivers disguise their insurance because it is all part of their parents' insurance. If they were all required to have individual insurance, would that make a difference? It would make them much more conscious of the fact that they,

personally, were responsible. Rich parents no doubt would pay for them, but for most young people they would have to pay their own insurance and that might be quite steep.

Edmund King: Indeed. If they are the main driver of the car, they should be paying the insurance. When they go on their parents' insurance but they are the main driver, it is known as "fronting" and it is actually fraudulent, although some parents don't perceive it that way. In effect, if it is their own car and they are the main driver, the insurance should be in their name.

Q77 Kelvin Hopkins: Is there a case, in fact, for getting rid of the named driver approach altogether and having individual insurance for everyone?

Edmund King: For every individual?

Q78 Kelvin Hopkins: For every individual, whoever they are, whatever age? Is there a case for that with named drivers?

Edmund King: I think it is difficult. What we are actually finding now with younger drivers is that some of them are putting off the driving test until later. That might be because of going away to university, tuition fees and the cost of learning to drive. If they're at university and they learn to drive, many of them will not have their own car, but when they're back in the holidays and they want to get a night-time job in rural Wiltshire, being on their parents' policy is absolutely fine and gives them experience of driving. If they had to have their own policy, they couldn't afford to do it just for the holidays.

Q79 Chair: Dr Brown, do you think there should be any change in policies in relation to named drivers?

Dr David Brown: I think it is a slightly difficult one because I think under the Road Traffic Act the vehicle has to be insured, so what, for example, if somebody steals the vehicle and then runs somebody over and that person is badly injured? I think that element would certainly need to be considered. There is another obligation for insurance cover there which individual insurance would not as such cover.

Q80 Kelvin Hopkins: I have one other very simple question. It seems to me that vast sums are spent on advertising motor insurance on television and elsewhere. What proportion of your costs is in advertising and could that not be brought down?

Will Thomas: If I can answer that question, due to the increased usage of comparison sites the marketing costs for insurers have gone down. We have seen some drop in and sustained premiums between 2007 and 2009 being partly due to the fact that insurance companies weren't spending as much on acquiring customers. They were acquiring them through comparison sites.

Q81 Chair: Mr Thomas, do you receive a fee or other financial benefit from the insurers who advertise on your website?

Will Thomas: Yes, we do. If a sale is placed through a comparison site we get an introductory fee for that.

9 November 2010 Edmund King, Will Thomas, Dr David Brown and Duncan Anderson

Q82 Chair: What would stop you from giving the business where you get the most financial advantage rather than the best deals?

Will Thomas: It's in our own interests to create a visible, transparent market for consumers, and that's exactly what we provide.

Q83 Chair: But do the consumers know the fees? It may be differential fees you're getting from different insurers. Is that made public anywhere?

Will Thomas: It is not made public, but they are generally consistently around the £40 mark and they are considerably less than insurers spend on acquiring customers themselves.

Q84 Chair: No, that's not the question. The question is, there is clearly a financial benefit for your website, and presumably others, in giving business to one insurer rather than another. Is that information made available?

Will Thomas: The information is not made available. We can make it available but there is no preferential treatment to any insurer or any provider. The marketplace that we provide to consumers is accurate and transparent, and never has it been easier for consumers to understand what insurance is right for them at the price that is right for them, which was a real difficulty before.

Q85 Chair: But there is a different financial benefit on securing business from different insurers. You can't check all the information that the potential customers are giving to you, so that's not very transparent really, is it?

Will Thomas: I feel it is, and I think it's elements that we've touched upon. It's difficult to identify fraud, and we will work in all manners with our insurance partners to make sure that we create a sustainable insurance model through a channel that allows consumers to significantly save money and in making sure that they get the right cover at the right price for them.

Q86 Kwasi Kwarteng: I was just reflecting on what you were saying about education in terms of preventing accidents. Clearly in terms of this market it is not the prevention of accidents. It is not helpful in the sense that we've got fewer accidents and we've

got lower mortality rates than we've ever had, yet these premiums are going up. It is not altogether clear to me that if you had even fewer accidents, we wouldn't have this problem of increased rates. It seems to me as a corollary of that that there is something funny about the structure of the market in terms of, as you say, the competitors and people making claims and fraud. That seems to be where the problem is.

I am not saying that we are out of the woods in terms of mortality rates on the roads, but we've actually done quite well on that in the last 20 years if you look at the figures. I was just interested at the end to ask: what do you think the Government can do—because that's what we are, the politicians—about fraud and the marketplace? Should we regulate the marketplace more? Should we try and put higher barriers to entry into this market?

Q87 Chair: I want one short point from each of you, if you want to give one, on the most important thing that Government should do to change the situation.

Kwasi Kwarteng: On that particular part; not the education part.

Chair: Just one short point, for anyone who wishes to give one. You don't have to.

Duncan Anderson: Implement Lord Justice Jackson's review.

Q88 Kwasi Kwarteng: You think that's crucial?

Duncan Anderson: Yes.

Q89 Chair: Does anybody else want to say anything?

Edmund King: And indeed Lord Young's views on advertising by claims management companies: restrict that advertising.

Chair: Is there any other point?

Will Thomas: I concur. If we can start controlling these escalating costs then we can start making the risks—

Q90 Kwasi Kwarteng: But how do we do that? That's the question.

Will Thomas: Lord Justice Jackson's review would—

Chair: We are not starting the discussion again, not here anyway.

Dr David Brown: I agree.

Chair: Thank you very much for coming and answering our questions.

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

Examination of Witnesses

Witnesses: **Nick Starling**, Director of General Insurance and Health, Association of British Insurers, **Graeme Trudgill**, Head of Corporate Affairs, British Insurance Brokers Association, **Ashton West**, Chief Executive, Motor Insurers' Bureau, and **John Spencer**, Chairman, Motor Accident Solicitors Society, gave evidence.

Q91 Chair: Good morning, gentlemen, and welcome to our Committee. Could you please identify yourselves, with your name and the organisation you represent for our records? I will start at the end here.

Graeme Trudgill: Graeme Trudgill from the British Insurance Brokers Association, BIBA.

Nick Starling: I am Nick Starling. I'm Director of General Insurance and Health at the Association of British Insurers.

John Spencer: I am John Spencer. I'm the Chairman of the Motor Accident Solicitors Society. We represent claimant victims of accidents.

Ashton West: I'm Ashton West. I'm the Chief Executive of the Motor Insurers' Bureau.

Q92 Chair: Thank you. No doubt you've been listening to our previous evidence session. You will see that we are concerned about escalating premiums despite lower accident rates and lower rates of fatalities on our roads, aggressive marketing by management companies, escalating legal costs, the question of referrals, fraud and collusion, uninsured driving and cost of personal injury accidents. Which of those things do you think is the most serious and what is your industry doing about it?

Nick Starling: Can I start that, Chair? We think there are a lot of issues here, but the cost and number of personal injury claims is almost certainly the highest on the list. You've already heard from previous evidence just how problematic that is. We have a situation where the number of personal injury claims has gone up dramatically despite the increase in road safety. We have a situation where the cost of those claims has gone up. We have a situation where the legal costs associated with those claims have got higher and higher. We have a particularly difficult problem around the quite appalling road accident record of young drivers, and young male drivers in particular. Those are all fundamental reasons for driving these costs.

The other ones are significant and they are important. Fraud is extremely concerning to us—fraud across the whole range: personal injury fraud, fronting fraud and people being incited to make claims when they don't have an injury. Uninsured driving is another big area though we've had successes in that in recent years. The costs to people are pretty substantial. If you look at an average premium, £30 out of that premium pays for uninsured driving; £40 goes on legal costs; £40 goes on undetected fraud, and we've done a lot of work on undetected fraud. So big chunks are coming out of people's premiums in these areas, apart from the fact that half the premium is going on bodily injury.

Q93 Chair: But what is your industry doing about any of these things? Do you feel there is anything that you, as an industry, can do to deal with any of these problems?

Nick Starling: We've been doing masses on these. We've been campaigning on all of them for a long time. Rather than going into a long speech, I will say briefly that we have long advocated the implementation of the Jackson review, of doing stuff on personal injury compensation—we've been campaigning on that for about five years. We warmly welcome the Jackson review and the Young review. We have introduced a portal for motor injuries under £10,000, which has dramatically increased the speed and lowered the cost of smaller value claims.

We've been campaigning for a long time on young drivers. We have a lot of proposals on young drivers, which I can come back to later. As soon as a young driver drives safely for a year, then their premium starts to come down. That's the biggest incentive that a young driver can have to lowering their costs.

We've also done a lot of work on fraud. We've worked with the comparison websites on a code of practice to make sure that the information on them is correct. We're setting up an insurance fraud register so that information can be exchanged. We have an Insurance Fraud Bureau which is now getting to grips with the issue of fraudsters who are moving across insurance companies in other areas. So there is a lot we have been doing and there's a lot we've been campaigning for on this issue, for a number of years.

Q94 Chair: Mr West, what do you feel should be done? What is the most important of these issues?

Ashton West: First of all, I absolutely agree with everything that Nick's just said. We completely support the implementation of the Jackson review and the Young report. On the fraud side, I think one of the biggest things that could be done is to ensure that the industry has direct access to validate the DVLA licence data for the driver record. At the moment what happens, as I'm sure everybody here knows, is that if you want to buy insurance, then you are asked a series of questions about your driving licence and your convictions, points on your licence, etcetera. There is currently no automatic validation of that data. The fact that people will lie and change the information to get a cheaper premium has already been alluded to. There is currently a project to build the infrastructure that is required to access that data, but I would say, bearing in mind that the work done to understand the extent of this indicated there was something like 17% under-declaration of driving licence data, I think that shows the scale of it, and therefore the need for direct access and validation of driving licence data, which will reduce significantly the problem of application fraud.

Q95 Chair: Mr Trudgill, did you want to add anything?

Graeme Trudgill: Yes. I agree with what Nick and Ashton have said. On the amount of fraud, 23% of driving licence endorsements are wrongly declared. By allowing the insurance industry access to that, we

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

could help reduce a significant amount of the £900 million of motor insurance fraud that is estimated. So, yes, that is an important point.

Q96 Chair: Mr Spencer, we have heard a lot about legal costs being almost as much as money given out for personal injury accidents. What do you think can be done to address this?

John Spencer: I think a lot has been done already, and can still be done, to reduce those costs by new processes like the road accident process in which my organisation and others co-operated with the insurance industry to reduce the work done in low-value road accident claims and to reduce the cost of representing people in those claims. Indeed, since 2003 there have been industry-wide agreements for road accident claimant solicitor costs, which are fixed costs which have been agreed between, as it were, the claimant's solicitor, representative groups and the insurance industry and those cover an estimated 75% of all accidents.

Q97 Chair: But yet the legal costs have escalated. Whatever it is you might have done, those costs have escalated. What are we going to do about that?

John Spencer: Indeed, I agree that they have, but the reason they have is that road accident claims, whilst I agree accidents have gone down—and one of your earlier speakers identified the key point, one of the parliamentary members of this Committee—the problem is that accident claims have gone up. Over the last five years to 2009–10 road accident personal claims have gone up from 460,000 claims in a year to 675,000 claims in a year. That is an increase of 47%. If you look at insurance claims over the same period, insurance claim incurred costs have gone up from £8.2 billion to £9.4 billion. That is an increase of 14%. You can see from those two statistics that, whilst the absolute numbers have gone up, the amount that it is costing each claim to be dealt with has gone down. I would point to what I was saying a little earlier.

Q98 Chair: But does that mean that you are satisfied with the current situation? What about the whole system of referral fees where charges are continually made? The result of it is that premiums go up, more money goes to the legal profession and it is very unclear what the benefit is. Are you satisfied with that?

John Spencer: No, I am not. I said earlier that what can be done is more of what we are doing, which is trying to agree simplified processes and reduced costs for conducting claims. I am in no way complacent with regard to the cost. All I am saying is one needs to put it in perspective against the increased numbers of claims that are having to be dealt with by insurers. What I would also say about that is that insurance companies have a part to play in the market for claimant personal injury work, because almost every insurance company has a claimant solicitor panel to whom they will distribute work in return for referral fees. I haven't seen any figures for that, but there are large amounts of insurance company income deriving from the very referral fees that are complained about,

without reference to the fact that they're being paid to them where they are distributing claims.

Q99 Chair: Mr Trudgill and Mr Starling, what are the insurers going to do to address this? Don't tell me about other things. I want to know what you are going to do about this.

Nick Starling: The most important thing that can happen is, first of all, that we have this motor insurance claims portal which has a limit of £10,000. Lord Young's recommendation that that should go up to £25,000 will make a big difference.

Of course our members charge referral fees. We are working within a system which is essentially dysfunctional. If you are unfortunate enough to have someone run into the back of you—and I don't know if any of you round the table have had this—it is quite astonishing what then happens. You are an extremely valuable property, if I can put it that way. People want to get at you and sell their services, whether it be claims management companies, whether it be mending the vehicle or whether it be supplying a vehicle for you to use while your car is out of action. You will be quite astonished at the number of text messages you get on your phone telling you that you can claim £3,700 for whiplash and things like that. It is a dysfunctional system. I think a lot of our member companies reckon that a lot of people will sell the claim down that chain, and so they can control that claim better by doing it themselves. But we acknowledge that this has got to go. Jackson has recommended that referral fees should go as part of a package. We say, if the whole of Jackson is implemented as part of a package, then we accept that that part of it has got to go. Our whole system needs that sort of reform.

There is no doubt that if you have been genuinely injured and it is not your fault, you need proper redress. We have absolutely no doubt about that at all, and I think it is fundamentally important to make that clear. It is not your fault, you've been injured, you need to be rehabilitated, you need to be helped back on to the road and so forth. We've got no quarrel with that. The difficulty is it is a system which generates claims, it generates unnecessary costs and that is feeding through to premiums.

Q100 Steve Baker: You have mentioned a dysfunctional system. Just listening to the evidence and trying to find a common theme, what I think I'm hearing you say—and I'd be grateful if you would confirm it—is that you are all struggling to deal with increasing numbers of bad individual choices. Whether we call those choices irresponsible or amoral or fraudulent, it sounds like that's what's happening. Is that the case: that individuals are increasingly making poor choices?

If it is the case, what institutional factors have changed over the course of the years that have driven this increase in poor behaviour? Forgive me, because I am new to the Committee, but it seems there is a lot of assumed knowledge here. I am wondering if you could just highlight three or four institutional factors around this change.

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

Graeme Trudgill: I think there has been a lot of data mining and historical mining of quotation details, where the personal injury lawyers will look for a claim you had two years ago, and if you've done a quote with someone online, that data has been sold on. So there is a push to encourage people to report injuries and perhaps make claims that they never used to. There is a shift in culture now. The propensity to claim for personal injury was about 20% seven years ago. It is about 60% now. You can see this whole culture shift, where people are now making these claims that they never used to. I think what Lord Justice Jackson and Lord Young are saying in those recommendations will limit the problems we're having now and should be a ray of light for the future.

Nick Starling: I would agree with what Graeme just said. If you are the victim of an incident which is not your fault, huge temptations are put in your way, I have to say. You are constantly encouraged to apply for a personal injury claim. You will be offered a car that's probably much nicer than the one that's just been taken off the road and so forth. It's quite understandable that particularly people who might be in difficult economic circumstances might respond to that.

With some of the personal injuries, whiplash for example—there are very high rates of whiplash—it is a soft tissue injury. There is no physiological evidence, as I understand it, that you've got that injury. I think people are put in temptation's way to a large extent and people are encouraging them to make these claims. I think the key thing is to try and sweep away that and make sure that the genuine claimant can quickly get to the redress they need.

Q101 Chair: Mr Starling, you mentioned the car hire issue. Could you just tell us a bit more about that? Is this when people are offered, under insurance, the hire of a car, maybe better than the car they had before and then the cost goes back into the insurance company?

Nick Starling: Yes. When you are not at fault and your car has to be taken off the road and taken to a garage, you may well be offered a replacement vehicle from a replacement vehicle company that can quite often be a nicer vehicle than the one you're driving, and it may well be that you are given incentives to use it for longer than is strictly necessary. So someone makes a certain amount of money for supplying you with that vehicle. You can use it and that's what happens with replacement vehicles.

Graeme Trudgill: There are about 800,000 of these credit hire vehicles given out between this year and next year—every two years—which adds up to about £1 billion.

Q102 Chair: How many?

Graeme Trudgill: About 800,000 of these vehicles.

Q103 Chair: And what is the cost of that?

Graeme Trudgill: About £1 billion every two years.

Q104 Chair: Who ultimately pays for that?

Graeme Trudgill: The insurance company claims department are paying out for that, basically. This all

adds to the cost of insurance when insurers' investments are reduced at a difficult time.

Q105 Chair: Does anybody else want to answer Mr Baker's question?

John Spencer: Could I make one point, Chair? I don't think the primary problem in the increasing numbers is about fraud, or indeed about reckless decision making, although I do think steps can be taken to improve both. It is to do with consumer or client awareness of the ability to bring a claim. All I am saying to you is that there is certainly evidence that there are many more claims, but those claims are being pursued by both insurers and by the claims management companies that have been mentioned. Insurers will provide credit hire facilities, which have been mentioned. They will be provided with referral fee income, so it is not right to look at this in isolation as if it is something happening just over there. It's happening marketwide.

I don't necessarily disagree with the word "dysfunctional", save I would disagree with implying that it is totally to do with anything other than insurance. I think it is very important that we focus on that. If you look at Lord Justice Jackson as a solution, when I gave evidence to Lord Justice Jackson I supported what he said about referral fees and banning them whilst I'm operating in a market where they're prevalent, because I would prefer people to be making choices based on the quality of the solicitor that they use rather than the money they are paid.

However, there is one important issue to look at if you are implementing Jackson across the board, which is the introduction of alternative business structures from October next year. What will happen if referral fees are banned—and this is widely known in the market—is that you will simply have claims management companies moving into the market to own and control solicitor practices, as they will be able to do, without paying referral fees less than 12 months from now. I think it needs very careful consideration. Whilst I am a "banner" by instinct, I can see that there are huge unintended consequences of going down that road.

Can I make one last point about Jackson being a panacea for everything? One of his proposals is to abolish the recoverability of after-the-accident insurance premiums and success fees. In the very serious bracket of injury—tetraplegic cases and worse—what this can mean is a huge reduction in the damages available to those accident victims who could least do with it. We have done calculations looking at upwards of £250,000 sometimes being deducted from a person and their award². All I would say is that it can't be right to rectify this problem by taking money from an accident victim at the serious injury range in particular and giving it to an insurer, which would be the net result of abolishing the recoverability of those two elements. Again, that is an element of Jackson which I do think needs very

² Note by witness: Stewarts Law, who have specialisation in serious personal injury work have done calculations looking at claims valued upwards of £250,000 (all successful claims concluded between May 2007 and 2009). In the sample, the average net loss was £47,132 and in one case, a case of a young tetraplegic man, the net loss was £236,004

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

careful scrutiny, rather than being seen as the answer to these problems.

Q106 Chair: Mr West, did you have anything to add to that?

Ashton West: Can I just touch on something that has been mentioned but I want to put it into context, and that is whiplash and the scale of this. Something like 70% of all of our personal injury claims involve whiplash, and I think for some insurers that number is even higher. In terms of the number of claims, you can see the absolute scale which is driving some claims costs. This is a problem that is virtually unknown in some countries in Europe. In other words, it is not exclusively a UK disease or problem, but it is clearly more than just a medical phenomenon. It is not to do with the deteriorating safety of vehicles—quite the opposite. Cars have got safer. Head restraints have got safer. There is something else driving this. It is more cultural than changes in behaviours in society that is driving these whiplash claims.

In some countries, like Germany, they have adopted an approach whereby you cannot claim for such things where the accident speed was below a certain speed level, because they accept scientific evidence that proves that it just wouldn't occur at those levels. Those countries that have adopted such approaches see a completely different picture in terms of whiplash claims. Whiplash claims are undoubtedly the biggest single number of personal injury claims in this country.

Q107 Gavin Shuker: Returning to Jackson very briefly, obviously this problem of escalating numbers of personal injury claims hasn't just jumped out and taken us all by surprise. What has the industry done to reduce the amount that is being spent on personal injury claims up until this point?

Nick Starling: If I could start on that, I think there are two things we've done. First of all, the Association of British Insurers, and I believe our sister organisations have been alongside us on this, has been campaigning on the issue for many, many years now. I have given evidence to predecessor Committees on this. Apart from influencing Lord Justice Jackson and Lord Young about change, I think there are two important things we've brought in. The first is that we have brought in the motor portal, which is a web-based portal for low-value injury claims up to £10,000. There is evidence that that is producing significant consumer benefits and savings. Personal injury claims are dealt with in a matter of hours, rather than what was previously weeks or months, and that's a good thing.

The second thing we are doing is we are encouraging what we call third party assistance. We think particularly with small claims there is no particular need; you can go direct to an insurer. We are saying that if you've had an accident in which you are not at fault, go direct to the company insuring the driver who caused the accident and get your redress through them. All the evidence is that you get as much, if not more, as you would otherwise. We have worked on a system whereby if you've got a low-value and not

particularly serious claim, you can go straight to the insurer. We think that is a good benefit.

Can I touch on the one comment which was made? We are not talking here about these catastrophic injury claims, other than the fact that a lot of young drivers get them. There is absolutely no doubt that people under those circumstances need the maximum care and the maximum support. They certainly need the advice of a lawyer when that is happening. Lord Justice Jackson did talk about increasing the level of damages to cover issues like that, but there is absolutely no doubt that, if you are the victim and you've been catastrophically injured by another driver, then you are entitled to full and proper compensation. A lot of what we are talking about is about the very low-value claims—the simple, straightforward ones which dominate the personal injury scene.

John Spencer: I am bursting to speak, Chair, just with regard to two points. I am the Director of Portal Co. which Nick just referred to. There is no reliable evidence yet from that portal in terms of reduced costs and a speedier resolution. We are working on it, and I believe he will be right, but it would be wrong to suggest there is evidence here and now.

Q108 Chair: When do you think he will be right?

John Spencer: I think we will shortly be in possession of it. It may be weeks or months, but it certainly isn't there now.

The other point is that Lord Justice Jackson does not distinguish between types of injury, which is why I made the point I did. Yes, he makes the point that, in general, damages should go up 10% across the board. He makes no distinction between a catastrophically injured accident victim and those suffering whiplash. I was simply pointing out that it is very important that one acknowledges the impact of what is done across the board. The 10% increase in general damages, when compared to the payment of the after-the-event premium and the success fee, operates as an accident victim detriment of the proportions in some cases that I mentioned earlier, where a seriously injured client might be up to or beyond £250,000 out of pocket. That is with what Nick has referred to. So it may be that insurers want to concentrate at the bottom end of this market and a claimant's solicitor wants to concentrate at the top end. The important principle here is that we are talking about a blanket proposal across all injury types. I, for one, would not support a society that would take money away from those accident victims who have been most seriously injured, simply to reduce the outlay of an insurance company. It is socially unacceptable to me.

Q109 Kwasi Kwarteng: I have a question for Mr Spencer. It seems that we actually know quite a lot about this industry. There are a lot of facts that we seem to agree with. We know that there have been far higher claims now than there were five years ago. We also know, thanks to Mr West, that 70% of those claims are whiplash, which we know is a soft tissue injury. We also apparently know that whiplash is not something which is universally found but seems to be, for whatever reason, specific to the claims here in the

United Kingdom. So there are a lot of facts that people seem to agree with, and at the same time we know that the premiums are going up, while in terms of the general picture accidents and certainly fatalities are going down. You mentioned the fact that people are more aware of their rights and that they're claiming, but the picture does seem to add up to things that are going on in terms of people's choices. I was just wondering what your attitude was to dealing with that—if that's a problem that you want to deal with.

John Spencer: The one point I would take issue with is the whiplash point. I don't take that as a generally acceptable mainstream view, but the rest I do accept.

Kwasi Kwarteng: You do accept all that.

John Spencer: What I think can and should be done is that the market needs to be looked at as a whole against the background of the proposals that Lord Justice Jackson is making and the proposals that Lord Young has made the latter of which really doesn't impact road accidents directly at all. It might impact simply the advertising elements of it, but really it is focusing on employers and public liability work.

I think by doing that you can achieve more than has already been achieved. I go back to where I started, where you have seen the number of claims go up by nearly 50%, but the cost of dealing with those claims only rising by 14%. It is not a bad record, but not good enough. I think by co-working the two industry sectors together to fix costs, improve processes, etcetera, as we have done since 2003, there has been an agreement with an estimated 75%-plus of the road accident claimant legal costs market between insurers and those representing organisations like my own which has governed, kept a lid on and curtailed the level of legal costs of presenting these claims and simplifying procedures. I think much more can be done but what we have to acknowledge is that these aren't all fraudulent.

Q110 Kwasi Kwarteng: No; I am not suggesting that. Just as a point of record, you are disputing the large incidence of whiplash in terms of personal injury?

John Spencer: I'm not disputing the large incidence. Bluntly, I don't know about other jurisdictions.

Q111 Kwasi Kwarteng: You can talk about Britain.

John Spencer: I do contest the inference that a whiplash injury is not an injury.

Kwasi Kwarteng: I didn't say that. I was just presenting the facts as I saw them.

Q112 Chair: Are you saying you are not making a statement about whiplash?

John Spencer: I am just clarifying my own view on whiplash, when I was told that there was a long list of agreed facts. I was just pointing out one where I didn't quite agree.

Kwasi Kwarteng: Sure. You didn't agree with that one.

Q113 Iain Stewart: I wonder if I may pose to you the question I asked the previous witnesses, and that is the number of claims organised by claims management companies. Do you have any data which

shows the current proportion of claims that are organised by such companies and, if so, how has that changed over the last few years?

Nick Starling: We don't have any data on that, no.

Q114 Iain Stewart: Is it something you should start maybe collecting as an industry?

Nick Starling: I think it might be a bit of a challenge because, of course, claims management companies come from different directions and insurers may not necessarily know that a claims management company has been involved.

Graeme Trudgill: Yes. I mean, it could be that the breakdown truck on the side of the road that is collecting your damaged car might do the introduction to the claims management company. It is difficult for us to capture all the data, but we do know that they seem to have doubled in the number of them. They are clearly on the increase.

Q115 Chair: Are the insurance companies getting referral fees?

Nick Starling: Yes, some of them do get referral fees. I referred to that earlier.

Q116 Chair: So you are part of the problem?

John Spencer: The vast majority of them, I would say.

Chair: You generically.

Nick Starling: I acknowledged right at the beginning that it is a dysfunctional system and people have to play the system as it exists. We have accepted as an industry that referral fees will have to go as part of the whole package of reform. It does mean that at any point in the chain someone can get a referral fee. I think most of our members reckon that they can keep some control of the system if they do it themselves. I think the same applies to other parts of the insurance industry.

Q117 Chair: Thank you. Mr Spencer, what was it you wanted to say about it?

John Spencer: I think there is one short point on referral fees. I am very familiar with them because the market is rife with referral fees. The evidence of my own firm and others throughout MASS would be that the highest levels of referral fees in the market today are paid to insurance companies, not claims management companies.

Ashton West: Just to go back to Mr Stewart's point, the reason there is no data on this is because we don't know, at the point the claim is made, the original source of that claim. We only know who submits the claim at the end, which is usually a lawyer. Therefore we don't know the originating source, so we cannot capture that data. There was an opportunity to do that with the portal, but there was not agreement about disclosing the source.

John Spencer: Data protection issues.

Q118 Iain Stewart: I am just wondering if the Government should be looking at making what the journey has been a requirement when a claim is made, so that we can start to differentiate people who are making a genuine individual claim for an accident and

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

those that might be—I am using my words carefully—manipulated or enhanced by a company along the way?

Ashton West: I am sure that is a conversation in which the industry would engage with willingness.

Q119 Julian Sturdy: Just to go back to the point made by Mr West which has been touched on already regarding whiplash, you say that whiplash is rising and is 70% of injury cases at the moment. We've got safer cars out there which, I think, is pretty obvious. The cars are a lot safer now. Are you saying that there is evidence out there that some of those are fraudulent claims?

My question to the wider panel is, what is fraud costing the insurance industry at this point? Also, I was very interested when you talked about what Germany are doing regarding low-speed accidents—that whiplash can't be claimed. Is it claimed against as an injury in low-speed accidents and do you think that is something we should be looking at, going forward?

Q120 Chair: What is fraud costing?

Graeme Trudgill: We think fraud is costing about £900 million a year on motor insurance. We know that in some postcode areas, for example B31, the number of personal injury claims there has tripled in a year regarding the costs to the insurance industry. So there is something going on with some claims management companies there, for example. As was said in the earlier session, there are regional concerns, yes.

Nick Starling: We've done a lot of work on undetected fraud and, by definition, there's a sort of "Rumsfeld" element to it. We reckon that undetected fraud across the insurance industry is about £1.9 billion, of which about half, as Graeme has said, is motor. It is on quite a spectrum. At one end you've got the really lethal stuff which is around staged motor accidents, where a whole lot of fraudulent behaviour is involved of fraudulent doctors, fraudulent solicitors, fraudulent witnesses, everything. There is a big, big problem at that end around the staged accidents. But there is also the fraud at the other end of the spectrum, which is people manipulating the data when they're inputting it into websites and so forth. We know it is quite pervasive across the system. We've done quite a lot of work in trying to pin down where the areas are.

Q121 Chair: The AA have done a survey on this. They say that in relation to the average premium, which they've got at £800, £40 is due to undetected fraud and £40 is due to detected fraud. Does that sound a reasonable assessment to you?

Ashton West: It certainly fits in with the sort of scale of our own fraud detection. I confess that we can't put a figure on what we don't know, so the undetected bit I can't answer. But certainly it would fit in with our own statistics regarding the detected fraud.

Just in case there is any misunderstanding, if I can go back to your question, I am not saying that all whiplash claims are fraudulent or anything like that.

Q122 Julian Sturdy: No; I said is there a percentage?

Ashton West: What I am saying is that we don't have unsafer cars in the UK than other parts of Europe. We don't have weaker necks in the UK than in other parts of Europe. There is something else that is driving the behaviour in this country to claim at the levels of claim that are being made in this country.

Q123 Chair: What is the reason for that? Do you think that is to do with aggressive marketing, cold calling, things of that nature?

Ashton West: I think it is a number of those, a combination of factors. I think those two most definitely are factors. It is the way society wants to be. If society wants to be able to claim in all genuine cases for every tiny ache, pain and strain, there is a price to pay for that. The price is what we are seeing and why we are here today.

Q124 Chair: So you don't attribute it to any individual action: you attribute it to a general state of mind?

Ashton West: I think it's a combination. I don't think it's a single factor. I think it's the aggressive marketing that's involved; daytime TV advertising; the view that if you've been involved in any accident—whether or not you've suffered some serious medical inconvenience—that is not your fault, you can collect a pot of money. That is generating a view in society that if you're involved in an accident, "I can get money for it". In tight economic times that is a potential incentive. I am not suggesting that you're fabricating something, but, "I've been involved in an accident. It was a rear end shunt. I had a bit of a strain in the neck. It's a non-demonstrable injury. I can claim my £2,000 or £3,000. Why not? Everybody else does."

Whether it crosses the boundary of fraud or not is another debate. What I am saying is that there is a price to pay for that behaviour and the price is what we're talking about today.

Q125 Chair: Mr Spencer, you look as if you want to come in.

John Spencer: Yes. The Legal Services Consumer Panel did a report on referral fees back in May of this year. It looked at the issue of fraud. Its brief, as the name suggests, was to look at this from a consumer perspective rather than from a solicitor or insurer perspective. In evaluating whether or not referral fees should be banned, which was central to their report, they concluded that there was no evidence of an increase in fraud, notwithstanding the increase in numbers of claims being made. That was their conclusion because, of course, it could be a reason to ban referral fees that there is a large prevalence of fraud, which is increasing. That was their conclusion, which was reiterated in the executive summary of the Legal Services Board Referral Fees Consultation paper published in September last. So the impartial evidence does not suggest that there is an escalating problem, although I accept what Ashton says about the boundary in detecting fraud. When there is a fraud, if it succeeds you don't know about it by definition.

Chair: Mr Sturdy, was there any other question?

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

Q126 Julian Sturdy: Just on that point Mr West made about what is happening in Germany. I wondered whether you think that's something we should be looking at.

Ashton West: I do. I think that there is evidence. I know the Thatcham Motor Research Centre have done a lot of work on this. There is evidence and scientific views that low-speed accidents will not give rise to whiplash injuries, but the system we have in the UK is one whereby if you say you have suffered pain in the neck, it is a non-demonstrable injury, a doctor will accept what you say and that will be presented before a judge, ultimately if it goes that far. Unless there is some other evidence to suggest that individual is lying—and that rarely is the case, I hasten to add—then what you will have is a valid claim. Therefore many of these claims don't go that far; they are settled. That is what fuels it, and I come back to saying it. If society wants that, then there is a price to pay for it.

On the other hand, some countries—and, as I have said, Germany is an example—look at having some sort of threshold over which you have to get to make that claim. It is a debate, I would suggest, that we should have. I'm not saying what the outcome is but I would say it should be debated.

Q127 Chair: Mr Trudgill, did you want to comment on that?

Graeme Trudgill: The panel has talked a lot about fraud and bodily injury claims. I think there is something else that is important for the panel to get across. BIBA were doing some filming for BBC *Watchdog* yesterday about this subject—the massive increase in motor insurance premiums. We had the clips where the people were saying, “My insurance has doubled. It's tripled. What can we do?”

I think we want to get a point across to this important Committee that there isn't a market failure. The people who did struggle to find competitive insurance were using the internet. They might have been young drivers, for example, where we see one of the biggest problems, as the AA highlighted earlier, with a 50% increase. They were perhaps going on to direct insurers' websites and it was saying “no quote” because they were too young and they didn't want to do them, or many of the comparison sites didn't want to insure them, or their rates were absolutely hugely expensive.

Some of the work that BIBA has been doing with the Treasury and the Government Equalities Office to do with the Equality Act has been around helping these people find the right place to get the right cover. The Government Equalities Office call it “signposting”. This is where if an insurance company or anyone selling insurance doesn't want to help that young driver or old driver, or a driver with convictions or anyone that is non-standard, then actually rather than just say “no quote”, they signpost that person to where they can get cover.

Of course, we have brokers like Endsleigh who specialise in students, like Adrian Flux who specialise in young drivers, and many, many more. I think we want to get across the point that it is about people going to the right place. Something that the

Government can do is to include these signposting regulations in the Equality Act, which they are looking at now. That would mean that we, as an industry, are pointing people in the right direction.

We ourselves as an association, and the Treasury have seen what we offer, have a “find a broker” website. We have a call centre. We help over 1,000 a day that come to us and we match them with the correct place to access cover. I just think it's an opportunity to follow through.

Q128 Chair: Are there commissions involved in this?

Graeme Trudgill: No; we are a not-for-profit trade association. People go on to the website for free. They can put in that they're a young driver or a convicted driver, whatever their risk is, and they can find a local broker or a specialist broker in their area. The call centre is like a dating agency. We get the person and we put them through. We don't charge them any nominal sum.

Q129 Chair: So there is no financial benefit to your organisation for doing this; is that right?

Graeme Trudgill: Our members pay the costs for running the call centre, so we don't make any charges ourselves to the callers at all, and nor do the brokers.

Q130 Kelvin Hopkins: Can I return to the question of uninsured drivers? It seems to me that, although it's slightly reducing, it is still a substantial cost to insurance companies and indeed to premium payers like ourselves. It's a question of enforcement. If I am bumped into by another car, I am much more interested in whether he's insured than whether he's got a vehicle licence. Yet the police are fierce about vehicle licensing but there's no effective enforcement of insurance.

Graeme Trudgill: But there is going to be.

Nick Starling: The police can pick up vehicles. They have picked up and disposed of some 600,000 since automatic number plate recognition came in. So the police can do that already and they do do it. The next step is bringing in continuous insurance enforcement, which means that the records can be compared electronically and if your insurance drops you will be told that you are now breaking the law. It is all part of the system.

I think you asked at the beginning, Madam Chairman, what we can do to help. I can perhaps go into a little advertisement for what the industry has already done to help people enormously, which is if you go online to renew your tax disc you can do it online because the insurance database talks to the Government database. Continuous insurance enforcement is taking that a step further so that the insurance database talks to the Government database; it picks up when people have not renewed their insurance and people will then be able to be detected without actually going out into their car.

Q131 Chair: Do you think that continuous insurance enforcement is going to make a big difference?

Ashton West: I do. I think it will because, again, it is picking up on the European experience. Professor

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

Greenaway did a report on uninsured driving back in 2004. We do have one of the worst records in Western Europe. We are running now at about 4% uninsured motoring—historically it is about 5%—compared to rates in Scandinavian countries, Austria and Germany of less than 0.1%. It is a phenomenal difference. He identified and supported the view that one of the big differences in Europe is that a lot of countries use what they call enforcement from the record where you don't have to just catch people on the road. That is what continuous insurance enforcement is. You look at the registered keeper. You look at the insurance database. If the registered keeper doesn't have insurance they are potentially committing an offence. That is what continuous insurance enforcement will do. It will have a significant impact here. We have already seen a reduction in uninsured driving in the last three to four years of something in excess of 20%. We believe CIE will more than double that reduction.

Q132 Kelvin Hopkins: This is important and it's what I was going to come on to. I am astonished that 10% of young drivers are apparently unaware that they are legally obliged to buy motor insurance. If the penalties were sufficiently severe, everybody would be aware of it—for example, if there were a three-year driving ban. It happens in Scandinavia, I know.

Ashton West: I think this is a topic that crops up quite a lot. Obviously a number of previous respondents here have mentioned the fact—I know Graeme will feel strongly about this—that the level of fines do not represent the seriousness of the offence. In other words, if your average fine is about £170—let's call it £200—compared to an average premium, which can now be £700 or £800, and for young drivers in the thousands, that doesn't appear sensible. We've had lots of discussions with Government and magistrates about this. One of the fundamental issues is the principle of the ability to pay. It doesn't matter what the size of the fine notionally is. The person will only be given a fine related to their ability to pay. That is one aspect.

Another, probably more important, aspect is that, when you do the research about what people really do not want to happen to them if they get caught, it is having their vehicle taken off them. That is the one thing that the research indicated would make a big difference. We worked with the police and the Department for Transport. The police were given the powers to seize uninsured vehicles in 2005. It was implemented initially in 2006 or thereabouts. They were working with us and the motor insurance database, so the police, through the police national computer, had 24/7 access to the database. They linked the data also to their automatic number plate recognition technology and since then, as Nick has already alluded to, the police have taken over 600,000 vehicles off the road. By the end of this year it will be over 750,000 vehicles taken off the road. That is what has driven the change in behaviour.

In addition to that, I hasten to add, you will get your £200 fixed penalty. So you will have your vehicle seized. You will have a £200 fixed penalty. You will have £150 to pay to get your vehicle back. You will get six points on your licence, which has serious

consequences for young drivers if it is their first year of motoring, again as has already been said today. But, importantly, you will not get that car back unless you can prove valid insurance to collect it. So you get all of that and you can't actually get your car back unless you've got valid insurance. It is that process that has absolutely driven the reduction in the last three or four years that we have seen in uninsured driving. Whilst the level of fine is an issue, and we would like to see it higher, we don't think it is the fundamental problem.

Q133 Steve Baker: I am sorry to return to something Mr Trudgill said earlier but you mentioned signposting. I was struck immediately that implementing signposting would carry a cost because people would need to figure out where else to direct their customers or people who had failed to become their customers. The key thing for me is this: who would ultimately bear the cost of implementing signposting?

Graeme Trudgill: I think the cost of signposting is absolutely minimal because all it requires is for somebody to have displayed a contact. Insurers can make money out of this because they can actually go to a partner broker, perhaps, who is specialising in something, and get a commission for passing them that lead. That would waylay any cost by putting a note on their website. Ultimately we would be the catch-all, as I'm sure many other bodies could as well. I don't think there would be a cost for that.

Nick Starling: May I make a comment on that? I think most young people are computer literate and they know how to get insurance without needing a signpost from the Government to tell them so. We think that the issues around young drivers are much more fundamental than that. They relate to safety; they relate to training; they relate to age and so forth. We have not yet touched on this in this evidence session, but that is a huge driver of some of the costs, particularly for the people at the younger end of the spectrum.

Q134 Steve Baker: If Miss Smith came to the site and was refused a quote but signposted across to the next insurer, where she then subsequently buys insurance, presumably the premium she paid at that ultimate destination would reflect the referral fee that you had earned during signposting?

Graeme Trudgill: Ultimately everyone markets their business in different ways. Some insurance companies market directly, like Direct Line. They say they don't go on comparison sites. Others use brokers. Others use comparison sites. Whatever your route to market, that's your acquisition cost. It should not be a significant cost. It should not increase the cost of the premium at all, we don't believe.

Q135 Steve Baker: I am sorry, but I'm just thinking that ultimately if you have a cost as a business—I am in favour of business and profit—one way or another it will be passed to a consumer if you are to make a profit?

Graeme Trudgill: I think the signposting, although some of them will do referrals to companies that might pay a fee, many of them would come to the

9 November 2010 Nick Starling, Graeme Trudgill, Ashton West and John Spencer

not-for-profit bodies, who would basically give out, "These are the appropriate organisations." We know intimately all of the specialist members, what they are able to provide for people and which risks they specialise in. There is no cost there at all; we just pass that on.

John Spencer: One of the things Lord Justice Jackson advocated was more use of signposting in the sense of legal organisations and others informing their members of where the legal consumer should go as a replacement for referral fees. That was behind his thinking, which seems pertinent to the debate around signposting.

I would just like to say that I wholly support what has been said, in particular by Ashton, about the need to stamp out uninsured driving. From both sides of the equation we see the impact of that, and I personally believe that penalties and effective deterrents are the way to go with it. I am much less experienced than Ashton in reviewing how courts award fines and how they will bring down the level of fine, but it does seem to me that the more you crush and seize a vehicle of a persistent offender and the more you make it not worth their while not to insure, the more effective it will be.

Q136 Kelvin Hopkins: I have one question about seatbelts. From our earlier witnesses we heard that 30% of people in accidents do not have seatbelts on, particularly young people. By simply enforcing the wearing of seatbelts more effectively, by technical means or by police enforcement or whatever, that would save considerable amounts in terms of personal injury to drivers, costs to insurers and costs to premium payers as well.

Nick Starling: Action to enforce road safety properly is obviously important. I think the reference to 30% was made to young drivers in particular. One of the most frightening statistics about young drivers is that, if you are a young male driver and you've got three of your mates in the back of the car, that trebles your chance of having an accident, seatbelts or not. Quite often that driver is the sober one. They are not drinking at all; they are just egged on by their mates. That's a truly frightening statistic, I find. I completely agree that you've got to enforce in other areas. It may well be that the driver is wearing his seatbelt but his mates aren't. The driver is not drinking but his mates have been. I think that is a big, big problem and until we crack that one it is going to be very difficult to tackle the issue of costs for young drivers.

Q137 Chair: Mr Starling, are insurance premiums going to keep going up?

Nick Starling: Unless we tackle some of these areas, ultimately they will because there is a fundamental

rule about insurance, which is that the premiums which come in have got to cover what goes out. From what we have seen, and all of the things we've been talking about in this Committee, that has not been happening. If you take the young driver example, young drivers are twice as likely to make a claim and that claim is three times as big. I am sorry, I am talking about young male drivers. I wish to point out this difference.

Q138 Chair: Why is there so much differential between the average premiums in different geographical areas?

Nick Starling: Insurance is based on risk and you price according to the risk. You price the risk of a young driver and an older driver, and location is a big determinant of that risk. You find parts of the country where claims are much higher, where accident frequency is much higher. We know for example that staged motor accidents happen in particular hotspots around the country. A fundamental issue of insurance is that you can take the risk and you can price the risk and act accordingly.

To go back to your more general question of what can we do to make sure the costs come down, we should do everything we can to reduce that risk. We talked a lot about the risk of personal injury and fraud but also the very particular issue which I know is of concern to this Committee around the very substantial risk around young drivers, and young male drivers in particular.

Q139 Chair: Would any of you like to give one short statement on the most important measure that needs to be taken to bring the cost of premiums down while maintaining insurance? One short point.

Graeme Trudgill: It is a combination, but in summary it is continuous insurance enforcement to solve the uninsured driving cost. It is the reform from Lord Justice Jackson for the bodily injury, and the signposting will help people in the real world.

Chair: Mr Starling?

Nick Starling: Sort out personal injury and do something real and fundamental about the issues around young drivers.

Chair: Mr Spencer?

John Spencer: Simplified procedures and fixed costs, but from an overall industry perspective rather than from one direction or the other.

Chair: Thank you. Mr West, one thing?

Ashton West: I support what Nick has said about dealing with young drivers and the overall cost of personal injury claims.

Chair: Thank you very much for coming and answering all our questions.

Tuesday 11 January 2011

Members present:

Mrs Louise Ellman (Chair)

Steve Baker
Julie Hilling
Kelvin Hopkins
Kwasi Kwarteng

Paul Maynard
Gavin Shuker
Iain Stewart
Julian Sturdy

Examination of Witnesses

Witnesses: **Deputy Chief Constable David Ainsworth**, Association of Chief Police Officers (lead on vehicle crime), **Chief Superintendent Geraint Anwyl**, Association of Chief Police Officers (representing ACPO Roads Policing), **Viv Nicholas**, Executive Director of European Secure Vehicle Alliance, **David Powell**, Manager, Underwriting, Lloyd's Market Association, and **Mark Boleat**, gave evidence.

Q140 Chair: Good morning, gentlemen, and welcome to the Transport Select Committee. I wish you all a happy new year. Could I ask you all please to identify yourselves with your name and organisation for our records? Could I start at the end there?

Mark Boleat: Mark Boleat, former Director General of the Association of British Insurers, former claims management regulator, currently a member of the City of London Police Committee.

David Powell: David Powell, Underwriting Manager from the Lloyd's Market Association.

Viv Nicholas: Viv Nicholas, European Secure Vehicle Alliance.

Deputy Chief Constable Ainsworth: David Ainsworth. I am a Deputy Chief Constable. I am representing ACPO, where I have the vehicle crime portfolio.

Chief Superintendent Anwyl: I am Geraint Anwyl, a Chief Superintendent representing ACPO. I am the head of National Road Policing Intelligence.

Q141 Chair: Thank you very much. Perhaps I could start first with Mr Powell. In your submission you say that the motor insurance market has been loss-making since the 1970s. Why then are there so many insurance companies operating?

David Powell: That is a good question. We are now seeing a price correction which will allow insurers hopefully to keep trading. The motor insurance market is going through a period of real difficulty and it is a long period. Motor insurance is a compulsory product; there is a lot of income available out there. It is a £10 billion gross written premium for the entire market and insurers are seeking to corner market share and make a profit. Nobody is in this business to make a loss. But some insurers are exiting the market. We have seen two Lloyd's syndicates in recent years exit the market following poor experience, and a number of other providers in the company market.

Q142 Chair: It is not very convincing, is it? If it is all supposed to be so loss-making, why are so many companies anxious to be involved?

David Powell: Not every single company in the market is loss-making. The market average in 2009 was just over 20% loss, but some companies are better

than average and will have better experience; some will have worse.

Q143 Chair: How do the insurance companies make their money? What is the source of their profits?

David Powell: There are a number of sources of income. The primary source is premium income, which accounts for the vast proportion of insurers' income. Connected to that there are credit arrangements for people who pay by instalments, which introduces a small amount of income. They can earn income from investments; from investing the cash they hold to earn a premium. Insurers can earn money from commissions on bundled products sold with motor insurance, such as breakdown recovery, legal expenses, that sort of thing. Insurers do earn some money from referral fees for cases that are passed to claimants' solicitors or credit hire companies.

Q144 Chair: Mr Boleat, would you like to add to any of that or disagree, if you want to, with any of those points?

Mark Boleat: I sort of agree. When I was at the ABI a long time ago I was assured that motor insurance was loss-making. One of the odd features of the way insurers look at this is that they tend to look at premiums and claims, and the difference between the two is called a "loss". It is rather like a football club measuring its profitability by the prize money as against what it pays the footballers and forgetting things like crowd income, television income and merchandising rights. All of the points that David made are all part of the motor insurance business and insurers do not stay in a business for 40 years making a loss. Over the last 40 years the business has been profitable. Over the last five or six years for a number of reasons, I think, the business as a whole has become loss-making and what you are now seeing is a correction, but over the long term the business has been profitable or insurers wouldn't be in it.

Q145 Chair: You say there has been a correction. Do you think that has been a legitimate correction or are there things that are illegitimate going on? Are people being exploited in the way the whole system works?

Mark Boleat: People are not being exploited. It is difficult to think of a more competitive market than

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

this one. One of the things that has happened over the last few years is that insurers, like all businesses, make money out of inertia. The people who stick with the same company year after year are the most profitable. Typically, people look at the premium. If it's roughly the same as last year, it just goes straight through on the standing order. If it's 20% higher, they are going to look at it. More and more people, because of the use of comparison websites, are now looking at premiums and the very profitable people who haven't moved in the past are moving now. In my sample of one, i.e. me, my premium has gone down significantly for the last five years and this year it has jumped. I think that might be fairly typical. I suspect, if you look over the last 10 years, what's happened to premiums is they haven't gone up excessively. If you look this year against last year, you are seeing, in my view, a straight correction.

Q146 Iain Stewart: Could I pick up your point about referral fees as part of the income for insurance companies? In your view, is there an industry-wide move to increase revenue from referral fees as part of your overall income?

David Powell: I think most insurers now take some referral fee income.

Q147 Iain Stewart: Is that going up? Is there a collective mindset in the industry that this is one area where we can increase revenue?

David Powell: I think that would probably be fair to say, yes.

Q148 Iain Stewart: To what extent? Can you quantify that?

David Powell: I can't, I'm afraid. Referral fees are significantly affecting the cost of motor insurance; I have no doubt about that. Insurers are part of that system. It is a dysfunctional system. Insurers are acting in a dysfunctional way on that issue.

Mark Boleat: Chair, may I disagree with that point because I think it is a very important point of difference. Referral fees are a symptom and that they are not a cause. I am a consultant; I can't double my marketing costs and then expect my client to pay. The market doesn't work like that. Referral fees are high because there has been enough money in the system that lawyers have been willing to pay them. That is partly because of the claims process reforms that were introduced in the late 1990s. I guarantee that, if referral fees were made illegal tomorrow, first of all it wouldn't work and, secondly, premiums would not move by one penny.

Q149 Chair: When you say "referral fees are a symptom", a symptom of what—of dysfunction in the insurance market?

Mark Boleat: It is a very odd notion that marketing is regarded as a dysfunctional aspect of the market. You all stood for election last year, I guess some of you did a bit of canvassing; you had manifestos. Everybody knew there was a general election. We all knew we could look at your manifesto and we could

go on the website, but all of you felt the need to do a bit of marketing. Why is this business any different?

Q150 Chair: You see referral fees simply as marketing. We have had a lot of evidence suggesting that that is one of the main reasons putting prices up.

Mark Boleat: I think you have, with respect, Chair, no evidence on that. You have evidence that referral fees are high. That does not mean they put premiums up. It is not a cost-plus business. If this is a problem for insurers, very simply, they can try to operate without referral fees. If lawyers don't like paying referral fees, there is no obligation on them to pay them to get business. They can get business in other ways. There is overwhelming evidence, however, that if lawyers do not pay referral fees or do marketing they get no business. It is no different from you MPs; it is no different from the Government advertising for people to be careful about flu. Everybody knows we have flu and there are websites. Marketing is a part of everything that we do. This is no different.

Q151 Paul Maynard: Clearly I am probably a very stupid human being, but as a candidate I did not charge my voters when I knocked on their doors to canvass them, I did not charge them to deliver a leaflet; i.e. there was no cost associated with my marketing activity that I passed on to my voter. Why is it therefore that motor insurance companies, who are seeing their claims exceed their income, are looking for alternative revenue streams that they then generate from those who are drivers who are looking for insurance? Is that happening? Is that the structure of the market and what is driving that? What are these different revenue streams and, in your view, is that a legitimate way for them to go about their business?

Mark Boleat: I think the motor insurance market is highly competitive and if those in it do not exploit every revenue stream available to them and keep costs to the minimum they will go out of business.

Q152 Julie Hilling: A person has an accident and a claim is made, but along that route it seems to me there are an awful lot of people who are taking a share of money, which must put up the cost to the payer in the end, the payer being the insured and the insurance company. I am very confused by your comment that referral fees and that whole process doesn't put up the cost. I am just wondering if you could explain how that referral fee and that chain of process that happens doesn't put up the cost.

Mark Boleat: I guess the water in this bottle (of mineral water on the table) costs about a penny. The bottle of water costs, I don't know, 80p. All of that money is taken in the chain from getting the water from wherever it is, putting it in a bottle and marketing it. The supermarkets are taking, I don't know, 20p a bottle. That is how the market works. Referral fees are just a marketing cost and most solicitors regard the most effective means of getting business is to pay people who have got claims to get them. They don't have to pay referral fees. Any solicitor can simply wait for business to come through the door and, arguably, on that sort of analysis, they

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

would make a lot of profit because they wouldn't be paying a £600 referral fee. The bad news is they wouldn't have any business.

Q153 Julie Hilling: So your argument is that the whole of that sort of food chain for people, when an accident occurs, is totally legitimate.

Mark Boleat: Yes.

Q154 Julie Hilling: And it doesn't actually affect the customer or the market?

Mark Boleat: It is absolutely legitimate.

Chair: Isn't the point that all of this leads to increased premiums? Premiums have absolutely leapt. There has been, generally speaking, about a 30% increase over the last year. They have leapt particularly for young male drivers—up 46%—and for female drivers—up 58%. We are looking now at the way the actual market is operating.

Q155 Kelvin Hopkins: We are looking at administrative costs essentially and not at the costs which are incurred by paying out insurance claims. Some concerns have been suggested in our papers that the market is actually inefficient and that more regulation might be helpful—if enforcement of drivers having insurance was much more effective. One suggestion I have made, and I will make again here, is that the driving age ought to be raised from 17 to 18, to the age of majority. That would save a lot of problems. It seems to me that there is a lot of emphasis on how much is spent on advertising and whatever, but we don't focus on the costs of paying out claims, which could be reduced by more enforcement and legislation.

Mark Boleat: I also sit on the Government's Regulatory Policy Committee at the moment so I am very much into Government's policy on regulation, which I think generally is against any new form of regulation or you need to make the case. The question of the age at which one can drive is a political matter. If you put it up from 17 to 18, a lot of the accidents that people have when they are 17 they would have when they are 18. You might get a bit of a reduction—

Q156 Kelvin Hopkins: But there would be one year less of people driving.

Mark Boleat: Yes, but there is a cost to that of denying people the opportunity, but that, I think, is not for this panel. That is a political matter. But you are absolutely right: if fewer people are allowed to drive, there will be fewer claims, but I don't think that would affect insurance premiums.

Q157 Chair: Do the other members of the panel have any views on regulation in this particular area? What about the way that credit hire firms operate? Is that seen as dysfunctional? Mr Powell, do you have any comments on that?

David Powell: Yes, it is dysfunctional the way the credit hire market currently operates. This is a circumstance where two people have an accident; one person is at fault and the other is not. The person who is not at fault will be contacted by various means,

offered a replacement vehicle, typically for longer than they might need it, at a greater cost than it would cost an insurer to provide that vehicle, and the overall impact on claims costs is significant. The figures that I have from my members are that it can add £600 or £700 to a case where a credit hire company is involved.

Q158 Gavin Shuker: I do want to turn to the other witnesses, but just more broadly on the market, we have sketched a picture of a market which is in places dysfunctional and where there is a major market correction going on presently, to summarise your collective argument about what is happening with premiums. Do you believe that premiums will level off or do you believe they will continue to rise significantly, say, beyond inflation, over the next five, 10 or 15 years?

David Powell: On that I would say I don't think we will see a correction over the next 12 months like we have seen over the last 12 months, but I would expect premiums to keep increasing because the claims costs are increasing and the claims frequency is increasing.

Q159 Gavin Shuker: If we were to divorce what has happened in the industry over the last 10 years, say, from this moment where there is a major correction going on, you believe that the cost of claims is going to be the biggest factor in increasing the premium to the end consumer.

David Powell: Claims including credit hire costs and similar, yes, I do.

Q160 Chair: Fraud is another area of concern. We have had a number of concerns expressed that the insurance industry isn't taking this sufficiently seriously. I wonder if any members of the panel would like to comment on that. I know ACPO have made statements on this.

Deputy Chief Constable Ainsworth: Indeed. In the written statements that I made, the facts, analysis and estimates concur with our view of what was being reported on the ground. I collate the information nationally in relation to vehicle crime, which includes the fraudulent activity, but my colleague collates it in relation to the roads policing activity, in other words uniformed presence on the roads.

The trends that are reported concur with what we are finding on the ground: increased driving without insurance or at least without valid insurance, particularly amongst younger members of the public who are higher risk people often driving under insurance validated by their parents, often called "fronting". We have seen certainly increased personal injury claims and that has aligned to reduce attendance to road traffic collisions on the police service and, yes, we have seen a small increase in fraudulent activity, often quite well organised fraudulent activity. You do get some bits at the lower end of the range where it is an exaggeration perhaps—somebody claiming an injury that has not occurred. But at the other end of the scale we see organised activity that can be patterned across the country by certain groups.

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

The response to the fraudulent activity is patchy across the country, I'll be honest. The fact is that the police service has seen a steady decline in the amount of resources committed to vehicle crime squads and also to roads policing, and my colleague will talk about that. We have capacity issues in dealing with this increased fraudulent activity, but we also have capability issues because some of the expertise that is required to investigate these matters is quite specialist in nature. The points that we were advocating were that perhaps we could work more collaboratively with the insurance sector and put some specialist units together, for which there are precedents already, one within the City of London which one of my colleagues will talk about dealing with the fraudulent activity in the financial sector, and I have an arrangement nationally with the Finance & Leasing Association to deal with fraudulent activity in relation to the purchase of cars. When you have that single source of expertise there is merit in working collaboratively. So we have capacity and capability issues in dealing with it and we are looking to work more closely with the insurance sector.

Q161 Chair: You say that the response you get is patchy across the country. What is the nature of that difference and why do you think the insurance industry is reluctant, apparently, to be more involved in detecting fraud?

Deputy Chief Constable Ainsworth: There are a number of reasons why it is difficult for a local officer to engage. Quite often it will go across several force boundaries and so it requires a co-ordinated effort. So in this respect, when you get a pattern that transcends one force area and, in fact, three, four or five co-ordinating that, it is a lot more difficult on a local basis. A national or a regional capability would be better in our view. Also, as I say, these are complex matters with a number of players and actors involved, and to uncover that requires quite significant investment and resources at a time when of course the police service is looking to make significant cuts and sustain its front-line services. These are the realities that police chief constables are facing up and down the country.

Q162 Chair: Chief Superintendent Anwyl, is there any more you want to add to that on tackling fraud and how it can be done more effectively?

Chief Superintendent Anwyl: I would certainly support the fact that the police are not fully sighted on the amount of fraud because many of these incidents are not reported to the police in the first place. However, the competing demands placed on road policing units now are such that we have fewer than 6,000 road policing officers in England and Wales who are full-time specialist road policing officers. Many of them are now adopting other roles, supporting uniformed colleagues and general police duties. Therefore, the priorities are always competing against this type of crime. It is, by the reports that we have, regional in nature and it requires a regional approach—a national approach—because it is organised, it is linked very strongly to organised crime

and it is beyond the capability of single forces to deal with it in isolation who have different numbers of road policing specialists available.

Q163 Chair: Would you say most fraud is linked to organised crime?

Chief Superintendent Anwyl: The major frauds that are occurring, yes, are linked to organised crime.

Q164 Julian Sturdy: Just on that point, isn't the number recognition technology that has come forward making it easier to detect fraud and potentially cheaper in the longer run?

Chief Superintendent Anwyl: Certainly the use of automatic number plate recognition has been a great advantage and as a result of that the police service are seizing over 500 uninsured vehicles a day off the roads. But, when it comes to the staged collisions or the induced collisions that are occurring, then it becomes very difficult because behind that technology you need the human resource to co-ordinate, to gather the intelligence and then to implement operations to tackle it. That does not exist on a regional basis, which is what is required to deal with this issue.

Q165 Julian Sturdy: You are actually seizing more and more vehicles now through the new technology?

Chief Superintendent Anwyl: Yes, we are. Obviously we have to overcome countermeasures to automatic number plate recognition, which is for ever evolving, but we are seizing as a police service 500 vehicles a day without insurance. We are interrogating ANPR, when it comes to those frauds and those induced and staged collisions that we know about, in order to collect intelligence information about vehicles that were present at the time. But there is an awful lot more that can be done.

Q166 Chair: Can you give us an example of an organised fraud?

Chief Superintendent Anwyl: Yes. I can give you an example without going into specific details where they set up their own claims management company. They have a doctor who could be a member of the family. On the legal side, a solicitor could be a member of the family. The victim of the collision is also part of that organised crime group, as well as the offender being part of the organised crime group. The entire incident is contained within a group who are well known, and often related, to each other. Fraud can happen in that a collision is induced—caused to occur—which is a very high risk. When it started off in the United States fatalities occurred and, clearly, we have been very lucky in this country thus far, but the magnitude of some of these collisions is such that it is only a matter of time before we see some very serious injuries to those involved. They will be induced collisions. Others are staged collisions, and then there are collisions that are fictional. There is an audit trail of the collision having occurred and there is a vehicle. All the main players are there but, actually, a collision never did occur. It is quite varied in its nature, but it's very highly organised and clearly very profitable, but it is a high-risk activity.

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

Q167 Chair: Are there any particular parts of the country where this is prevalent?

Chief Superintendent Anwyl: This is the regional nature of this. In the spine, right up to the centre of England and including the north-west of England, we see this occurring, and it moves. If it was based in certain locations and remained in those geographic locations, it would be easier to tackle, but it is by its very nature transient and the groups are moving along the spine of England largely. That is where it's happening and that's why it requires a regional approach to tackle it effectively.

Q168 Julie Hilling: Just on that, would a group operate, though, within a relatively small geographical area or would that same group be operating on a wider basis?

Chief Superintendent Anwyl: You can have both types occurring. You will have groups that will be moving across the country—organised groups talking to each other and going into each other's areas. You will also have some that will be locally based. When you have claims management companies established, the medical support, the doctors and the solicitors will be localised. However, the collisions themselves can occur anywhere along that spine. Some of them are local and it is much easier to address those issues, but these groups are very well organised and because the return is so lucrative it is worth them travelling in order to make detection so much harder. They are aware of the technology and they are aware of the policing operations and how we go about business.

Q169 Steve Baker: Mr Boleat, earlier you said that it's not a cost-plus business. Just thinking about the conversation we have had, what I have understood is that there has been a lot of pressure on the industry, which suggests that the just price for an insurance contract is the sum of the input costs. Could you just explore that? How, in general, is an insurance premium formulated? Is it just the sum of the input costs, including things like referral fees, or is there something much more subjective about that? You gave the example with the water. Beyond that, just one very short addition to it, what is the single largest constraining factor on the price that can be charged for an insurance contract?

Mark Boleat: The way that insurers fix premiums, and David can add to this no doubt, is that they have to assess what the claims are likely to be and what the costs of taking on an insured are likely to be. They will then want to charge a premium sufficient to cover that and to make a profit, and the constraint on them is that somebody else is charging less. So they have to make a judgment as to whether they want to be in the market. At any one point of time some insurers will want to buy market share, which is a perfectly legitimate tactic. They will say, "We need to get a critical mass so that we can reduce our average administrative costs. Therefore we are prepared to buy market share." The constraint is what other people are charging.

Once an insurer is in the market, it can't just come out. If they say, "We are just not going to bother",

they are left with a lot of business and all the admin costs. So you can't go in for one year and then come out. Once you are in, I won't say you are in for life, but when you decide to come out it's a long and expensive process to come out of the market and you can't then go back in the next year. You can adjust it a bit and insurers will take a view, "We are not going to buy business this year; we are prepared to accept lower premium income." But on all of those things they have just got to make a judgment themselves. An insurer will also have to judge, "How much motor insurance do we want?", as opposed to other forms of insurance.

Q170 Steve Baker: Mr Powell, did you want to say something?

David Powell: I agree with all of that. Setting a price for an insurance product is quite a complicated process, but it basically involves a number of risk factors which are assessed about the person buying insurance: how old they are, where they live, their gender, the vehicle they are driving, the cover they want and so on—all those basic characteristics of the risk. Then, in addition to that, you have to set a price for your costs: the amount of claims that you are having to pay, the costs related to your capital, marketing and other related costs. Quite a lot of factors go into setting a price.

Mark Boleat: But I would add in income of course. The other income you could get from selling that policy is part of the equation.

Q171 Steve Baker: Would you agree that there is a substantial amount of subjective entrepreneurial judgment involved in setting those prices?

Mark Boleat: I would say less so in motor than in most other businesses because it's so big. If you are dealing with earthquake insurance or with a really big million pound premium to a business, you don't have the evidence. In motor insurance, there is evidence on age, sex and location.

David Powell: Indeed. It is heavily driven by known statistical factors. It is a mass market. Over 20 million policies are sold every year¹.

Q172 Kwasi Kwarteng: In all these submissions I am still very unclear as to what the panel thinks is driving these costs, because clearly that is something we all accept: we all know that the costs of premiums have gone up very sharply very recently. You were talking about a 40-year horizon, but we have seen in the last four or five years a very sharp increase in premiums. There is a debate obviously about referral fees and the panel have slightly different opinions. But, if it is not referral fees, what is driving up the cost of premiums?

David Powell: In the LMA submission we identified quite a number of factors which are driving up the cost.

Q173 Kwasi Kwarteng: Sure. What is the single cost?

David Powell: The single biggest factor?

¹ Note by witness: This figure should be 30 million.

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

Q174 Kwasi Kwarteng: Yes. What do you think?

David Powell: Claims costs make up the biggest proportion of spend, of premium, and they have increased by 50% in five years.

Q175 Kwasi Kwarteng: Why do you think that is the case?

David Powell: I think it's because we have a system that encourages middlemen to become involved in incidents and encourage claims. By "middlemen", I mean claimants' solicitors, credit hire firms, accident management companies and their agents, all of whom can make a profit out of finding somebody who wants to make a claim and encouraging them to do that.

Q176 Kwasi Kwarteng: Would you say that fraud is more or less than it was five years ago?

David Powell: Fraud has hugely increased. Certainly the amount of detected fraud has increased. But the spend on investigating fraud is not such a big a piece of the pie as routine claims costs.

Deputy Chief Constable Ainsworth: Certainly at the front end, that is our experience. People are almost encouraged to claim compensation and almost asked to say, "Are you sure there are no injuries from that?" There are increased litigation costs and certainly increased claims for accidents, and often those that we have not attended and are reported to us late. In law, of course, you should report if there has been an injury accident but, of course, whiplash injuries can occur some time afterwards or at least be felt some time afterwards. We certainly find that at the front end of the business there are more people being encouraged to explore the options after a road traffic collision.

Q177 Chair: Mr Nicholas, would you like to comment on this?

Viv Nicholas: Yes. Historically, there are always peaks and troughs within many industries. This industry is particularly cyclical in the sense that they go too low and then they go too high and there are always periods of adjustment. In this particular peak—and you have heard evidence in previous sessions as well—there are particular instances that all seem to be going the wrong way in the sense that they are all going to increase the costs.

There is a fundamental about why you insure. Originally you insured because you wanted protection and support if you had a problem. It now seems that there are many, many more people who are out there to beat and abuse the system. One of the things that has happened over the last five years or so is that that whole ethos about insurance is to make sure you take more out than you put in and that is a relatively new phenomenon, given the plethora of the sorts of temptations and opportunities that are put out there for motorists to abuse and beat a system rather than accept the fact that you want to be within one.

This whole area of compliance, I think, is very important. As a society we need to encourage people to see that there is value in being compliant and actually joining the club. But many people now want to get out of the club and beat the club rather than remain a member of it. That is something that has

happened, and particularly your own evidence can show that happening, over the last five years or so.

Mark Boleat: In the report I did for the Ministry of Justice last year I had a little chapter entitled "Access to Justice or Compensation Culture", because the two are the same thing. There seems to be a suggestion on the part of some people that it's terrible that people are claiming because they've had an accident. There is no doubt that the proportion of people who have claimed in relation to the number who are entitled to claim has increased. More people have access to justice, but anything that makes access to justice easier also makes fraudulent claims easier. That goes together. What you have had over the last 10 years, as a result predominantly of the changes in the claims process system, is that more people who are entitled to claim are claiming, and that pushes up costs absolutely and that's proper, but, equally, you have had more fraud because fraud is easier to commit.

Q178 Gavin Shuker: Do you believe that there is space in the market for a more basic insurance product?

David Powell: I am sure there is space for a lower cost product. There are lower cost products available but people don't tend to buy them. You could buy basic compulsory cover and nothing else, but the actual difference in price between that and full comprehensive insurance is pretty marginal and people don't tend to buy the cheaper one.

Viv Nicholas: It is a very eclectic and very competitive market; so, if there is an angle or a benefit, in time it will come about. A point I would like to make is that we should look at what happens overseas as well: what are the learnings and the good practice and better practice that there is overseas? Again, you have had evidence, particularly on whiplash, for example, of cultures and environments where that is managed better than it is here. Also, certainly I would also say, in relation to this management of fraud and the joint partnership working between enforcement agencies and the insurance industry, that there are many instances where that seems to work much more effectively than it does within the United Kingdom.

Q179 Gavin Shuker: Just, finally, Chair, do any of the witnesses take a view on the Jackson proposals?

David Powell: We are fully supportive of the reforms that have been suggested by Lord Jackson and also Lord Young on a similar theme. The recommendations are seeking to reduce civil costs: that is the cost of bringing a claim. Lord Young's report includes recommendations to reduce some of the high pressure marketing and so on which we are seeing, which we think is a good thing.

To pick up on Mr Boleat's point, I would like to make the point that people bringing legitimate claims is absolutely no problem, of course, and the insurance market is there to respond to those claims. The difficulty—and this is the great issue that needs to be tackled going forward—is to clamp down on fraudulent and unmeritorious claims, without affecting

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

people bringing legitimate claims. That is the great difficulty that we are wrestling with.

Q180 Iain Stewart: It is on that point I wanted just to explore a little more the role of the middlemen, the claim management companies and others. Looking at the proportion of fraud—not fraud in the sense that they have manufactured an incident but in the way that they egg that on by enhancing the injury and damage—first, what evidence do you have that that goes on? Secondly, what measures does the industry take to explore if someone makes a claim for whiplash or some other injury? Do you assess that that is genuine and to what extent do you just say, “Okay, that’s a claim. We’ll pay it”?

David Powell: It is a very difficult matter for insurers to get to grips with. The hurdle that a claimant has to get over under the civil law is pretty low. The evidence threshold is very low. A basic medical report confirming that somebody reports pain following an accident is sufficient for a case to be paid. An insurer will need very good objective evidence that the accident didn’t take place or that the person is not a credible witness, for reasons they can demonstrate. There would need to be very specific evidence for an insurer to be able to repudiate the claim where fraud is suspected. It is very difficult to do, very expensive and resource-intensive.

Q181 Iain Stewart: Do you think the middlemen are taking advantage of that?

David Powell: Some. It’s not fair to say that middlemen are universally manufacturing fraudulent claims. That would be completely wrong. But, some are.

Q182 Iain Stewart: Can you give a rough estimate as to the proportion between the absolutely legitimate claims and those which are enhanced, for want of a better word?

David Powell: I don’t have data on that on which I could rely.

Q183 Chair: Mr Boleat suggested a dedicated group to tackle insurance fraud within the police but supported and financed by the insurance industry. Is that a practical proposition?

Deputy Chief Constable Ainsworth: It is. As colleagues have said, there are precedents for this already. Here, within the UK, in relation to fraudulent activity in the purchase of vehicles, it is something that my unit do, funded by the Finance & Leasing Association. Mr Boleat is aware of financial support for fraudulent investigations in the City of London Police. So there are precedents here. There are also precedents, as Mr Nicholas has said, overseas, where a dollar per premium in the United States is paid towards enforcement activity.

In answer to your question about the degree of insurance fraud, the Insurance Fraud Bureau investigate this and try to pattern the activity. Quite often it is clear that an operation will be going on within a specific locality. A number of claimants within one street perhaps from an extended family

will be claiming at the same time. That sort of patterning of claims will illustrate that somebody is involved in something that’s not quite right, and that needs investigating. Whilst the Insurance Fraud Bureau exists, it doesn’t have an executive arm to go and investigate those anomalies and that is what we would initially tackle in the first instance. I think we would find that, for every pound invested, the return on that investment would be significant. So there is a growing momentum to examine this and we would like this Committee to support and encourage that.

Q184 Chair: Are there any active discussions taking place?

Deputy Chief Constable Ainsworth: The honest truth is that it is at the very early stages, looking to the way in which the insurance sector has worked with us in relation to the Finance & Leasing Association and the fraudulent activity there. We are using those models, but we are at the very early stages of examining that and this Committee’s timing therefore is key for us.

Q185 Chair: Mr Nicholas, you have some international experience, haven’t you?

Viv Nicholas: Certainly there are organisations that do a very fine job in the area of bridging this area between the insurance industry and the police. The other point I wanted to make, really, was a more general one about the propensity to be non-compliant and about the offender. It’s not just in one area; it’s in all areas. If you find a criminal or someone who wants to beat a system, they are looking at it in every area. So that supports, I think, a much more capable and all-embracing way of building bridges between the insurance industry and other members of the enforcement community.

Q186 Kelvin Hopkins: Mr Nicholas touched on overseas systems in other countries. I understand that in some countries they don’t like insuring cars because the repairs are horrendously expensive and people are very casual about damaging their cars if they know they can get the costs back on the insurance. I understand southern Europe resist it. Some think it is laughable that we insure our own cars against an accident that we might have. Obviously, insuring people against accidents is one thing, but insuring the car on your own part, so third party only, is one thought that might make things cheaper. It might also make people more careful about driving because they know they won’t get anything back if they damage their own car. That is one big question. The other question is that I understand that some places such as New Zealand some years ago—I don’t know if it is still the case—had state motor insurance. The state system was automatic on licensing car ownership and overcame many of these problems. Are those two possibilities that you might consider?

Viv Nicholas: I suspect that there are many people prepared to comment on that. My own personal view would be that for the state to be out of anything in life is a good thing, so I certainly wouldn’t want to support any involvement or commitment.

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

Q187 Chair: We are having to stick to motor insurance today.

Viv Nicholas: I wouldn't want state insurance. I don't think that would be very effective. I think third party in this country is often now more expensive than fully comp, which is a bit bizarre. But, in time, if we are informed and particularly for young people making a transition into becoming insured, these are really critical issues where we need to find pathways, products and outlooks that are going to mean that we recover from the system we are in at the moment, which is frankly a mess. "Dysfunctional" is a very interesting word and it is one which the insurance industry themselves have put up. For an industry to say that it is dysfunctional is cause for concern for us all. Within the insurance industry as well, I am sure a spectrum of insurance companies have different strategies as to how they are going to address this. We should encourage the ones that are doing the right things and hopefully they will make some more money out of it as well.

David Powell: I just wanted to come back on that specific question about third party cover and whether or not that might be a viable option. I think I touched on this earlier. The reality is that such a large proportion of the premium is based around paying for third party claims and the high cost and frequency of those claims that there is not much difference in price between a third party only product and a fully comprehensive product. That option is already there in the market. There are plenty of insurers who will offer that cover, but the price is actually not very different from the fully comprehensive price.

There is another minor point about why third party insurance premiums seem to be higher than comprehensive premiums in some cases. That's not quite the case. The situation is that the average third party premium is higher because the people seeking those premiums are looking to minimise their costs and, in fact, they are high risk drivers and they have a higher average premium than the average comprehensive driver.

Q188 Julie Hilling: It seems to me the industry has a captive audience and they are saying, "There are all sorts of things that are wrong in it at the moment but all we'll do is put the premiums up." My question is: what is the industry doing about the fraud aspect and not just about saying, "We should have a police unit"? What are you doing about the sharing of information, etcetera?

David Powell: Can I make a differentiation between two types of fraud? There is organised fraud or organised crime on the one hand, which we have heard about, on which the insurance industry response is very good, and, in fact, organised fraudsters now have a very good chance of being detected, caught, prosecuted, having their assets seized and going to prison. There is a very real and large scale reaction from the insurance market in co-operation with the police and Government agencies on that score.

The other type of fraud that is worth talking about is opportunistic fraud. This is the cases of people inflating claims where an accident did happen but perhaps exaggerating the nature of their injury and so on. That is a much more difficult area to get to grips with. Insurers are spending big to try and tackle this. They have set up the Insurance Fraud Bureau. The industry is setting up a new database to help improve data sharing. One of my members told me recently that they investigated 50% more cases in 2009 than they did in 2008. So there is a significant operational spend taking place to try and get to grips with this issue and it is a very challenging one.

What we need is more data sharing between Government agencies and the industry and more active enforcement. It is incredibly difficult to get police and the CPS interested in prosecuting a low level fraud. At this point the insurer might have successfully repudiated a claim but would like to see that person prosecuted criminally, for the criminal act of seeking to defraud an insurance company, but it is incredibly difficult to find a police force that would be willing to put that through.

Q189 Chair: What are the problems the police identify?

David Powell: As I understand it, it is to do with cost and resource. The police obviously prioritise high level fraud and higher orders of crime. If it is a fairly small claim, maybe £5,000 or £3,000, something of that order, which is very common, it is very difficult to attract attention. The cases require a lot of preparation before they can be presented to the CPS. There is lots of to-ing and fro-ing between the insurer and the CPS to make sure that they have got the case they need to make an assessment of whether it is in the public interest to prosecute. It just almost never happens.

Q190 Chair: Deputy Chief Constable, would you agree with that?

Deputy Chief Constable Ainsworth: I would agree with those comments about it. You have to take a pragmatic decision about what a prosecution might secure in terms of an outcome that is different to what has already been secured and whether it is in the public interest given the weight of other matters that require the CPS's attention and court time. There is additional evidence required to prove beyond a reasonable doubt as opposed to repudiating a claim. It is a pragmatic decision quite often of how much investment for how much return on behalf of the public. So, yes, I agree with those remarks.

Q191 Paul Maynard: There seems to be a general consensus that premiums have risen sharply and that has an adverse impact on the consumer—the person taking out insurance. What I have not quite detected yet is whether there is a consensus that this is a problem which the industry itself can solve or whether Government is required to take action over and above existing reforms in the Jackson review. I have not yet detected from any of you what you think the next step

11 January 2011 Deputy Chief Constable David Ainsworth, Chief Superintendent Geraint Anwyl, Viv Nicholas, David Powell and Mark Boleat

needs to be. Is this something you can solve amongst yourselves or do you need Government to do more still?

Mark Boleat: I think, Chair, it is an area Government should on the whole stay out of. It is very difficult to see why the Government should be seeking to intervene in the motor insurance market, which is a highly competitive market. The increase in the volume of claims, though, is partly caused by Government action in respect of the claims process.

The Jackson reforms are currently being considered. I don't go along with what Lord Justice Jackson has said on referral fees. I just think he is absolutely wrong. His assumption was that people know that you can claim; you can just go on the internet, find a solicitor and do it that way. The market does not work like that. No market works like that. I am sure you will hear from other witnesses later this morning that, if we are reliant on that, people who are entitled to claim wouldn't be. So I don't agree with him on that. I do think more needs to be done in respect of fraud and I agree with what has been said already. A fair bit is being done. The insurers are doing a lot and the police are doing what they can. There is a need for a bit more to be done and I think there are useful discussions going on in that respect, but other than that I think it is a market issue. The consumer will best be served by a highly competitive marketplace.

Q192 Chair: Does anyone have any different answer to that or any different points?

Viv Nicholas: There isn't, frankly, enough work being done to discourage fraudulent activity. In terms of what the Government can do, the Government could start thinking about aspects of its purview of encouraging people to be compliant and not to become non-compliant, which obviously means there are areas of safety, for example, where one can try and reduce the frequency of claims. There are issues around young drivers, which clearly are a real concern, to make sure that young drivers do join our

club rather than think it's just impossible for them to do it. In terms of how we train young drivers, I think that's very important. The quality of the records which we have as a Government is not good enough, down at DVLA, both on vehicles and drivers. If we want to make an investigation, we should be able to do it more effectively. Those are many things which the Government can do in areas where it has control.

Clearly this is a very complicated market and for the Government to think that it can begin to paddle in this very difficult market is probably unrealistic. But in terms of just illustrating that there are concerns, which I know the Committee has done, it is to be congratulated. There is undoubtedly better working between the police and the insurance industry and other enforcement agencies, which has come on apace. Clearly it needs to happen because we are not in a happy place at the moment.

Q193 Chair: Are there any other short points? Can you be as brief as you can, please?

David Powell: Sure. In terms of Government actions, I would suggest that the reforms which are on the table should be pushed through. I am talking about the Jackson report, which as a package of measures, which includes clamping down on referral fees, we would support. I think it is in the public interest. Similarly with Lord Young's proposals, with continuous insurance enforcement, which is about to kick off, we support all of those reforms, which we hope will help.

The one area which we have not touched on and there perhaps isn't time to go into, is about the risks presented by inexperienced drivers and whether there ought to be new restrictions introduced in that area to try and reduce the risks. The final point I would make is that to get the price of insurance down you have to reduce the risks, you have to reduce the costs and the premiums will follow. Those are the issues we have to get to grips with.

Chair: Thank you very much, gentlemen.

Examination of Witnesses

Witnesses: **David Bott**, Vice President, Association of Personal Injury Lawyers, **Laurence Beck**, Managing Director of Accident Advice Helpline, Claims Standards Council, **Tony Baker**, Director General, The Credit Hire Organisation, and **Steve Evans**, CEO, Accident Exchange, The Credit Hire Organisation, gave evidence.

Q194 Chair: Good morning, gentlemen, and welcome to the Transport Select Committee. Could I ask you, please, to identify yourselves, giving your name and the organisation you are representing for our records? I will start at the end here.

Steve Evans: My name is Steve Evans. I am Chief Executive of Accident Exchange Group PLC. We are a credit hire company. I also sit on the Executive Committee of the Credit Hire Organisation. I sit on the Technical Committee of the General Terms of Agreement Committee, which effectively regulates credit hire. It is equally represented between insurers and credit hire companies.

Tony Baker: I am Tony Baker. I am the former Deputy Director General of the ABI and now Director General of the Credit Hire Organisation, which contains firms that provide services to motorists involved in accidents that are not their fault.

Q195 Chair: Just the name of the organisation. This is just for our records.

Laurence Beck: My name is Laurence Beck. I am on the Executive of the Claims Standards Council and I am the Managing Director of Accident Advice Helpline, which is a claims management company.

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

David Bott: I am David Bott, the Vice President of APIL, a not for profit organisation that campaigns on behalf of injured people.

Q196 Chair: Thank you. What would you say is the main cause of the escalation of insurance premiums in recent years—the major cause?

Tony Baker: Can I start? It gives me an opportunity of correcting some of the misconceptions that were evident from the first session that you just did. There are a couple of them. You made the point, I believe—

Q197 Chair: Would you answer the question, please?

Tony Baker: It answers the question as well.

Q198 Chair: We have a number of questions. What are the main causes?

Tony Baker: It answers the question. I think you said in the last four to five years there has been a very sharp increase in premiums. In fact that is not the case. In 2005, the insurance industry in private motor premiums collected 7.6 billion—

Q199 Chair: You are disputing the question. Is there an issue about the cost of premiums?

Tony Baker: Premiums have actually gone down up until the last year.

Q200 Chair: I am asking you the reason for the escalation. Is your answer then that they haven't gone up?

Tony Baker: They have only gone up in the last few months.

Q201 Chair: Why?

Tony Baker: As a result of the fact that motor insurers have lost so much money over the last few years they have reached a stage where they can no longer maintain the current premium levels. Motor insurance has become a commodity, totally price-driven. You go to a website, you see which is the cheapest and you buy it. But, at some stage, to be the cheapest on there you start losing more and more money. That is what insurers have been doing. They have been collecting in far too little and they have reached a stage where they can no longer maintain that level of premiums. Previously, in the past, you would have one or two insurers—

Q202 Chair: Your answer is clear. Are there any other views on the reason for the big increase in insurance premiums?

Laurence Beck: The data that we are provided with is very weak, so it is very difficult for us. There is a lot of miscommunication in the marketplace. Personally, the data that I have seen is very conflicting. I don't think you can dispute that the cost of premiums has gone up in terms of what is being charged to the public.

Q203 Kwasi Kwarteng: Over five years or just the last three months? Over what time frame when you say it has gone up?

Laurence Beck: Over the past five years, looking at the data that I have seen, it has gone up, but it has only gone up—

Q204 Kwasi Kwarteng: So you are disputing what Mr Baker says?

Laurence Beck: It has only gone up substantially in—

Q205 Chair: Mr Beck and the other panellists, let me just put it to you. We have a number of figures presented to us, including the AA's British Insurance Premium Index, which shows that premiums have increased by 29.9% in the year to October 2010. If we look for young drivers, we are looking, from the Shoparound average premiums, up to a 46.6% increase for young male drivers and up to a 58.8% increase for young female drivers. Those are some examples. I am asking you for your views on why the costs have gone up. Mr Beck, are you disputing those figures and, if you are not, could you tell us why you think the costs have gone up?

Laurence Beck: I am not disputing the figures.

Q206 Chair: Can you give us your reasons why you think the costs have gone up?

Laurence Beck: Why do I believe that the cost of insurance has gone up recently?

Chair: Yes.

Laurence Beck: I think that the marketplace has changed hugely for insurance companies over the past five years. We now live in a world where we buy our insurance from a meerkat. We are heavily bombarded with advertisements all day every day at peak hours, where the cost of advertising is 10 or 15 times the cost of daytime advertising, with Go Compare, "Buy your insurance from a meerkat", any other comparison site you can think of. I am struggling at the moment because I am sitting here in front of all of you, but I am sure you understand where I am coming from. That market is the most competitive market in this country.

Q207 Chair: I am asking you why premiums have gone up. Will you please answer the question?

Laurence Beck: Because they have had to cut their prices over the last five years because they are in a competitive market. There have made big losses.

Q208 Chair: Right. So it is competitive markets and—

Laurence Beck: So, in order to recover—

Q209 Chair: When I am speaking, please don't continue. I am trying to get a straight answer from the witnesses who are here in front of the Committee today to answer the questions put to them. Mr Beck, you are telling me it is to do with competition, if I understand you correctly. Is that right? Are there any other reasons for the increases I have quoted? I will ask Mr Beck first. You don't have to say any more. I want to give you the opportunity to do so.

Laurence Beck: One of the reasons I believe that they put their prices up, and the gentleman who was sitting here before was speaking about a readjustment, is that

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

insurance has been sold too cheaply over the last five years. That is what I am trying to say.

Q210 Chair: Can I just suggest to our witnesses that it is always better to answer the question directly instead of trying to divert because I will always come back to the key question?

Laurence Beck: I apologise. I was just trying—

Q211 Chair: It is getting clearer, Mr Beck. It is getting clearer. Those are the reasons you wish to give us. Mr Bott?

David Bott: Thank you, Chair. I think it would be unlikely that it was just one reason why costs have gone up. I think there have been multiple reasons. APIL have done a survey relatively recently and out of 2,000 cases of the lower value claims—and these are the claims that the insurers have been talking about quite a lot today and in previous days—in more than 60% of those in which the insurers admitted liability eventually, they admitted liability late or they admitted liability outside of the protocol period. I don't want to blind people with science or legality here, but within the structure of the law after 2003, if an insurer admitted liability within the first three months of a claim, it meant that there was a fixed cost price at that point in time. If they did not admit it within the first three months, it meant the claimants were allowed to issue proceedings, which led to increased costs. So our statistics show that for 60% of the time insurers could have admitted liability earlier. They admitted it later and that led to cost. One of the reasons, I would say, is inefficiency on behalf of the insurers in so far as delay and also just not handling things correctly is concerned.

Another point was raised earlier. I forget the name of the person, but he talked about it being a low bar, in essence, for claimants to somehow win, as if there was an Aladdin's cave.

Q212 Chair: It doesn't matter who said what. I just want your views, please.

David Bott: I would say, if you wanted to reduce the spend, reduce the negligence in the first place—obviously if that is not disputed—and also to deal with matters straightaway. I think that would reduce costs. That would stop the increase in costs.

Q213 Chair: Mr Evans, do you want to give any views on the reason for the increase or the major reason?

Steve Evans: I think the reason for the increase is that the insurance industry is trying to be competitive again in a difficult economic environment, having sustained low levels of prices over the past 10 or 15 years. We have some data from the ABI which I am not sure has been supplied to the Committee, but, effectively, it reveals that motor insurance has made a loss every year since 1994.

Q214 Chair: We have a lot of figures. I have quoted to you at the beginning of this questioning some of the figures that we are working from and I am seeking your views, from your experience, on why we are in this position. I don't want you to divert into other

areas unless you just want to say the figures I have told you are wrong. I just want a straight answer, please.

Steve Evans: I am trying to give you one, madam Chair, I promise.

Chair: I will persist until I get one.

Steve Evans: The issue around it is that the insurance market, as has been told to you before, is a dysfunctional marketplace. It has been far too competitive over the past five, 10 or 15 years. What we are experiencing now is a market where investment income, which is usually where insurers are able to subsidise the motor underwriting that they do at competitive prices, has fallen away because of the recession that we are in and, as a consequence, insurers are having to raise prices and catch up with a new normal.

Q215 Chair: We have heard a lot about referral fees. Could each of you please tell us if you receive referral fees, how much they are and how you think that works?

Steve Evans: If I can talk as a credit hire company, we don't receive referral fees. We do pay referral fees to distribution channels that introduce business to us. We work with a number of motor manufacturers, very large plc dealer groups and motor dealers as well. We resist working with insurer-referred business because the demands from insurers for referral fees are just too high to make the business model viable.

Q216 Chair: How much do they want?

Steve Evans: It's a volatile number.

Q217 Chair: But it's too high. So what kind of area?

Steve Evans: It can be 50% or 60% of the cost of a vehicle hire transaction. If you have an average transaction and the hire charge is £500 to £600, £300 or £400 of that. It is a really materially high figure.

Q218 Chair: You say you do pay some referral fees, I think you said at the beginning of this?

Steve Evans: We pay some referral fees to motor dealers and the referral sources that we get.

Q219 Chair: How much do you pay? How is that done?

Steve Evans: It ranges from £50 to £200 or £250 as an indicative figure. We don't charge referral fees to solicitors where we pass solicitors business, although solicitors do actively pay for personal injury claims in the marketplace. One of the things that is prevalent in all of the insurance tenders that I have seen is that the insurers insist on those claims that they refer that they retain the personal injury claim and they market that to their own solicitors.

One of the questions that wasn't answered to your satisfaction earlier on was about this net sum zero position. If there are referral fees being paid, how does that not affect the price of insurance? The reality is that, in many insurance cycles, the referral

commission they get balances some solicitor costs that they have. By increasing the income line they can offset that against a cost line and so not have the dynamic peak and trough that you might expect it to be.

From a referral point of view we do pay commissions. From a referral point of view we think that the market has been driven fairly aggressively by insurers seeking to see that as a non-premium income opportunity over the course of the last two or three years.

Q220 Chair: Who else would like to answer the question about referral fees? I want to know if you get them, if you pay them and how much.

Laurence Beck: I run a claims management company. The majority of our income comes from referral fees that we receive from solicitors. It is very difficult to explain to people about referral fees because there is this stigma attached to a referral fee.

Q221 Chair: Why don't you try telling us? How is it based?

Laurence Beck: When I started our business 10 years ago, what I did, when there was the change in the law, as a very small businessman I decided to take a full page advert in *Yellow Pages* in every book in the country. What I would do is I would take the phone calls of people that had had accidents and then I would sell the claims to solicitors regionally. That was it. So I had a spend of—

Q222 Chair: You sold the claim. How was the amount of money involved determined?

Laurence Beck: I would have to work out how much I spent on advertising. What I would do is I would split it up amongst the claims I got and I would sell those claims to the solicitor and make a very small margin—maybe 10% or 15%. That was it. That's how the business started. The business nowadays is no different. The referral fees that companies like myself get are absolutely no different to a solicitor doing their own advertising and taking the calls themselves. The only benefit is that, if I get a call for a particular claimant in Manchester or one in Birmingham, I can give them to a Manchester or a Birmingham solicitor, which makes me more efficient than a solicitor doing it themselves.

Q223 Chair: Do you have agreements with particular solicitors on which referrals you will make?

Laurence Beck: Yes, we do. We have a panel solicitor agreement with every firm. We have 200 firms on our panel now.

Q224 Chair: How would a firm get on your panel?

Laurence Beck: How would they get on our panel?

Chair: Yes.

Laurence Beck: They would meet my Legal Director, who would interview them. They would fill out a questionnaire. We would obviously go and have a look at their offices and we would decide whether or not we thought that they were a suitable firm to come on our panel.

Q225 Chair: At what point would the amount of referral fee be discussed and agreed?

Laurence Beck: With the solicitor?

Chair: With the solicitor.

Laurence Beck: It is at the first meeting. Normally the first conversation you would have with a solicitor is, "How much would you charge for a particular claim type?" That would obviously depend on the success of our marketing and how well we are doing. The point is that a referral fee is just a marketing cost. It is just the cost of an advert in *Yellow Pages*. There is this bizarre notion amongst people outside our industry that see us as some kind of—I don't want to mix my words up—that it's not a viable industry and we should not be here. But all we are is a marketing company. My previous experience in business was marketing for a property company. My background is that I am a chartered surveyor and I ended up working for a marketing company, doing some marketing for some properties. We are just marketing people. That is all we do.

This bizarre notion that the cost of the referral fee has actually increased insurance premiums is very strange, because the only cost to the premium, from our side of the business, is what the insurers have to pay the solicitors who are defending the claimants. Average payments to solicitors over the last seven years have probably come down from the late 1990s at about £3,500 for a road traffic accident to about £1,800 maximum in 2003, when predictive fees came in, and now they are down at circa £1,400.

If insurance companies are paying £1,400 in legal costs for 75% of the RTAs which fall under the fixed fee regime, whatever a solicitor pays in referral fees to get the advert that is generated from *Yellow Pages* or wherever is absolutely irrelevant. They could pay anything from 1p to £1,399.99. The only factor that's going to change is how much profit that solicitor makes.

Q226 Chair: Is there anything else?

Laurence Beck: It has absolutely zero effect. It is bizarre.

Q227 Chair: You have made your point. Is there anything else in terms of referral fees? You have told us about those.

Laurence Beck: I have told you that we are a marketing company. We market for the industry. We have a panel of over 200 solicitors. We have been in the business for a long time. We very much support regulation. We are just marketing people; we are not really legal people.

Q228 Chair: Mr Baker, did you want to tell us anything about referral fees from where you are?

Tony Baker: Typically for credit hire companies, they would pay a referral for the hire claim, which, as Mr Evans said, could be anything from nothing up to a couple of hundred pounds. One of the very significant players has become insurance companies themselves. In the motor insurance business they are significant middlemen, whether they are referring claims for the hire of a vehicle to supply the motorist to give them mobility, referring claims to a solicitor, or referring

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

claims for a legal expenses policy. They are substantial middlemen in this whole process.

Q229 Chair: Mr Bott?

David Bott: Chair, I would just like to make two points. I am in private practice. I am a claimant's solicitor, a managing partner. We do pay referral fees.

Q230 Chair: Who do you pay them to?

David Bott: Claims management companies, with regards to some of the work that we do. We also self-advertise as well. At the end of any particular claim we receive fees, either fixed fees or if we have issued on an hourly rate, and there is no point at the end of the claim where what we receive is different whether we have paid a referral fee or whether we market it under our own steam. The idea that a referral fee has led in itself to an increase in claims just doesn't quite add up unfortunately, because the amount that a solicitor gets at the end of the claim is bound by the fixed fee regime or, alternatively, by an hourly rate if claims are issued. So we do both in so far as we self-market and, if we find that either that isn't sufficient or, alternatively, if our self-marketing isn't working that well, we will go to the market at large. That is just the nature of the free market as it is at this point in time.

Q231 Chair: We have had evidence that legal costs can be almost as much as compensation claims paid out to individuals. Does that suggest there is something wrong?

David Bott: One of the things that has not been mentioned overly this morning is the Claims Portal that started in April of last year. This portal applies to road traffic accidents of up to £10,000. As a statistic, that is 75% of the whole of the PI market. I am a director of Portal Co. and I have been involved with the portal for 18 months to two years now. In so far as I was there right at the start, I was involved in the project steering group, model office workshop, etcetera, etcetera. It seems to me that the portal may, in part, be the answer to some of the questions that have been raised at this Committee. The portal was implemented in April of last year and that has led to a quicker, slicker, and, hopefully, cheaper for the insurers, process with regards to the vast majority.

We are in a position where the industry at large came up with an industry-agreed solution where we have designed the boat, built the boat, launched the boat and at the moment it appears, if we are looking to bring Jackson in, we just leave it in the harbour. We don't know because the statistics aren't back yet, but it could well be that one of the industry-led solutions, as in the portal that was implemented in April of last year, could be, in part, the answer to suppressing legal costs.

As a managing partner of a law firm, average costs that my law firm has received over the last five years have steadily gone down. Even on the ABI statistics, they say that legal costs over the last five years have stayed steady at 30%. It isn't the legal spend in and of itself that is the problem. It seems to be that it is the increase of claims that is coming through that is the problem.

Chair: We will come on to that as a particular point. Mr Stewart?

Q232 Iain Stewart: Thank you. I would like to go back to what is driving the increased costs. You have all made the point that the increase in premiums is just the market correcting itself after an artificially low period, but that doesn't get away from the fact that the cost to insurers is going up. I want to get your view as to what is driving that. You say it is not referral fees and it is not legal costs, but what is it? Is it that claims are more expensive? Are cars more expensive to repair? Is it fraud? What is increasing the cost?

Laurence Beck: It is quite interesting to look at the figures. As I was explaining before, I was really trying to look at the figures to get an understanding of them. We analysed what the figures were and I am quite into statistical analysis. It appears to me that the actual cost per claim has not increased. What has happened is there are more claims and people need to understand this. When the insurers come in and say the cost of claims is going up, if you look at what has happened to legal costs, there has been a dramatic reduction in legal costs for RTA claims. Clearly, as David confirmed, in the late 1990s, solicitors were working by the hour with partners running whiplash cases with average fees circa £3,500. We are sitting in an environment today where we have a portal system which everybody is using, it is fully agreed, and inside the system fees are £1,400?

David Bott: £1,350.

Laurence Beck: £1,350. Average insurance premiums late 1990s to Claims Direct, The Accident Group, were £1,500? RTA insurance premiums nowadays are £350, maybe £400. Are the ballpark figures correct?

David Bott: Yes.

Laurence Beck: I find it very difficult to understand the data and how insurers can say the cost of claims has gone up. What I think is clear is that the number of claims has gone up.

Tony Baker: Can I just disagree with that? The claim frequency of private cars in the UK has gone down steadily every year for the last decade. In the year 2000 you had a 19.4% chance of being involved in a claim. By 2005 it was 18.1, and last year, based on the first nine months, it was down to 15.2. There may be a few more claims coming through because there are more vehicles on the road, but the chances of having a claim have been dropping dramatically over the decade.

The important thing to bear in mind is that there need not be an increase in claims costs for you to justify an increase in premiums. If you haven't collected enough in claims in the past, claims costs need not go up dramatically; it is what you have collected to pay for them. If you haven't been collecting enough, you make a loss. So even if the claims stay exactly at the same figure, if you haven't collected enough in premiums, you need to collect more in premiums to pay for the existing claims.

Q233 Iain Stewart: Your view is that there is no increase in the cost?

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

Tony Baker: Claim costs have gone up over the last few years but not dramatically so. If you took the amount we paid out in claims 10 years ago, adjusted it for inflation and adjusted it for the vehicles on the road, you would find virtually no change in the cost, but in that 10-year period you would see that motor premiums collected from the public have hardly increased in that whole time. The big difference, to which Mr Evans referred, is investment income. Five years ago you were earning 10% to 15% investment income on all the premiums you collected. Now you are earning under 5%. You have lost out on the best part of 10% that was contributing to keeping your insurance costs lower. That has disappeared and you have to make it up in some way.

Q234 Iain Stewart: I find that quite surprising because all the evidence we've had is that there are more claims being made and that the middlemen are driving that increase. You would dispute that?

Tony Baker: There are more claims purely because there are more vehicles on the road. The claim frequency, as I have given you the figures, has actually fallen.

Q235 Iain Stewart: All this advertising of "no win no fee" that has been made by the middle companies has had no effect at all?

Tony Baker: Everybody will prove in various statistics that "no win no fee" has led to a small increase in claims but not for the last two or three years. It peaked and has not increased over the last two or three years.

Q236 Steve Baker: Mr Bott, you particularly mentioned the free market as it is and you have also talked about fixed fees and so on, but forgive me because what I know about this I have learned in the course of this inquiry. Could you just explain to what extent there is price fixing, whether it is Government imposed or industry agreed?

David Bott: If you were to leave here today and unfortunately have an accident through no fault of your own and wish to claim, there are potentially four different ways that your legal representative could be paid. Am I okay to continue? I will keep it very, very brief.

Q237 Chair: Be as brief as you can but give the key points in the answer.

David Bott: The first way is that today, as of April of last year, if your injuries are worth less than £10,000, you will be dealt with via the RTA claims portal. That has a fixed fee regime. If you get to the end of the claims portal and it is resolved, the most likely amount of compensation that the solicitor will get for dealing with your claim is £1,350, which is a fixed fee of £1,200, together with a 12.5% mark-up if there was this "no win no fee" agreement on the back of it. So it is £1,200 base costs, plus 12.5%. If it falls out of the portal for whatever reason, then it reverts back to the rules as they were prior to April and, again, you move into what is called the predictive costs regime. That predictive costs regime means that the solicitor will receive an £800 base fee, together with 20% of

the value of the general damages and the claim at large. Again, the averages for that are on or around £1,350, so it is basically the same.

If the whole thing falls apart, if an agreement can't be reached between the claimant and the defendants, then proceedings will no doubt be issued. If proceedings are issued and the matter is resolved at the end of proceedings, then the solicitor will be paid on an hourly rate.

The fourth option is that, if your injury is worth less than £1,000, the solicitor will receive what is called the small claims track fee, which is £50 plus VAT.

Q238 Steve Baker: Gosh, thank you very much indeed. That's fascinating. Who imposes that regime—the law and the Government or the industry by mutual agreement?

David Bott: The Government. It's a mixture. Obviously the predictive costs regime came in via legislation. Hourly rates is a matter that is decided by the judiciary. So it is a mixture of the MoJ and the DCA.

Q239 Steve Baker: In a sense, although we call it a free market, it is actually a heavily hampered market with a highly structured process, which is imposed by a series of authorities?

David Bott: Yes, absolutely. There is not a mechanism without severe sanction by the courts for a claimant to issue. We talked earlier about—

Chair: I think your answer is clear on that.

Q240 Julian Sturdy: Can I ask everyone on the panel in quite simplistic terms, if I can, why you think personal injury claims have been going up when technology in new cars and car manufacturers' safety measures within cars is increasing all the time, and road safety is improving across the country? Why do you think personal injury claims have been rising?

Laurence Beck: Access to justice. This is all about access to justice. Access to justice comes at a huge cost. That is the reason the Government gave it up, because it was too expensive for them to run it through legal aid.

Q241 Chair: Are there any other views?

Tony Baker: That is by far the main reason. If in fact only 10% of people that were entitled to compensation were claiming, then you advertise and encourage people and it goes to 20%, your costs double.

Q242 Chair: Have personal injury claims gone up?

Tony Baker: The cost of personal injury claims has gone up, yes.

Chair: By how much?

Julian Sturdy: Can I just follow up on that, Chair? We all accept that they have gone up. What impact do you think they have been having on motor insurers?

Tony Baker: They are one of the claims costs that have to be borne by an insurance company, paying for bodily injury claims, legal costs, expenses, repairing vehicles, hire of vehicles and all the rest of it. They are just one of the factors. But, at the end of the day, motor insurers will sit here and assure you that, yes, it is all done very scientifically. But if you are selling

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

through an aggregator on a website you know that, unless your premium is in one of the top three, you won't get any business. Your premium may say you should be charging £500 and the top three on the aggregator site say it is £420; you charge £420 if you want to get any business, and you hope. Hope has gone.

Q243 Julian Sturdy: Do you accept with personal injury claims going up—and I accept the reasons you have given for that—that that has been impacting on the cost of motor insurance?

Tony Baker: It is one of the factors that has certainly impacted but, as I explained, motor premiums have been kept below competitive levels really for the last few years and it has only been in the last six months that they have increased.

The other thing to bear in mind with the AA index, which you did quote and the figures are exactly as you said, is that they are the premiums that an insurance company asks; they are not necessarily what the public pays. On a motor renewal, you will shop around and you will go for a cheaper alternative. If you look at all the publicity in the last five years for motor insurers, they will say, "Every year we are increasing our premiums by 5%, 10%, 15%", but they don't collect that money because people shop around. They collect the money from loyal policy holders that keep renewing and don't shop around, but as there are fewer and fewer of those, as it has become more and more of a commodity, people shop around for a cheaper quote.

Q244 Chair: On the personal injury claims can you just give me an idea of how much they have gone up, Mr Bott?

David Bott: Can I just make a point?

Q245 Chair: No, I want an answer to the question. I don't want a report. I want an answer to the question. I thought Mr Baker might. Mr Baker, can you help me on that?

David Bott: The Department of Work—

Q246 Chair: Just a moment. I am asking Mr Baker. I want you to give me some clear information on the extent to which personal injury claims have increased.

Tony Baker: I shall just give you the figures that I have. It depends on what period of time obviously you are looking at, in terms of what period of time. But I have a table that would give it to you for a few years.

Q247 Chair: I am surprised you don't have that but I would like you to send the information to the Committee, please.

Tony Baker: I do have it.

Q248 Chair: Okay. You can answer that question when you've got it. Mr Bott, I don't want other issues. I want to know if personal injuries have gone up.

David Bott: The Department for Work and Pensions keeps statistics on every personal injury claim. They are the most reliable statistics. Those statistics show that over the piece they have actually gone down over

the last five years. With regards to motor, they have gone up over the last five years.

Q249 Chair: No. Can I just say to you, Mr Bott, that you are a witness here at a very serious inquiry? This inquiry is about the cost of motor insurance. When I ask you about personal injury claims in the context of this inquiry, why on earth should you start referring to it in another context? We are talking about insurance claims.

David Bott: I take your point.

Tony Baker: I do in fact have the figures now. I am sorry for the delay. For bodily injury claims in the year 2001, which is the first one I have here, the average claim payment was £2,556. By 2009 it had gone up to £3,632.

Chair: There are a number of claims. I am not wanting some average. Anyway, you had better send me the information. We do have some information of our own and I am just surprised that coming here to this inquiry today as people so experienced in this field, which is the reason you have been called here, you can't answer a simple question like that.

Q250 Gavin Shuker: Thank you, Chair. Just briefly I would like the witnesses to give their thoughts on the Jackson review into legal fees. Is anyone willing to do that?

Tony Baker: I am quite happy to kick off.

Q251 Gavin Shuker: What are your general thoughts on it?

Tony Baker: I believe that there are parts—

Chair: This is as concisely as possible, please, answering the question directly.

Tony Baker: As directly as possible, I believe he had good motives but his ideas are flawed. If you implemented Jackson, it would deny access to justice for literally thousands, tens of thousands, hundreds of thousands of genuine claimants, who would be a lot worse off.

Q252 Chair: Are there any more views on that, equally concisely and clearly?

Steve Evans: It is an industry view that we concur with.

David Bott: Our concern is that it actually reduces the amount of compensation for the seriously injured—that there is in fact a levy with regards to the seriously injured. It also doesn't address the question of fraud that has been raised in this Committee today and it doesn't combat young drivers.

Q253 Chair: So does that mean you don't agree with it?

David Bott: That's right.

Q254 Chair: Okay, that's all. We are just trying to ascertain your views as simply as possible.

Laurence Beck: I think the Jackson report was put together at a time when the industry had been through absolute turmoil for seven or eight years.

Q255 Chair: But do you agree with the proposals or don't you?

11 January 2011 David Bott, Laurence Beck, Tony Baker and Steve Evans

Laurence Beck: Do I agree with it? I think some of the intentions are very good but I think most of the good that will come out of Jackson happens to already be in place and it is working very well.

Q256 Chair: So do you agree with the new proposals he is making?

Laurence Beck: Not with all of them.

Q257 Chair: Which don't you agree with?

Laurence Beck: Sorry, which don't I agree with?

Chair: Yes.

Laurence Beck: I think very much having fixed fees moving forward all the way through, different types of claims, and having protocols and processes in place that will reduce the legal cost of fighting personal injury claims is the way forward—very much so. I think Jackson has put that forward.

Tony Baker: If you cannot recover an after event insurance premium, you deny access to justice. The Government removed legal aid in 1999 and said that in insurance the private sector solution was better. Jackson recommends removal of recoverability of ATE premiums, so it would be fundamentally flawed on that basis.

Chair: You have given us your answers.

Q258 Kelvin Hopkins: In effect, the insurance industry in personal injury gets a subsidy from the National Health Service because you don't pay the full costs of treatment under the National Health Service for people who are injured in motor accidents. It strikes me that with a privatised health service there might be a world where the full costs of all the health

treatment given to injured people would come on to the insurance industry. Are we not moving in that direction, not with my support, I may say, but are we not moving in that direction?

Tony Baker: The Government has looked at this in the past in terms of why do people who go mountaineering and are involved in an injury not pay for their injury? Why don't we have compulsory insurance for mountaineers? In France, there are 39 compulsory insurance classes. In the UK, there are about 14. Yes, you could extend it and compel people, but it was interesting that when I saw Lord Justice Jackson he said, "The solution to all this is to have before the event legal expenses insurance. Everybody will buy that willingly and that will be the solution."

Q259 Chair: Are there any other points on Mr Hopkins' question to you, briefly, please?

Laurence Beck: I don't fully understand the question or the way the mechanics would work, but I think this is about people that are injured. They have been injured. If this is about people that haven't been injured and all of their claims are fraudulent, I can understand the level of scrutiny and the concern over the cost of the insurance premium. If you don't want injured people to be allowed to make a personal injury claim and you want to remove their access to justice, then the Government should legislate for that. They should take away their human rights.

Chair: So you don't see any other route. Okay, you have made your views clear. Thank you very much, gentlemen, for coming and for your contributions in answering our questions.

Examination of Witnesses

Witnesses: **Mike Penning MP**, Under-Secretary of State, Department for Transport, and **Pauline Morgan**, Head of Driver Licensing and Insurance Team, Department for Transport, gave evidence.

Q260 Chair: Good morning, Minister, and welcome to our Transport Select Committee. I think this is the first time you have been here.

Mike Penning: It is. It is an honour and a privilege.

Q261 Chair: I want to congratulate you on your position. I apologise for keeping you waiting so long, but you might not be surprised to hear that is to do with the interest generated by the topic of this inquiry. I hope that you are going to help us to provide some of the answers to some of the questions that have been raised in the previous sessions.

Mike Penning: I hope so.

Q262 Chair: We have heard a great deal of evidence about the high cost of motor insurance, particularly for young people. We have heard a number of points put to us on the reason for this increase. Could you tell us what actions, if any, the Government is proposing to deal with this problem? I am aware that today you are taking action on implementing continuous enforcement insurance, which we do welcome. Our previous Committee in fact did call for

this so we are pleased to see this happen, but could you give us any information on what else the Government might be considering in this whole area?

Mike Penning: By all means I would love to and of course I would love to explain perhaps a little bit better than some people have realised what continuous insurance means and the importance of it. But at the same time it's not my job to defend the insurance companies, even though we are working very closely with them, and we need to work very closely with them to defend their premiums. It is a competitive market out there. But there are some real issues to do with the cost of insurance and why it is so expensive. One of the reasons of course is that there are in excess of 1 million people, we think, driving without insurance on a regular basis. I say "we think" because we pick up a huge amount with the police and other measures, but we do not really know exactly how many vehicles are registered with DVLA but are off the road but not SORN. In other words, they are not registered off road. Of course, the other percentage is those that are driving.

The evidence we pick up from the police and other local authorities as to the amount of people that are

11 January 2011 Mike Penning MP and Pauline Morgan

driving without insurance indicates that it is probably in excess of one million. The legislation orders were laid today, which is why I wanted desperately to lay them today so that I could come before the Committee first and explain what was laid. The continuous insurance legislation was laid today and will come into force, I believe, in April. That will mean that, if you have a vehicle registered with DVLA, that will have to be insured, at least third party, unless you have registered it off road. If DVLA are told by the insurers that it is not insured, that will trigger a letter initially from the MIB. If you have been on holiday or if you are in hospital or something like that, you are not immediately going to get a summons and a problem. You will get a letter from them saying, "Your vehicle is registered with DVLA but it is indicated to us that you are not insured." It is then up to the owner of that vehicle, or the registered owner of that vehicle because it is on the register of ownership, to come forward to DVLA and either to insure, which we will know about usually within seven days once they have insured, at the minimum, or to register it off road.

I think that will make one of the most dramatic changes in motor insurance in this country that we have probably seen since insurance was brought in. It is a huge culture shock. It is a move on which we are going to have to work very closely and do a lot of advertising and marketing to make sure people understand what we are doing. But it is fundamentally unfair that motorists are being penalised by those who are not going to be insured in cost and in injury terms, because the figures for those that are involved in accidents and other crimes who are not insured is very high.

Q263 Chair: I am sure the Committee would join me in welcoming your action, but the evidence that we have had suggests that uninsured driving adds about £30 to the average premium.

Mike Penning: Yes, it does.

Q264 Chair: That suggests that, while it is something that is certainly very important for financial as well as other very serious reasons, it is not the main driver of escalating premiums. Is there any other action you have in mind to deal with that?

Mike Penning: There is fraud and there is the cost of personal injury, which represents, I am sure you have heard already, 30% of all claims now. I am sure you have had the lawyers and others in explaining that. Of course, people need to be looked after and compensated should the injury not be their fault. But the sheer culture we have in the UK at the moment, which we seem to have inherited from America, is really quite frightening. That is where the huge burden is. I can't legislate on that and nor can the Justice Department, but we must try and make sure that we cut down enormously on fraud, which also adds round about a similar figure, I understand, to the premium.

The next thing we are looking at is unintentional and intentional fraud. When you take a quotation, whether it be online or you go into a broker and give them the information and they give you a quote, sadly, sometimes unintentionally, people are giving

information which is fraudulent, which means the claim will not be met should you have an accident.

As a parent I can talk about this. When I say "unintentionally", parents want the best for their children, especially once they have passed their test, so they tend to register them on their insurance, not as an additional driver, not as a named driver, but where very often that young person is actually the main driver. When insurers find this out, of course, they will disclaim the claim and they are technically uninsured. That is fraud whether they like it or not and that has a huge effect.

The other effect is where people give, either wittingly or unwittingly, false information perhaps about their age or the points that they have on their licence. One of the things we are going to do—and we are going to announce this quite soon—is to work with the insurers so that we can give them, from DVLA, the relevant information they need so that they can make decisions on whether or not they wish to insure and how much that premium should be. So, for instance, on a quotation, I hope quite soon, there will be, literally, a tick box asking that person who is asking for the quotation whether or not they are willing for that insurer to contact the DVLA to verify what they have said about their points, their age or their driving experience. If they say no then that is entirely up to them, but I would think the insurers would be slightly unlikely to insure that person if they are not willing to get that proof.

Q265 Chair: Could you tell us when that will happen?

Mike Penning: We are working on this now. This is new, whereas some of this work was being done before. I don't see there are particular problems with it to do with data protection—we have got to check that out—because this is a willing admission of the person asking for the quotation to allow that information to come from DVLA. I think certainly within six months we should be there and we can do that.

That will also completely open up, then, the whole area to the insurers being confident about the information they are being given. I hope then that will have an effect on premiums as well. At the moment there is an effect on premiums because the insurers are assuming in some cases that people are not giving the right information, intentionally and unintentionally.

Q266 Iain Stewart: You have mentioned the claims culture that seems to be creeping in from America and you have made reference to the fact that 30% of the increase in cost is due to factoring in the personal injury claims. Does the Department have any evidence of the increased claims that are made which are genuine and it is just better access to justice and those which are fraudulent in some way?

Mike Penning: No. I have asked for that information. It is very difficult to get that information simply because of the way the legal system operates in this country in that you are innocent until proven guilty and you have the right to claim. It is slightly different, for instance, from the German system where the

 11 January 2011 Mike Penning MP and Pauline Morgan

Germans have, as you are probably aware, introduced a system on whiplash of minimum speed, so if you are less than a certain speed you cannot claim whiplash injuries in Germany. That, I understand from the legal advice that I have had, would not be able to be brought into this country because of the way that the judicial system works differently to the federal system in Germany. But it is one of the golden nuggets we would love to have as to the amount.

All we can say, as I alluded to at the start, is that the huge increase in personal injury claims now represent—and the insurers I am sure will agree—50% of the costs that they pay out. For me it was a shock when I read it, when I first realised that.

Q267 Julian Sturdy: Listening to what you have said already, Minister, do you think that the insurance industry needs to do even more to tackle fraud and how would you react to suggestions that are being put forward regarding the insurance industry working with the police force and maybe part funding or funding a dedicated team to tackle fraud in the longer run?

Mike Penning: This is something I am very interested in and, of course, it is cross-departmental so it comes in to the Justice Department as well as the Home Office. For instance, in DVLA we already have embedded police working with us on fraud. When I visited DVLA—and I was the first Minister ever to visit the DVLA, which I thought was astonishing considering how big an employer it is and how important an institution it is—what shocked me was the sheer scale of the fraud that we are detecting coming through just in fraudulent applications for driving licences, for instance, and things like that. But we do need to work closely. This needs to be joined-up Government together. It is something I will talk to the insurers about.

A lot of the money to do with the cost of continuous insurance, for instance, the marketing, is being paid for by the insurers because of this difficult climate we are in at the moment. I just did not have the budget to do what I would like to have done, but they are helping enormously. I think this is something we can work on and I have already had provisional conversations with my equivalent Ministers in the other two Departments and I am sure it is something we can work on.

Q268 Kelvin Hopkins: The figure of more than 1 million uninsured is astonishing. It just shows that the regime until now has been wholly inadequate and I welcome very much that the Government is doing something about it. That means that 1,500 drivers in every one of our constituencies are not insured. There is some evidence that quite a high proportion of these are high risk accident prone drivers, so they are more likely to have accidents than the properly insured and legal. Taking those people off the road, if they can't afford insurance or they are not prepared to pay insurance, would make a major difference to road safety.

One thought I have raised with other people before is that the AA claims that, before the age of 18, 10% of young people have been in a crash where somebody

has been killed or seriously injured, which is astonishing. To me, it is a very compelling argument for raising the driving age from 17 to 18, to the age of majority. Politically I think it would be quite popular with a lot of people, except for the 17 year olds who want to drive. Isn't that a feasible policy?

Mike Penning: There is part of me as a parent that says, "No, please." My daughters are now 19 and 21 and both of them drive. The sheer thrill of the freedom that they had as very good drivers when they passed their test is something I personally don't want to take away from young people. I think we can wrap our little ones in cotton wool too much.

However, there is a lot of work that we need to do with not just that age group but the age group of 17 to 25, boys in particular, which, frankly, is one of the reasons why premiums are so high. I am very lucky: I have two daughters. But I understand from my insurer that it would have been three or four times more expensive if they had been boys driving the little Clio that they did. We are working an awful lot now with pre-driving courses for the 14 to 16 year olds, to get them more aware at school as to the sort of pressures they are going to be under and the sort of skills they are going to need long before they start taking their driving tests.

I think we should change the driving test in the right way, to make it more difficult and more suitable for the skills they are going to need once they pass the test. My fear when I first took on this job, when I looked at it, was that the test had been designed for someone to pass rather than to give them the skills to be safe on the road for them and others. I think the work that the Driving Standards Agency have been doing recently to change that has really helped. For instance, we will no longer let them know exactly the route that will be taken; they will have to navigate their own route. They may get lost and that doesn't matter but it's how you react when you have done something wrong when you drive that is very, very important.

One area I am looking at is the situation for drivers post test, as to whether or not there are skills that we can encourage them to gain that the insurers will actually see as a safety benefit, so thus the premium is held down. Pass Plus test has not really worked in that way; I think it's a shame but it hasn't. Also, we are looking at giving them skills in areas, even before the test is taken, for instance, on motorways. We have a situation where a young person or anybody passes their test and for the first time in their life will go and drive on their own on a motorway. I find that very difficult. I am working now to see whether we can get qualified instructors—I stress "qualified" instructors because a lot of instructors are unqualified that take people out on lessons—being able to do some more advanced work so that we can limit the dangers that we have with young people in particular.

Q269 Kelvin Hopkins: I have just one separate question about named driver insurance. It is a problem in all sorts of ways. Would it not be simpler to legislate that everyone had to have individual insurance and we got rid of the named driver approach

11 January 2011 Mike Penning MP and Pauline Morgan

to insurance so that the young drivers had to insure individually?

Mike Penning: To be fair, that is a lot easier said than done. Some insurance policies still have “any named driver”. We still have company policies as well as family policies and things like that. If you look at the advertising on TV at the moment, a lot of the companies are moving in and realising there is a market here for having named drivers with separate no claims on a single family policy. That is a trend and that is something that is difficult to legislate against, but it is a very complicated piece of legislation. If you said that every single driver must have a separate policy to drive, I think that would be very difficult, hugely burdensome and expensive on business, which at this particular moment we probably wouldn’t want to do.

Q270 Gavin Shuker: We have taken a lot of conflicting evidence about what has driven this increase in premiums, but the one thing that is clear is that every witness pretty much has said that the cost of premiums has increased significantly, and significantly within the last 12 months as well. Do you believe that it represents a failure of the market?

Chair: Do you think there is a failure of the market?
Mike Penning: No, I don’t. The insurers would have to work together for that failure. If there is evidence of that, then I am sure there are plenty of organisations that would investigate that, and there doesn’t seem to be any evidence of that. The insurers would love to just insure you after 10 years of driving with no accidents, and that premium would be very low. But, actually, they have to, and quite rightly. Not all insurers do insure everybody. The situation is risk, I think.

As the Road Safety Minister as well as the Roads Minister, I have to make sure that we are doing everything we possibly can to make drivers and their companions in a car as safe as possible, which is why, as I say, we have done a lot of work to do with the driving test. We are going to do a review of the MOT, but not based on the fact that Europe says you can have four years and then two, but based on looking at whether or not the MOT is actually producing the safety requirements we need, especially for vehicles with high mileage, for instance. It seems ludicrous to me that you can go for three years and have half a million miles on the car before it has an MOT. That is the sort of thing that we are looking at, rather than just saying, “Let’s jump to Europe’s tune”, which I tend not to do—those of you that know me—and say that we go from four to two, which I know the industry is concerned about. But let’s look, as I have said for the driving test, at whether the MOT is fit for the 21st century and fit for purpose.

Going back to your original point, “Is it a failure of the market?”, no, I don’t think it is a failure of the market. I think there are pressures that are continuing which we have already alluded to, to do with uninsured drivers, to do with personal injury claims, and to do with the sheer cost at times of the replacement of the vehicle. When I bought my first Mark 1 Cortina, I think the insurance was three times what the car cost. It is a completely different kettle of

fish, frankly, to the car that, for instance, my grandfather left to my daughter, which was a little Punto and she said, “Dad, I’m not going to drive it. It hasn’t got an air bag.” Granddad would have been very upset but, of course, he did not know about that. The cost of vehicles and the cost of cars is much more expensive as well. But I do accept it is very, very difficult for people, especially on low incomes and young people, to insure. That is something we have to work on but, actually, we have to make sure they insure. That is the crucial thing we must do.

Q271 Gavin Shuker: Would you accept that there is a failure of the market maybe at the margins? For example, you cited the example of young drivers. We have taken evidence that, on average, they are paying up to about £2,400 a year just for insurance when obviously they will need that to get to work or to get around. Would you accept there is a serious problem there?

Mike Penning: No, I don’t. The reason I don’t is because a young male driver between 17 and 25 is a huge risk for the insurers. We know that and I know it because I used to go to more RTAs when I was a fireman and cut these young people out of cars. It is a crazy situation, for instance, where the most at risk occupation that you can do if you are a lady is to sit in the passenger seat of a car being driven by a boy of 17 to 25. You are more likely to be injured doing that than anything else. We have to address it.

It’s not drink. The interesting thing is there was a terrible crash over the Christmas period. You might have seen it in the newspapers. I think three young boys lost their lives. There was no drink or drugs involved, but adrenalin and an oak tree. That, in all our constituencies, we see on a regular basis and I used to see, sadly, as a fireman. We have to do something about that. It is not just about age, the bottom end of the age profile, because this goes into the mid-20s and on and through. It is a cultural thing that we have to address. There is the peer pressure. There are a lot of conversations to do with whether or not, for instance, you should prevent a newly qualified driver having the car full of people. They have rights too. It is difficult.

Q272 Gavin Shuker: Finally, have you looked at any radical solutions to this problem? Obviously, we have taken a lot of evidence but I would not like to say the picture has become a whole load clearer. Have you looked to other countries, for example, where the car is insured? Obviously, my colleague in Luton North talked about insuring the driver. Are there ways of bringing more drivers in but also looking at a radical restructuring?

Mike Penning: We have looked at other countries. Literally as I was walking over here I was having a conversation about this. For instance, we go to America on holiday, or we did especially when the kids were younger and hired a car. There was the cost of hiring a car and then the insurance. The insurance was often more expensive than hiring the car in these package deals. So we have looked at other countries. We are quite unique with our judicial system in the way it works in this country, but what we have

 11 January 2011 Mike Penning MP and Pauline Morgan

introduced today, going back to what I was saying, is probably one of the most radical changes in motor insurance this country has seen since we introduced insurance. It will make a massive difference. It will expose an awful lot more people that are driving completely illegally, putting young people, old people, everybody at risk, and putting a burden on premiums.

Q273 Chair: Is what you have done today the only thing you are going to do?

Mike Penning: No, because I think the next stage, which I said we will deal with certainly within the next six months, will be giving access, with permission, to drivers' details to insurers. That will make a massive difference as well, but we will continue to work with the skills that people need to drive and the road conditions. Actually, there is work that can be done to make roads much safer with very, very minimal costs. The new retroreflective paint that we use on white paint on roads these days is completely different to what it was 20 years ago when I was first a fireman. It absorbs the light and then throws it back out again. There is a lot of work that we need to do across the spectrum to reduce the accidents. If we reduce the accidents, then the premiums will go down as well.

Q274 Julie Hilling: Can I come back a little bit to the young driver? Many years ago we reduced the size of motorbike engines for new drivers. Are you prepared to consider or are you thinking about anything that is not just about insurance but also about road safety for young drivers?

Mike Penning: Yes.

Q275 Julie Hilling: Restricting the hours, restricting the number of passengers, restricting the engine capacity and the speed of the vehicle. Are you looking at those sorts of areas?

Mike Penning: I am always willing to look at everything. One of my jobs is to pull everything in and to look at it. If we look particularly at motorcycles, those that are old enough will remember that we used to be able to ride a scooter at 16 and there was the restrictive cc. That was a lot to do with the skill of riding the bike rather than the speed as well because of the sheer weight of the bike. We have been, sadly, not as successful as we would like to be, I am sure, with deaths and serious injuries on motorcycles. Even today it is the only area that is on the increase. There is around a 4% increase in deaths or serious injuries on motorcycles, even with a 50% reduction in sales of motorcycles in the last year, going year on year.

Touching on the cc or normally looking at the brake horsepower of a car, there is no evidence that restricting the brake horsepower will reduce the accidents. Interestingly enough, if you look at the three cars which are most commonly used—and this is no slight on the manufacturers—which is the Saxo, the Clio and the Corsa, all have round about or less than 1000 cc engines. They are the ones, sadly, that on a regular basis go up the oak trees.

Q276 Julie Hilling: What about speed limiting?

Mike Penning: Speed limiters we were looking at. It is very, very difficult to enforce. Speed limiters on lorries is now done electronically. It is difficult. If one person gets out of the car, are they allowed to have a speed limiter on it? What if your mum gets in the car or your dad gets in the car? It is hard, rather than penalising the majority for the minority, which is what the insurance industry are doing because they are penalising on premium because of the amount of accidents that young people have.

I have a very open mind about this, which is why we pushed through this legislation that we have laid today so early. If you saw my e-mail box this morning, it is not enormously popular in certain parts of the country. Probably a lot of those people that are uninsured perhaps have been filling my mailbox this morning. We are determined to clamp down on this, not just for the premium but on the road safety point of view as well.

Q277 Julie Hilling: The other thing is that we have taken a lot of evidence about the number of people that get money out of an insurance claim. A person has an accident today and they are a commodity that is sold on through various people and everybody is getting a share of it. Is that something that you are looking at considering, so it is not just about the referral fee but it is also about who can have a chunk of somebody's accident?

Mike Penning: To be fair, that is not my Department; it is the Justice Department.

Q278 Chair: Are you having any discussions about that?

Mike Penning: Yes, we are. We are talking about it. From a personal point of view I find it abhorrent. They are ambulance chasers. We are going to end up with a situation like they have in America if we are not careful literally where these people are going to be turning up at RTAs, or RTCs, if we want to be politically correct these days, and saying, "Will you sign this form because I will represent you?" You have only got to listen to the commercial radio stations. Every day, all day, all you hear is, "If you've had an accident, we'll get some money for you."

Q279 Chair: What are you proposing to do about it?

Mike Penning: That is a Justice thing. It is the Justice Department.

Q280 Chair: Are you in discussion with the Justice Department?

Mike Penning: Yes, but we are at very early stages, madam Chair.

Q281 Chair: Can you give us any idea of the form of the discussions?

Mike Penning: I can't at the moment, no, because they are the lead. I am just there to help them implement.

Q282 Chair: What are you recommending they do?

Mike Penning: I am not recommending anything to them.

11 January 2011 Mike Penning MP and Pauline Morgan

Q283 Chair: But you must have a view on it. You have told us about the problem. You clearly appreciate the scale of the problem.

Mike Penning: Yes.

Q284 Chair: But what are you actually going to do about it?

Mike Penning: Madam, I am not legally trained.

Q285 Chair: As a Transport Minister involved in this area, surely you are going to put an opinion to the Justice Department?

Mike Penning: Of course and my opinion is that it is out of control. It is out of control and it is getting worse. This is penalising innocent people. As I said earlier on, while I want people to get fair compensation, it is getting to a stage at the moment where it is penalising other people in their premiums in particular, and we have to do something about it. But that is something that is way above my pay grade and in a Justice Department area, which I am loth to tread on. I might have my toes clipped.

Q286 Paul Maynard: We have clearly heard throughout our inquiry that premiums have increased. You have been quite clear already that you do not believe it to be an example of market failure. Do you believe it is the Government's role that they should take specific measures that will lead to premiums being reduced or do you believe that you should be taking measures that are justifiable on grounds of road safety or legality that may lead to lower premiums? Should it be specific Government policy to try to lower premiums?

Mike Penning: No, I don't think it is. I think that is the market's job. It is a very competitive market out there. As I said earlier on, if there is any evidence of collusion going on within the companies, then that is something that I am sure the relevant bodies would look at. But it is my job to enable people to enjoy the roads in this particular section of my portfolio as safely as possible for themselves and for others. There are measures we are taking now which I feel will hopefully lower premiums, but I am not necessarily doing it for that specific reason. I am doing it predominantly for road safety and justice reasons.

Q287 Chair: Do you think the insurance industry could do more to prevent fraud?

Mike Penning: Yes, I do. But, to be fair to them, when I first met them and I made that very point, they said, "Minister, will you help us?" They had had some blockages in the system. There was no reason that I could see why the DVLA could not have been giving them the information to do with applicant driver details years ago. There is, as I say, intentional and unintentional fraud active out there. There is also intentional fraud when it comes to conspired accidents as well as injuries which are faked, if you wish. That is harder, but, in regard to making sure people give the right information when they take out a policy out, the insurers will put their hands up. If you have given wrong information, they will disclaim you. They will not let you claim.

Q288 Chair: Do you have any plans to do anything specific in relation to the insurance industry in detecting fraud? You said they asked you to help them.

Mike Penning: Apart from what I have already alluded to, we are giving them access to the information.

Q289 Chair: Yes, apart from the measures that you told us about.

Mike Penning: They have not actually come to me and asked for other help apart from that. I am not aware of them asking for anything else.

Pauline Morgan: There are no other initiatives specifically on fraud.

Mike Penning: I think they can do something for us, because at the moment if someone claims and they say, "No, this is a fraudulent claim", or, "You weren't actually properly insured", or whatever the figure maybe, especially a fraudulent claim, it tends to stop there. It doesn't get referred on to the police and it certainly doesn't get referred on to the DVLA. I think it should. I think the public need to see people being prosecuted for these offences, for two reasons. One is for justice and the second is to prevent others thinking they can get away with it. At the moment there doesn't seem to be a huge amount of prosecutions. I don't know if you have got figures, but I have not seen hardly any prosecutions for people making fraudulent claims against insurers where that is a criminal offence.

Q290 Chair: We did receive evidence today that the police are reluctant to prosecute in a lot of cases where people are very concerned that fraud has taken place. Would you feel it is appropriate for you to discuss that with the Home Office?

Mike Penning: I spoke to the Minister in the Home Office last night about this, because I told him I was giving evidence today and I wanted to make sure that we were talking about the right things. If that is the case, then that is something we can work on with the Home Office but at the same time I would have thought that the insurance companies would want to bring civil actions.

Q291 Chair: I am just repeating to you the evidence that we have heard. We have also had a proposal there should be a dedicated unit within the police funded by the insurance companies dedicated to rooting out insurance fraud.

Mike Penning: That is something that has been pointed out to me literally in the last couple of days that we will look at.

Q292 Chair: Is that something you are looking at?

Mike Penning: Yes, literally only in the last couple of days.

Q293 Iain Stewart: Just briefly, one area of fraud that we have discussed with previous witnesses is the increasing prevalence of staged accidents. From your departmental perspective, do you have data on that and do you have any specific measures you are looking at to try and combat it?

11 January 2011 Mike Penning MP and Pauline Morgan

Mike Penning: It is very difficult. The enforcement of that sort of thing doesn't come under my Department of course; it comes under the Home Office and the police. There is more anecdotal rather than specific evidence. The only evidence we tend to have is when the insurers disclaim; in other words they video someone or they do something. That happens throughout the insurance industry as a whole. I don't have evidence within the Department and it is not within my portfolio.

Q294 Julie Hilling: We have had quite a lot of evidence that there is real organised crime going on in terms of motor insurance and fraud within it. I suppose I want to push you a little bit more to ask what the Department is going to do in terms of that, because they are saying that that is pushing up the cost of insurance but it also makes our roads a lot less safe and is a real issue.

Mike Penning: Yes, of course. Interestingly enough, there is evidence that it is very regionalised and it is moving. You can pick any part of the country, although I won't today, but there are parts of the country where it has been prevalent for a while and it is now starting to move across. As I was alluding to a moment ago, it is not within my portfolio to take action on that. That is a Home Office and police matter. However, holding one of the largest databases in the country, we should be able to keep that data and help other agencies with what they are doing, but it is not under my portfolio. I am not shifting the buck. It is a police matter and a justice matter.

Q295 Chair: Should the penalty for uninsured driving be increased?

Mike Penning: It is already very high. It is already £5,000. The problem we have, if I can just touch on it because I think it is a very important issue, is that the courts tend not to give out anywhere near the maximum and then they do give quite a long time to pay, quite often longer than it would have been if you had taken out an insurance policy and paid it over staged payments. That is an issue that I am taking up with the Justice Department.

I am sure the police have said this to you, but the biggest way of making sure that someone who has

been driving an uninsured vehicle doesn't drive that vehicle again is to have it seized, and the police do about 400 a day, I think, at the moment. That is the biggest deterrent by far. If they think they are going to lose that car, they will stand more chance of either not driving or insuring it. I know what it was like for me when I got my first car all those years ago. It was my pride and joy. The thought of losing that and the possibility of that being crushed, to me, and the evidence is, is that that is one of the biggest deterrents. But it is hugely time-consuming for the police as well. What we are doing with the introduction of the legislation later is going to remove a whole part, we think, of those people that the police have picked up or would be picking up for no insurance. Hopefully we will get more to the hard core.

Q296 Chair: On a number of areas which we have touched, the responsibility for making decisions is not necessarily with you. It may be the Home Office or it may be the Justice Department. Is there any mechanism you have set up so that you can have ongoing discussions with those Departments and, indeed, any other relevant Departments on making decisions to improve the situation?

Mike Penning: Since the election and the new Government was formed, I noticed that there was no one, for instance, heading up road safety. I am the Road Safety Minister but so much, as you have heard today, is outside my portfolio. I felt as if I was not in full control, which is the best way to describe it. I have an agreement with my equivalent Ministers in Justice, in local government and in the Home Office. We have met and we have already started down this area particularly, for instance, on Drugalyser, where as the Minister I am responsible but it is the Home Office that do the approval and will do the arresting. We are working very closely on that and there are other meetings to do with the whole area of road safety that we will have. So I have kind of pulled it together. But it is difficult when it is more than one Department in charge of the portfolio. I am not in control of my destiny as much as I would like to be.

Chair: Thank you very much for coming and answering our questions.

Written evidence

Written evidence from Duncan Anderson, EMB Consultancy LLP (CMI 03)

1. In response to the Transport Select Committee's invitation to submit written evidence on the factors affecting the cost of motor insurance, EMB herewith summarises the findings of its own and industry research into:

- Current price trends in UK private motor insurance
- Increases in the cost of bodily injury claims
- UK motor market profitability.

CURRENT PRICE TRENDS IN UK PRIVATE MOTOR INSURANCE

2. In partnership with leading comparison site Confused.com, EMB has tracked private motor insurance price movements since the final quarter of 2006. This shows clear evidence of significant upwards price movements, particularly since the middle of 2009. A copy of the latest quarterly summary is attached for reference.

3. According to the Confused.com/EMB Car Insurance Price Index, the average cheapest price quoted by insurers on Confused.com for comprehensive cover increased by 37.5% in the 12 months to September 2010 and by 54.2% for third party, fire and theft cover (which tends to be taken by more young drivers) over the same period. Since the third quarter of 2009, the quarterly price increases for comprehensive cover have been:

2009 Q3	—3.4%
2009 Q4	—6.3%
2010 Q1	—4.3%
2010 Q2	—14.2%
2010 Q3	—8.6%

4. The average cheapest quoted comprehensive premium for drivers of all ages has increased from £457 to £650 over this time. Within the overall price rises, younger drivers, and particularly men, have been worst affected. The increase for 17–20 year old men over the 12 months to September 2010 was 43.5% and 40.9% for females. The increased practice of middle aged parents adding their children to their policies has also led to significant increases in the cost of their cover.

5. The significance of this index is that rather than considering a small sample of policies it analyses approximately two million actual quotes per month, and that more than 50% of the UK population (Source: Datamonitor) now purchases its car insurance through a comparison site.

INCREASES IN THE COST OF BODILY INJURY CLAIMS

6. In our view, the biggest single factor driving price increases is the burgeoning cost of bodily injury claims. EMB has recently provided a representative on the Institute and Faculty of Actuaries Third Party Working Party which found that overall BI claims inflation is now running at about 30%. The study, which had unprecedented access to data supplied by companies making up almost 90% of the UK motor insurance market, showed that around a third of the increase is due to the higher number of bodily injury claims while the remainder can be attributed to the higher average cost of settling claims (including an increase in the number of claimants per claim). Notably, the increases come at a time when the overall number of reported accidents has been falling.

7. We estimate that 20 years ago bodily injury claims accounted for around 20% of UK motor insurance claims costs. In 2010 we now estimate that proportion to be 50%.

8. Whilst there are a number of potential causes of the increase in bodily injury claims, the Working Party identified the increase in prevalence of accident management companies in England and Wales as being one of the main drivers of this changing experience. It also considered experience in other countries and noted that differences in the legislative environment meant that bodily injury claims increases of this nature were not found in many other markets (perhaps most notably Scotland).

9. Another driver of the increase is the increase in claims fraud. In its most recent annual survey of insurers, the Association of British Insurers valued the cost of fraudulent insurance claims at £840 million, up 14% on 2008. Of this figure, it estimated that motor insurance fraud accounted for £410 million.

UK MOTOR MARKET PROFITABILITY

10. The effect of prevailing market forces has been to make private motor insurance increasingly unprofitable. EMB publishes an annual analysis of the financial returns made by insurers to the Financial Services Authority. A copy of the report covering the 2009 returns is attached for reference.

11. This report showed that in 2009 the top 20 private motor insurers incurred costs of £122 for every £100 of premium they received. This poor result is exacerbated by the absence of significant investment income in recent years.

ABOUT EMB

12. EMB is one of the world's leading actuarial and business consultancies specialising in general insurance. It employs about 200 people in the UK and a further 100 overseas. The company has twice received a Queen's Award in the last five years—once for Innovation and once for Export Achievement. The firm has assisted 19 of the top 20 UK motor insurers in the area of general insurance pricing.

October 2010

Written evidence from the Institute and Faculty of Actuaries (CMI 05)

ABOUT THE ACTUARIAL PROFESSION

The Institute and Faculty of Actuaries is the chartered professional body for actuaries in the United Kingdom. A rigorous examination system is supported by a programme of continuous professional development and a professional code of conduct supports high standards, reflecting the significant role of the Profession in society.

Actuaries' training is founded on mathematical and statistical techniques used in insurance, pension fund management and investment and then builds the management skills associated with the application of these techniques. The training includes the derivation and application of "mortality tables" used to assess probabilities of death or survival. It also includes the financial mathematics of interest and risk associated with different investment vehicles—from simple deposits through to complex stock market derivatives.

Actuaries provide commercial, financial and prudential advice on the management of a business' assets and liabilities, especially where long term management and planning are critical to the success of any business venture. A majority of actuaries work for insurance companies or pension funds—either as their direct employees or in firms which undertake work on a consultancy basis—but they also advise individuals and offer comment on social and public interest issues. Members of the Profession have a statutory role in the supervision of pension funds and life insurance companies as well as a statutory role to provide actuarial opinions for managing agents at Lloyd's.

1. BACKGROUND

Motor insurance offers cover to both personal and commercial customers in the UK and is compulsory in respect of third party property damage and third party bodily injury. Insurers collect of the order of £10 billion in premiums each year. The Actuarial Profession commissioned a working party to investigate third party motor insurance based on some worrying inflationary trends being reported by individual insurers. The working party reported its findings at the UK Actuarial Profession's annual General Insurance conference (GIRO) in October 2010. These findings were based on data it collected from 89% of the UK regulated motor market. In addition the working party also carried out research on international trends and the link between the legal framework and claim inflation.

2. A LOSS-MAKING BUSINESS

The motor insurance industry lost money in 2009 (as per the FSA returns based on combined operating ratios)—a loss of 21p for every £1 of premium for personal policies and an equivalent loss of 8p for commercial policies. The indications from the working party data are that the cost of bodily injury claims (which comprise around 50% of the cost of claims) are increasing at around 30% per annum. Insurance premiums are already rising significantly as a consequence. All this increase in claims cost is occurring, despite the number of accidents having decreased over recent years. The Confused.Com/EMB press release on 12 October cited market increases of 37.5% for comprehensive policies over the last year (more for non comprehensive policies). Customers shopping around will however pay increases substantially less than this. It is highly likely that material further increases will be required before the UK insurance market moves from a position of running heavy sustained losses to one where it can be placed on a sound and sustainable economic footing.

3. DRIVERS OF RISING CLAIMS COSTS

There are three elements in the inflating cost of the motor insurance to which we would like to draw the Committee's attention:

- An ABI survey reports annual increases in the cost of insurance fraud of 14%, with a cost specifically to motor insurers of £410 million.
- The increase in claims management companies and their activity in generating additional bodily injury claims and claimants in motor accidents.

- Linked to the above, the increasing proportion of claims which come with legal costs attached to them (where legal costs are incurred they typically make up about 40% of the total bodily injury claims cost).

At least the last two of these elements of cost are containable by appropriate legislation.

4. OTHER UK AND INTERNATIONAL REGIMES

Scotland does not allow referral fees for lawyers. Scotland also does not show the high levels of bodily injury inflation seen in England. Other countries, depending on their legislation either have or do not have a problem. For example in addition to Scotland, France, Germany, Spain, China and Switzerland do not appear to currently have a problem. Ireland has largely contained the legal cost element. But on the other hand Hong Kong and Poland very much have a growing problem, and countries such as the USA have (depending on the state) a severe problem. Legislative approach underpins many of these differences.

5. IMPACT OF NEW AND POTENTIAL MEASURES

New measures were introduced in the UK on 30 April 2010 (the Ministry of Justice Reforms) whereby claims can enter a prescribed, time and cost limited process under certain conditions. It is possible that these may contain some legal cost elements. The current expectation of the working party however is that any cost containment may be very partial. Currently consultation is underway on the recommendation by Lord Justice Jackson (January 2010):

- Banning referral fees.
- Abolishing the recoverability of success fees and ATE premiums.
- Increasing general damages awards by 10%.
- Introducing “qualified one way costs shifting”.
- Introducing fixed legal costs for fast track cases worth up to £25,000.
- Promoting Before the Event legal expense insurance.

We believe that the findings of the working party provide important input to this consultation. In particular they identify the scale of the financial problems that the Lord Justice Jackson recommendations seek to address.

6. FURTHER INFORMATION

A summary report is attached in the form of a PowerPoint presentation.¹ In addition, members of the working party would be happy to meet with the Transport Select Committee to discuss their findings in more depth.

November 2010

Written evidence from Lloyd’s Market Association (LMA) (CMI 06)

About the LMA: This submission is provided by the Lloyd’s Market Association (LMA), which was formed in 2001, and represents all the businesses which underwrite insurance at Lloyd’s of London. Its members together constitute one of the world’s largest commercial insurance markets, bringing many billions of pounds of foreign exchange to London each year. Through the LMA, the interests of Lloyd’s Underwriters and Managing Agents are promoted wherever decisions are made that affect the market.

1.1 *Summary:* We welcome the opportunity to provide input into this important Inquiry. The significant premium increases currently affecting UK motor insurance customers are the result of a cyclical upswing in price after more than a decade of losses. It is unfortunate for customers that long overdue increases have arrived en masse, rather than via steady annual uplifts over the past decade that would have better aided budgeting.

1.2 Extensive market losses (circa 20% in 2009 alone) have been caused by a mix of underlying factors. These include legitimate market effects such as low investment returns and the high costs of providing care to badly injured claimants, to dysfunctional effects, such as excessive/unnecessary credit hire costs, fraud and disproportionate legal costs in personal injury claims.

1.3 Whilst premiums have recently risen quickly, there is no direct market failure for customers, who can still choose a suitable product from a wide range of providers. In order to reduce premiums, the underlying risks and the underlying costs must be reduced.

1.4 There is a role for the Transport Select Committee and the Government to play in tackling unnecessary or excessive costs caused by dysfunctional market mechanisms.

1.5 *Credit Hire:* the current market mechanism that supports the role of credit hire operators is badly flawed, as customers are encouraged to incur unnecessary/inflated costs without direct financial consequences, as the

¹ Not printed.

bill is usually settled by someone else's insurer. Significant market reform, supported by legislation where required, may be the only way to remove this layer of inflated costs.

1.6 *Legal costs*: the Government should implement the Jackson Recommendations² (to reduce the costs of civil litigation) in full, and consider implementing Lord Young's recommendations.³ The cost of civil litigation is disproportionately high, referral fees paid by solicitors to acquire cases are excessive (and are recovered from insurers via costs), and After The Event insurance should be made unrecoverable.

1.7 *Uninsured driving*: there are unacceptably high economic and social costs of this illegal activity. Police enforcement using ANPR technology and the Motor Insurance Database, coupled with their powers to seize vehicles driven uninsured, have definitely made inroads into the problem. The Government should now press ahead with implementing Compulsory Insurance Enforcement, fully funded, in 2011 to improve prevention and tackle persistent offenders.

1.8 *Fraud*: The Government should consider two actions; better incentivising Police/CPS to take insurance fraud seriously and prosecute more fraudsters, and consider increasing court powers to strike out the entire claim of (3rd party) fraudsters that have exaggerated their claim.

1.9 *Excessive Risks presented by inexperienced drivers*: the current driver licensing regime does not adequately manage the excessive risks presented by inexperienced drivers; no minimum learning period, no restrictions on carriage of multiple passengers or night-time driving. Research has shown that a tougher licensing regime could lead to significant reductions in serious accidents involving young people.

RESPONSES TO SPECIFIC COMMITTEE QUESTIONS

2. *The reasons for, and consequences of, recent increases in the cost of motor insurance*

2.1 It has been widely reported in the press that UK motor insurance premiums have significantly increased over the last year. The AA Premium Index indicates that comprehensive motor insurance premiums generally increased by up to 33% between September 2009 and June 2010,⁴ although there remains a wide degree of difference in pricing from one insurer to the next. There are a range of underlying factors causing these premium increases, which are a response to extensive losses experienced in the market over the last decade.

2.2 Some underlying factors are legitimate market dynamics:

- Low investment returns.
- High (and super-inflationary) costs of providing care to seriously injured claimants.
- The heavily-suppressed ability of insurers to increase premiums, caused by intense market competition, facilitated by the advent of aggregator websites.

2.3 And some underlying factors are dysfunctional market dynamics:

- Inflated/unnecessary costs caused by credit hire.
- The high frictional costs of settling personal injury claims.
- Claims farming leading to inflated claimant numbers.
- The costs of funding claims caused by uninsured drivers.
- Insurance fraud.

2.4 The *cumulative effect* of all the above factors, against background of relatively flat premium levels over the past decade, has caused the steady development of a "perfect storm" for motor insurers in recent years, producing heavy losses and driving a sharp cyclical upswing in price over the past 9–12 months.

HEAVY LOSSES

2.5 The motor market has been running at a loss for many years; the market has not made a net profit since 1994–95, the only years of motor market-wide profit since the 1970s. Losses have escalated in recent years, and the UK motor insurance market collectively sustained a loss of circa 20% in 2009. At Lloyd's, the largest motor syndicate (218 Equity Red Star), has recently reported worst-case expected losses of up to 57% for 2008, and up to 20% in 2009. KGM (syndicate 260) has reported expected losses of up to 38% in 2008, and up to 26% in 2009. Gross Written Premium remained virtually flat between 2002 and late 2009, despite sustained losses.⁵

LEGITIMATE MARKET DYNAMICS

2.6 General trading conditions for motor insurers have been extremely challenging in recent years. Low investment returns have reduced income on earned premium to minimal levels, and intense market competition has severely squeezed profit margins. Motor insurers operate in an intensely competitive industry, selling a

² Lord Justice Jackson's *Review of Civil Litigation Costs* (2010)

³ Lord Young of Graffham's *Common Sense, Common Safety* (2010)

⁴ <http://www.theaa.com/services/insuranceandfinance/insuranceindex/index.html>

⁵ One LMA member reported their average private car premium, between 2002 and 2008, had reduced by 1.1%

largely commoditised product. There are 50–60 insurers⁶ (and thousands of intermediaries), all competing for motor business in the marketplace.

2.7 The emergence of price comparison websites in recent years has further improved the market for customers, permitting fast and easy comparison and purchase of cover. This increased market efficiency has also created additional pressure on margins for insurers. NB We consider the above issues to be normal functions of a highly competitive marketplace, not public policy issues.

DYSFUNCTIONAL MARKET DYNAMICS

2.8 *Credit Hire:* Over the past 10–15 years, credit hire firms have entered the motor claims market, offering replacement vehicles (on credit) to motorists whose vehicles have been damaged in an accident. In the event that the motorist successfully brings a claim against the party at fault, he can recover the costs of the car hire from the other party's insurer.

2.9 An element of this process is legitimate, in that many people do need a replacement vehicle if theirs is off the road. However, in reality this market is extremely dysfunctional, and creates significantly inflated costs for insurers, which must ultimately be recovered from customers via higher premiums.

2.10 The key issue is that the credit hire firms are commercial firms, naturally seeking to maximise profits, but the customer using their service is not the person paying the bill. The bill is paid by the other party's insurer, who is not part of the hire agreement, and so is not able to exert control over the hire to apply normal market efficiencies.

2.11 This sustains a highly inefficient market where credit hire firms routinely provide a replacement vehicle for longer than is required by the customer (LMA member data indicates that average credit hires are five days longer than insurer-arranged hires).⁷ Also credit hire firms provide a replacement vehicle at a higher cost than an insurer could; as much as 2.4 times higher on average.⁸ Also the involvement of credit hire firms in motor claims has increased significantly in recent years; one LMA member reported that cases involving a credit hire claim have increased by 69% in 18 months (between January 2009 and September 2010).

2.12 In a proportion of cases involving credit hire—perhaps 25%—credit hire firms are also involved in managing vehicle repairs, where the same inefficiencies inflate repair bills. These increased costs must ultimately be recovered via premiums. Further, the costs have escalated rapidly; one LMA member has reported that their average credit hire charge has increased by 21% in 12 months.

2.13 *Personal Injury Claims:* It is the function of motor insurance to assess and pay valid claims. Accordingly a reasonable proportion of claims spend is a legitimate market effect. However, a number of factors have illegitimately increased insurers' claims spend, helping drive the current increase in premiums. These factors include:

- Excessive/disproportionate referral fees—paid by solicitors to their business sources (including insurers in some cases). These costs are thought to be in the region of £300 to £700 per injury case; this is an estimate as the system is not transparent and the fee is not disclosed.
- After the Event insurance—can add circa £400 to low-value personal injury claims costs, and sometimes includes a significant commission for the claimant solicitor.⁹
- High costs - legal costs to fund no-win no-fee agreements, including recoverable After The Event insurance costs and success fees. The cumulative effect of these fees currently adds circa £2,500 to the cost of an injury claim.¹⁰

2.14 Research by one LMA member indicated that legal fees are so disproportionately high that the average legal fees on injury claims, over the last 18 months, have been *higher* than average general damages paid to claimants.¹¹ In their experience this equated to over £1.08 in legal costs for every £1 paid to claimants.

2.15 The Jackson Review has strongly recommended making a series of changes to the civil litigation system to reduce costs—we fully support these proposals and the Government should press on with implementation. The MoJ is due to consult on this issue, and we look forward to responding to this document. Lord Young of Graffham has also recently made some recommendations to improve the UK liability regime, and these recommendations also deserve serious consideration—particularly if the vested interests of middlemen are to be overcome.

2.16 NB The current no-win no-fee funding mechanism saves the Government money as it replaced legal aid. One of the consequences of replacing state-funded legal aid has been to make the process highly profitable for claimant solicitors and their agents to recruit injury claimants and pursue a claim on their behalf.

⁶ LMA estimate

⁷ LMA member data; 19.5 days vs. 14.5 days

⁸ LMA member data; average credit hire charge of £1100 compared with equivalent insurer costs of £450 in 2009–10.

⁹ Case studies available.

¹⁰ LMA member data; average legal costs in injury claims between January 2009 and September 2010.

¹¹ LMA member data; between January 2009 and September 2010 average legal fees were £2,375 compared with average general damages of £2,165.

2.17 *Claims Farming*: An additional factor driving premium increases is the increase in claims frequency that motor insurers have recently experienced. An LMA member has reported an unprecedented increase of 68% in the number of paid claims in 12 months between Q1 in 2009 vs Q1 in 2010. Whilst this is not necessarily dysfunctional *per se*, such unprecedented increases are highly unusual in such a mature market. Most motor insurers have experienced a significant increase in claimants per claim in recent years, most likely as a result of intensive claims farming, encouraging passengers (for example) to bring a claim where they would not have in the past. This is against a background of falling accident levels.¹² Whilst genuine claimants are fully entitled to damages, the lucrative rewards available to personal injury lawyers, and their agents, would appear to be driving claims farming at unprecedented levels, all of which must ultimately be recovered via premiums.

2.18 *Uninsured drivers*: The costs and risks caused by uninsured drivers are unacceptably high, creating a significant societal problem. Lloyd's syndicates currently contribute around £20 million a year to the levy collected by the Motor Insurers' Bureau, which is used to compensate the victims of uninsured or untraced motorists. The total market levy collected in 2009 was over £400 million, compared with £274 million in 2002, an increase of nearly 70% in eight years. This expense must be ultimately recovered from the premiums of honest motorists. As well as the economic effects, uninsured drivers are disproportionately high-risk; they are far more likely to drink-drive, cause accidents and drive unsafe vehicles.

2.19 However, despite commendably high annual levels of vehicle seizures by Police, a hardcore of uninsured drivers remain. To take make further inroads, Compulsory Insurance Enforcement is to be introduced in 2011, which will involve enforcement from the Motor Insurance Database record; the Government has agreed to fully fund and implement this urgently needed legislation in 2011, and this timetable and investment must be adhered to if the costs and risks are to be reduced further. Particularly in the context of the downturn in the economy and increased unemployment, more motorists may decide to take the risk of breaking the law and drive uninsured. Education of motorists and heightened enforcement are crucial to managing these risks.

2.20 *Fraud*: Insurance fraud is on the increase in several areas: misleading insurers when applying for insurance, fraudulent behaviour when making a claim, and organised fraud. His Honour Judge Hawkesworth QC recently stated that "*Unhappily, fraudulent claims are now legion. They occupy the court time of District Judges and Circuit Judges in West Yorkshire literally week in and week out...Just about every variant of a fraudulent claim comes before the court. The cost to the insurance industry and to other honest policy holders must be very substantial. In addition the cost in court time in trying such cases is very high*".¹³

2.21 The costs of fraud are very high indeed. In respect of organised fraud alone, the Insurance Fraud Bureau estimates that motor insurers are exposed to £350 million of organised fraud per year, adding around £44 to the cost of policies. An LMA member reported that the number of fraudulent claims investigated has increased by 54% in 2009 compared with 2008, and the average value of a motor insurance fraud claim is now over £21,000.

2.22 In terms of Government action to help reduce fraud, we suggest two areas for consideration:

- (a) Increase the deterrent by stepping up criminal prosecutions for fraud; all too often insurers detect fraud and refer the case to the Police, who often do not progress the case, and they consider insurance fraud to be a low-priority issue. A change in Home Office priorities for Police, better incentivising fraud prosecutions could be prudent.
- (b) Reform the law to ensure that both first and third-party insurance fraudsters who inflate their claim risk losing their entire award, where fraud is proven (currently this is the case for first-party claimants only).

CONSEQUENCES OF PRICE INCREASES

2.23 In most cases, given (third party) motor insurance is compulsory, the main consequence of high premiums is increased economic burden on motorists, leading to reduced levels of disposable income. However, we should also recognise that higher premiums could also create a potential increase in uninsured driving, and a potential increase in fraud.

3. The impact on young people of the high costs of motor insurance

3.1 Young people, and all inexperienced drivers, are likely to experience a particularly high economic burden owing to the current increases in insurance premiums. Higher risk drivers pay higher premiums, and therefore their pockets suffer more, in real terms, when premiums rise. They may also face an increased temptation to drive uninsured, or mislead their insurer when applying for cover; both of which are criminal offences.

¹² Department for Transport statistics indicate that reported casualties reduced by 4% between 2008 and 2009. The 2009 figure for road users killed or seriously injured is 44% lower than the 1994–1998 average.

¹³ In *Hussein & Others v Khan & Others* [2006].

3.2 That said, there are two powerful public benefits of the current risk-based pricing model used in the UK insurance market:

- Insureds contribute to the premium pool *relative to the risk they present*, a fair and proportionate system that ensures motorists enjoy the benefit of lower premiums over time, as their risk reduces with experience.
- Risk-pricing creates a powerful economic incentive to reduce risks; the lower the risk you present, the lower your premium. An alternative pricing model (such as using a flat-rate for all drivers, based purely on vehicle risk) would remove individuals' incentive to reduce risks, leading to an increase in accident frequency, and higher costs for all.

3.3 In order to reduce premiums, the underlying risks must be reduced. The ABI published detailed research in 2005,¹⁴ which established that:

- Young drivers were 10 times more likely to be killed or seriously injured than drivers in their 40s.
- Serious accidents involving younger drivers are increasing against a general trend of a reduction in casualty rates.
- A higher proportion of accidents involving young drivers take place at night.
- Young drivers are much more likely to have an accident as a result of speeding, particularly on a bend, driving competitively with other cars, drink/driving or allowing passengers to distract them.
- Young drivers are much more likely to be carrying passengers when they have an accident.

3.4 Following this research, the insurance industry suggested a series of changes in driver licensing policy in order to reduce risks, reduce premiums and improve the safety of young road users. These included:

- A minimum one-year learning period for all learner drivers to increase experience, and reduce the volume of drivers not accompanied by an instructor or supervisor.
- Passenger restrictions including limiting carriage of passengers, and limiting night-time driving. Multiple passengers and night-time driving have been shown to significantly increase young drivers' accident risk.
- Education to change attitudes to driving. Whilst we should be realistic as to what can be achieved, there is significant research indicating that attitude to driving is an important safety factor, independent of driving skill.

3.5 Whilst a consequence of these proposals would be to reduce personal mobility, serious consideration should be given to introducing the above initiatives if the risks, and the costs driven by these risks, are to be reduced.

4. *The extent to which the cost of motor insurance is influenced by the prevalence of road accidents, insurance fraud, legal costs and the number of uninsured drivers*

4.1 The above are key factors affecting costs. Credit hire is an additional relevant factor currently influencing motor premiums upwards.

4.2 Regarding the prevalence of road accidents, there is an ongoing debate regarding the proposal to change Daylight Saving time, adding an hour to GMT in order to make school journeys safer in winter months (the Bill also discusses other wider benefits). The *Daylight Saving Bill 2010–11* is due for its second reading on 3 December, and the Transport Select Cmt may wish to consider supporting the Bill.

5. *Whether there are public policy implications of the rise in the cost of motor insurance and, if so, what steps the Government might take in response to them.*

There are several important public policy implications of the issues outlined above. To summarise, we recommend that the Committee and the Government should:

- Note that market reform may be required to remove excessive costs for insurers and consumers caused by credit hire.
- Implement Lord Jackson's proposals in full, to reduce the costs of civil litigation.
- Consider implementing Lord Young's proposals.
- Ensure that Continuous Insurance Enforcement is implemented as planned in 2011.
- Fully consider proposals to reduce the risks presented by inexperienced drivers.
- Incentivise the Police to assist in prosecuting more insurance fraudsters.
- Improve Court powers to tackle insurance fraudsters.
- Consider supporting the Daylight Savings Bill.

November 2010

¹⁴ Young Drivers: Road Safety and the Cost of Motoring.

Written evidence from the Association of British Insurers (ABI) (CMI 13)

1.1 The UK insurance industry is the third largest in the world and the largest in Europe. It is a vital part of the UK economy, managing investments amounting to 24% of the UK's total net worth and contributing the fourth highest corporation tax of any sector. Employing over 275,000 people in the UK alone, the insurance industry is also one of this country's major exporters, with a fifth of its net premium income coming from overseas business.

2. EXECUTIVE SUMMARY

2.1 The ABI has, for some time, been actively campaigning for several key issues to be addressed in order to help stem the cost increases being faced by motor insurers. We believe if these issues are addressed, there will be a substantial improvement in the operating environment for motor insurers which will deliver real benefits for customers.

How motor insurance costs could be better controlled

- The implementation, as a package and in full, of the recommendations of the Jackson Review on civil litigation costs designed to bring costs under control and make them fairer.¹⁵
- The implementation of the recommendations of Lord Young's review of health and safety and the compensation culture¹⁶ and extending the simplified claims procedure for personal injury claims for road traffic accidents on a fixed costs basis from claims of up to £10,000 to claims of up to £25,000.
- Introducing measures to reduce the number of accidents involving young drivers by extending learning periods, limiting the number of passengers young drivers can carry and improving driver education.
- Further reducing the incidence of uninsured driving by implementing regulations to ensure Continuous Insurance Enforcement which will make it an offence to keep a vehicle without valid insurance.
- Facilitating greater data sharing between the industry and the public sector in order to tackle fraud.
- Implementing the proposals in the ABI publication *Tackling Whiplash, Prevention, Care, Compensation* to improve driver awareness of the risk for example by adjusting their car head restraints properly and learning to keep a safe distance.
- Continuing to allow insurers to price risk accurately by using both gender and age as legitimate factors on which to base premiums.

BACKGROUND

2.2 The latest figures from the AA Premium Index show that motor insurance premiums are increasing following a long period when premiums were relatively stable. This increase is the inevitable result of the increasing claims costs facing insurers. In particular, claims arising from injuries to people on our roads are becoming more and more expensive and insurers are receiving more of these types of claims.

2.3 EMB, the actuarial consultancy, recently reported that "*Bodily injury (BI) claims in particular have been increasing steadily for some time. EMB has seen clear indications that even though the number of accidents is decreasing, the number of BI claims continues to increase, accompanied by a significant rise in the average size of such claims, in part driven by a strong increase in the number of claimants per claim. Based on data representing 85% of the FSA regulated market, the Institute of Actuaries Third Party Working Party has estimated that bodily injury claims frequency has recently been increasing at 9% per annum and average bodily injury claim amounts at over 20% per annum, resulting in bodily injury claims cost inflation of some 30%*".¹⁷

2.4 Bodily injury claims are also often characterised by disproportionate legal fees which mean that, for low value claims in particular, more money ends up in the hands of claims management companies and lawyers rather than with the injured. The ABI surveyed over 50,000 low value motor accident claims (ie claims under £5k) from September 2009 to March 2010, and found that for every pound paid in compensation, a further 87p was paid in legal costs (the claimant's costs only).¹⁸

2.5 The proliferation of claims management companies in recent years is also fuelling claims inflation. On this, the EMB report comments "From 2008 to 2009, Datamonitor reported in 'UK Personal Injury Litigation 2009' that the number of companies offering claims management services increased by over 50% from 1,409 to 2,232. As well as the numeric growth, the market leaders have become increasingly aggressive in their efforts to win business".

2.6 Motor insurance has represented good value for customers in recent years, with insurers making an underwriting loss, that is claims and expenses exceeded premiums, for each of the past 15 years. The

¹⁵ Review of Civil Litigation Costs: Final Report, The Rt. Hon. Lord Justice Jackson, 2009.

¹⁶ Common Sense Common Safety, Lord Young of Graffham, 2010.

¹⁷ EMB Motor Insurance Industry Report, 2009.

¹⁸ ABI Research.

underwriting loss reached a record £1.5 billion in 2009.¹⁹ These losses have often been manageable by insurers because they have traditionally made some investment income on the premiums they hold. This has often allowed them to make a small profit on their motor account despite making an underwriting loss.

2.7 However, investment returns in the current environment are limited. The combination of large underwriting losses, substantial claims inflation and poor investment returns has resulted in insurers having to increase their premiums in order to try and return their motor insurance accounts into profit. But the highly competitive nature of the market, in which round 50 insurers are active, will prevent insurers from making excessive profits from this business.

2.8 The increasing problem of insurance fraud, the number of uninsured drivers and the number and cost of whiplash claims also have a major impact on the cost of motor insurance.

3. COMMENTS ON THE SPECIFIC ISSUES RAISED BY THE COMMITTEE

3.1 The main factors pushing up the cost of motor insurance are:

- consistent underwriting losses and poor investment returns;
- the increasing number and cost of personal injury claims;
- legal costs associated with personal injury claims;
- fraudulent claims;
- uninsured driving; and
- Whiplash.

The next section will examine these factors in some more detail.

Consistent underwriting losses and poor investment returns

3.2 The UK private motor insurance market has not recorded an underwriting profit in any year since 1994. An underwriting loss of £1.5 billion in 2009 represents the largest loss on record. The net written premiums have consistently stayed higher than the net claims incurred, but the expenses and commission paid on top of these claims has meant the private motor market has made an overall underwriting loss throughout the period. Whilst in some of these years insurers would have been able to make investment returns on the premiums they hold, this is not the case in the current economic climate.

The increasing number and costs of personal injury claims

3.3 Government statistics show that the number of accidents on the roads is decreasing: between 1996 and 2006, the number of people killed or injured on British roads fell by 19%.²⁰ However, the International Underwriting Association (IUA)/ABI Bodily Injury Study²¹ found that the number of bodily injury claims paid out by insurers increased at an annual rate of nearly 3% between 1996 and 2006. There may be several reasons for this discrepancy: a higher proportion of people involved in accidents may be making insurance claims and/or the proportion of accidents being reported to the police is falling. The ABI believes that it is a combination of both factors.

3.4 However, since this 2006 study these trends appear to have accelerated. It has recently been estimated that bodily injury claims frequency has been increasing at 9% per annum and average bodily injury claim amounts at over 20% per annum, resulting in bodily injury claims cost inflation of some 30%²².

3.5 Although the ABI has not collected statistics on the proportion of total motor insurance claims costs that arise from bodily injury claims, feedback from members and EMB suggests that the cost of BI claims as a proportion of total motor insurance claims has more than doubled in the last 20 years and now accounts for around half of all motor claims costs.

Legal costs associated with personal injury claims

3.6 The proliferation of claims management companies in recent years is fuelling claims inflation.

3.7 ABI estimates that 10% of every motor insurance premium is going to the legal profession. UK consumers are paying £2.7 million a day to the legal profession through their motor insurance premiums.²³ We believe that more needs to be done to tackle these costs, for example by backing the Jackson Review to introduce much needed reforms into the personal injury claims process and to require higher value claims to be referred to the Road Traffic Accident (RTA) claims portal.

¹⁹ ABI Research.

²⁰ IUA/ABI Fourth UK Bodily Injury Awards Study, 2007.

²¹ IUA/ABI Fourth UK Bodily Injury Awards Study, 2007.

²² EMB Motor Insurance Industry Report, 2009.

²³ ABI Research.

3.8 The portal, launched in April 2010, allows claimant lawyers to electronically submit motor accident personal injury claims details to insurers and provides a platform for the electronic exchange of all relevant claim information and documentation (including medical records).

3.9 Although official figures are not yet available, it has been widely accepted by both insurers and claimant groups that the portal has significantly reduced the costs associated with the settlement of motor accident claims where liability is not an issue. This is the case in the overwhelming majority of motor accident claims.

3.10 It has also reduced the number of days that it takes to settle a claim, meaning that claimants have been receiving their compensation quicker than they would have done prior to its introduction.

Fraudulent claims

3.11 Insurance fraud is also a growing problem. We estimate that in 2009, £930 million of motor insurance fraud went undetected, adding £39 to the cost of every motor premium.²⁴ Of even greater concern than the cost, organised motor fraud in the form of staged motor accidents—where fraudsters cause accidents in order to claim against honest policyholders—has significant implications for road safety and, indeed, may help fund more serious criminal activities. Tackling fraud is a priority for the insurance industry. Insurers are investing more resources in detecting fraud than ever before and are starting to see positive results—in 2009, insurers' detected 11% more fraud than in 2008.²⁵

3.12 Key to tackling fraud is improved data sharing, both within the industry and with other sectors. The ABI is currently piloting the Insurance Fraud Register, an insurance industry database of known frauds. As well as facilitating better data sharing between insurers, the Register will also allow the insurance industry to share data with the National Fraud Authority which provides intelligence to enforcement agencies in order to disrupt fraud. We are also in discussions with the DVLA to secure real-time access to its driver licence database which will improve the accuracy of the data on which insurers can set premiums.

Uninsured driving

3.13 Uninsured driving still costs honest motorists of £500 million each year paid for through their insurance premiums²⁶ but uninsured drivers are more likely to get caught now than ever before: improved detection techniques and enforcement of the law has resulted in a reduction in uninsured driving in the UK in the last four years. Since 2005 real progress has been made with more than 600,000 vehicles seized for no insurance, contributing to an overall 20% reduction of the number of claims from uninsured and untraced motorists.²⁷ However, more is needed to address the 4% of vehicles driven on the road without insurance, particularly by introducing Continuous Insurance Enforcement to make it an offence to keep a vehicle without insurance.

Whiplash

3.14 Whiplash is also a major societal phenomenon. ABI research reveals that over 432,000 people make a whiplash claim every year—equivalent to one in every 140 people in the UK.²⁸ This is six times more than the total number of people who make workplace injury claims every year and the problem is getting worse. 20% of every motor premium is paid out against whiplash claims every year.²⁹ The ABI 2008 publication *Tackling Whiplash, Prevention, Care, Compensation* sets out our proposals to get to grips with this issue for example by improving driver training and making people more aware of how to adjust their headrests properly.

4. THE IMPACT ON YOUNG PEOPLE OF THE HIGH COSTS OF MOTOR INSURANCE

4.1 It is important to recognise that, in the case of young drivers in particular, the insurance premium charged has little to do with the value of the car insured. The main purpose of motor insurance is to meet the cost of any claim brought against the driver by a third-party for injury or damage to their property, including any associated legal costs. Tragically, it is all too common for a young driver with young passengers in his car to have a serious accident resulting death or serious injury. These claims can run into many millions of pounds.

The ABI has been campaigning for some time for the Government to introduce:

- A minimum one-year learning period for all learner drivers.
- Passenger restrictions so that newly-qualified drivers aged under 20 should be limited to carrying no more than one passenger under age 20 during their first six months of driving.
- Education to change attitudes to driving among young people.

4.2 This package of measures should significantly reduce the number of young people killed and injured on our roads.

²⁴ ABI, *General Insurance Claims Fraud*, 2009.

²⁵ ABI statistics, 2008 & 2009.

²⁶ Motor Insurance Bureau Key Facts.

²⁷ Motor Insurance Bureau Annual Report, 2009.

²⁸ ABI *Tackling Whiplash, Prevention, Care, Compensation*, 2008.

²⁹ ABI *Tackling Whiplash, Prevention, Care, Compensation*, 2008.

5. CONCLUSIONS

5.1 The evidence presented in this paper makes it clear that the recent increases in motor insurance premiums are an inevitable, if unwelcome, market reaction to continuous underwriting losses, increasing costs and falling investment returns. However, the market remains very competitive and this will prevent excessive profits being made by insurers.

5.2 Insurers do recognise the impact that these price increases are having on customers but it should also be recognised that these increases are a symptom of a number of wider social and economic issues as described above. The ABI has been actively campaigning on a number of issues over recent years to reduce the number of accidents and injuries on our roads and to make the process for compensating injured people more efficient and fair. We believe that implementing some of or all of these proposals is the most effective way will help to stem the increasing costs of motor insurance.

November 2010

Supplementary evidence from the Association of British Insurers (CMI 13a)

1. The UK insurance industry is the third largest in the world and the largest in Europe, it is a vital part of the UK economy, managing investments amounting to 24% of the UK's total net worth and contributing the fourth highest corporation tax of any sector. Employing over 275,000 people in the UK alone, the insurance industry is also one of this country's major exporters, with a fifth of its net premium income coming from overseas business.

2. EXECUTIVE SUMMARY

2.1 The ABI has already submitted a response to the Transport Select Committee regarding the rising costs of motor insurance. This supplementary submission should be read in conjunction with our earlier evidence. This submission outlines the ABPs position with regard to the Lord Chancellor's recent confirmation of his intention to conduct a review of the discount rate. For the reasons outlined below, the ABI strongly opposes any reduction in the discount rate as this will lead to substantially increased costs to insurers, which will ultimately have to be passed onto consumers through higher insurance premiums.

3. THE DISCOUNT RATE

3.1 The discount rate is used to calculate the size of the lump sum payment awarded to a claimant to meet their ongoing needs. The discount rate is applied to all lump-sum payments (but not to periodic payments which are paid, as the name suggests, in regular instalments) and is set by the Lord Chancellor pursuant to section 1 (1) of the Damages Act 1996.

3.2 All insurers are bound to apply the discount rate set by the Government to lump-sum payments of compensation. The discount rate set by the then Lord Chancellor in 2001 was based on yields generated by index-linked government securities (ILGS) and was calculated at 2.5%. The current Lord Chancellor confirmed he is reviewing the discount rate in early November 2010, following pressure from the Association of Personal Injury Lawyers.

4. IMPACT ON THE INSURANCE INDUSTRY AND ITS CUSTOMERS

4.1 Any reduction in the discount rate will have an immediate effect on the settlements made by the industry. Reducing the rate from the current level of 2.5% would lead to a smaller discount being applied to compensation payments and, therefore, significant and immediate increases in settlements which would have both a retrospective (i.e. claims filed but not yet settled) and ongoing effect. These substantial and immediate increased costs on insurers are likely to be passed onto consumers through higher premiums.

4.2 ABI members have provided us with actuarial calculations estimating the potential impact of a change to the discount rate. This information has enabled us to estimate that a reduction in the discount rate will result in immediate and ongoing extra costs to insurers amounting hundreds of millions of pounds. As we indicated in our earlier submission (see paragraph 2.6), last year motor insurance made an underwriting loss of £1.5 billion—the 15th successive year the industry made an underwriting loss. Against this background, it is difficult to imagine the industry not passing on the increased costs associated with reducing the discount rate to consumers through increased premiums.

4.3 It is important to recognise that these are only the potential costs to the insurance industry. Any rate reduction would also apply to compensation payments made by Government, in particular through the National Health Service and the Ministry of Defence.

5. CALCULATION OF THE DISCOUNT RATE

5.1 The ABI is not aware of any objective evidence demonstrating that claimants are undercompensated. In the vast majority of claims, future losses are settled on a conventional lump sum basis, despite the facility for

parties to agree, or the courts to order, periodical payments, suggesting there is a general acceptance by all parties that opting for a lump sum approach does not result in an award which is too low.

5.2 In addition, average yields from the investment of lump sum awards are, in practice, likely to be, higher than the conservative returns on which the calculation of the discount rate is currently based. This suggests the discount rate should be calculated on wider classes of assets than the current focus on ILGSs. Doing so would bring payments into line with how claimants actually invest their compensation. This would also align the UK more closely with other European countries—for example, both Germany and Luxembourg have a 4% discount rate.

5.3 Although rates of return on ILGSs are currently depressed, they can be expected to rise in time. This may mean that ILGS yields over recent years provide an inaccurate basis for the future projection of a net rate of return. Given the current volatility of international financial markets and overall economic conditions, the ABI believes that it is not possible to make any accurate predictions about valuing future returns.

6. CONCLUSION

6.1 The ABI is not aware of any objective evidence demonstrating that claimants are undercompensated. Any reduction in the discount rate will lead to increased costs for consumers, including motor insurance premiums. We, therefore, urge the Committee to recommend that the Government not reduce the discount rate.

December 2010

Further supplementary evidence from the Association of British Insurers (ABI) (CMI 13b)

I am writing to you about the recent Transport Select Committee oral evidence session on “The Cost of Motor Insurance” held on Tuesday 11 January 2011. The ABI was disappointed that relevant aspects of our submissions to the Committee were not acknowledged during this session, particularly in relation to fraud, personal injury costs and the discount rate.

You asked during the session why insurers are “reluctant” to reduce fraud. This is not the case: addressing insurance fraud is one of the ABI’s priorities. As we made clear in our submission, our members are investing more resources in detecting fraud than ever before, with positive results: in 2009, insurers detected £840 million of fraud, representing an 11% increase on 2008. On an industry basis, we continue to support the Insurance Fraud Bureau, which is funded entirely by the insurance industry, specifically focused on detecting and preventing organised and cross-industry fraud. We are also currently piloting the Insurance Fraud Register, an insurance industry database of known frauds. As well as enhancing cross-industry data sharing, the Register will allow the insurance industry to share data with the National Fraud Authority which provides intelligence to enforcement agencies in order to disrupt fraud.

Close working with the police is essential to ensure that fraudsters are not just detected, but also appropriately punished. As such, we are currently in discussions with the City of London Police and the National Fraud Authority to identify whether there are ways to improve the way police and insurers work together to bring successful prosecutions, mindful of the increasing strain on police resources.

We are not only interested in detecting and prosecuting fraud, we also want to prevent it happening in the first place. As mentioned by the Minister for Road Safety, we are working with the DVLA to secure real-time access for insurers to its driver database. This would mean that all driving convictions and offences are disclosed accurately to insurers, thereby ensuring that customers are charged an accurate price for their cover.

The Committee also expressed an interest in how much personal injury claims have increased. In our submission we give a range of figures. Feedback from ABI members and EMB suggests that the cost of bodily injury claims as a proportion of total motor insurance claims has more than doubled in the last 20 years and now accounts for around half of all motor claims costs.

We believe that more needs to be done to tackle these costs, for example by implementing the recommendations of Lord Justice Jackson’s review of the costs of civil litigation to introduce much needed reforms into the personal injury claims process and to increase the size of claims beyond £10,000 that can be referred to the Road Traffic Accident (RTA) claims portal (as referred to by the representative from APIL at last week’s evidence session).

We were concerned that the Committee did not address the Lord Chancellor’s recent confirmation of his intention to conduct a review of the discount rate, particularly as it was one of the witnesses, the Association of Personal Injury Lawyers, which pressed for this review to take place. As covered in our supplementary submission to the Committee, the ABI strongly opposes any reduction in the discount rate which will lead to hundreds of millions of pounds of increased costs for insurers, which will ultimately have to be passed onto consumers through higher insurance premiums.

We are not aware of any objective evidence demonstrating that claimants are currently undercompensated. This review is not necessary, has been prompted for the wrong reasons and involves no objective consultation. With such huge cost implications for the insurance industry’s customers and the Government, to have such an

opaque process with no formal consultation is wrong and represents bad policy making. We, therefore, urge the Committee to press the Lord Chancellor for an open consultation on the review of the discount rate.

January 2011

Written evidence from Confused.com (CMI 14)

1. BACKGROUND

1.1. The submission below is submitted on behalf of Confused.com.

1.2. Confused.com was the first online price comparison site for motor insurance launched in 2002. A subsidiary of Admiral Group plc it has provided over 24.5 million motor insurance quotes to 9.2 million customers in 2009. Confused.com is not a provider of motor insurance, but acts as an acquisition channel for its “partners” (insurance providers whose policies are available to purchase via Confused.com).

1.3. The views represented here are of Confused.com comparison site and not the Admiral Group as a whole. Confused.com believes it has a dual role in the motor insurance industry: representing customers and acting in their best interests to provide insurance at the best price for their needs and circumstances. In addition, Confused.com is committed to working with its partners to ensure a successful, strong and sustainable insurance model which meets customers’ needs whilst delivering its objectives.

2. The submission has been broken down into four areas as requested in the call for evidence. Further detail or clarification is available on request where required.

3. THE REASONS BEHIND RECENT INCREASES IN THE COST OF MOTOR INSURANCE

3.1. Premium inflation before 2010 has remained flat for more than three years.

3.2. Claims costs however have been escalating year on year.

3.3. The rise of comparison sites has served to make the whole market of motor insurance prices more visible to the customer. Whereas previously customers had to commit time to ringing around a lot of individual insurance providers or trust their current insurer to give them the best deal, they are now able to compare a vast amount of providers in one place in a short amount of time. This increased competition has created great value to the customer.

3.4. Comparison has relaxed barriers to entry of new providers to the market. It is easier than ever to enter the motor insurance market and instantly have access to large amounts of quotes through comparison sites. This increased competition has also been a factor in keeping the consumer costs of car insurance down.

3.5. Factors such as increasing costs of claims, more injury payouts (where more drivers are making claims for injuries that they may previously have not claimed for) and increasing fraud (falsifying quote information in order to lower their insurance premiums and the rise in fraudulent claims) have created a situation where many providers are operating at an underwriting loss.

3.5.1. The impact of fraud is significant, whether large- scale operations or simply embellishing personal injury for compensation. The National Fraud Authority suggests that dishonest insurance claims cost around £2 billion a year and Cash-for-crash hotspots have been named in Birmingham, Liverpool, Blackburn, Manchester and Leeds.

3.6. Due to the financial crisis and the extremely low interest rates we are now experiencing, insurance providers have lost significant revenue from investing their premium reserves in the markets.

3.7. Uninsured drivers are also causing prices to increase. According to the Motor Insurance Bureau (MIB) they are costing the insurance industry around £500 million a year. Covering the cost of uninsured drivers adds on average around £30 to every motorist’s policy.

3.8. In summary, on the whole, insurance providers have not been increasing their premiums, however at the same time their costs have been going up. Resulting in the situation where on average the insurance providers are currently paying out £1.23 on claims and expenses for every £1 they earn in motor insurance premiums, a unsustainable model.

3.9. The result of these circumstances has led to the recent significant premium rises, as insurance providers have reacted strongly to move towards a profitable model.

4. THE CONSEQUENCES OF INCREASED INSURANCE PREMIUMS ARE AS FOLLOWS:

4.1. Increased uninsured drivers. MIB estimate that there are currently 3.6 million uninsured cars in the UK at present. The risk is that people will be priced out of the market when it comes to insurance and gamble with cover.

4.2. Increased Underinsurance—High premiums will force drivers to reduce cover. They will likely either reduce their insurance cover to Third party only policies or alternatively reduce the amount of ancillary

insurance products they have with their motor insurance (eg legal cover, courtesy cars and breakdown cover) in an attempt to mitigate prices rises and save money.

4.3. An increase in fraud, via cash-for-crash large scale undertakings and in smaller ways (like non-disclosures to get a better price), are likely. Inflated claims will put more pressure on insurance providers' profit margins and will also lead to more people having policies cancelled for deception in the event they are caught, leading to a further increase in uninsured drivers.

5. THE IMPACT ON YOUNG PEOPLE OF THE HIGH COSTS OF MOTOR INSURANCE.

	<i>Prop</i>	<i>Annual % Change</i>					<i>Average Premium</i>		<i>% Increase</i>	
		<i>Q1</i>	<i>2009</i>			<i>2010</i>		<i>2006</i>		<i>2010</i>
		<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q4</i>	<i>Q2</i>	
17–20	4.10%	8.0%	2.8%	5.4%	8.5%	12.3%	30.9%	£1,350	£1,884	40%
21–25	10.40%	-0.7%	2.2%	6.7%	14.8%	16.8%	34.3%	£773	£1,007	30%
26–30	11.30%	2.8%	4.4%	7.1%	14.1%	15.9%	33.4%	£499	£657	32%
31–35	12.30%	2.7%	5.9%	7.7%	13.6%	15.3%	29.2%	£395	£511	29%
36–40	12.00%	3.2%	6.8%	8.1%	12.4%	13.7%	27.3%	£352	£452	28%
41–45	12.30%	5.7%	9.1%	7.3%	12.2%	13.5%	30.3%	£364	£499	37%
46–50	11.00%	7.6%	10.4%	7.6%	12.5%	13.8%	32.2%	£376	£532	41%
51–55	8.90%	7.8%	10.9%	8.1%	12.7%	13.8%	32.0%	£340	£486	43%
56–60	7.10%	7.8%	10.7%	8.3%	11.5%	13.0%	29.3%	£282	£390	38%
61–65	5.10%	8.0%	10.7%	8.2%	12.0%	12.8%	27.2%	£244	£332	36%
66–70	2.60%	7.9%	10.7%	9.5%	12.6%	13.1%	26.6%	£234	£325	39%
71 Plus	2.90%	7.5%	9.4%	9.7%	10.9%	9.5%	18.7%	£260	£336	29%
Total	100.00%	4.5%	6.3%	7.3%	12.6%	14.3%	31.0%	£445	£599	35%

(Figure 1.1—Source EMB Confused.com)

5.1. Young people suffer more than any other age group when it comes to high insurance premiums. Young drivers have not only historically suffered high insurance premiums; they've also been hit hard by the recent increases in premiums by insurance providers (see table above). On average young drivers pay far more than any other age group throughout the motor insurance industry. Males also suffer considerably more than their female counterparts. (Source—EMB Q2 2010).

5.2. There are several reasons why the young are particularly affected by high insurance premiums, including:

5.2.1. *Make larger claims*—Our research shows that young drivers make larger claims than other drivers, despite driving smaller or lower costs vehicles (see table below).

	<i>2008</i>			<i>2009</i>			
	<i>No. of Driver Claims</i>	<i>Total claim cost</i>	<i>Average claim cost</i>	<i>No. of Driver Claims</i>	<i>Total claim cost</i>	<i>Average claim cost</i>	<i>Annual Claim Inflation</i>
17–25 Male	574,151	1,348,190,401	2,348	378,687	1,134,315,451	2,995	28%
17–25 Female	343,296	619,253,964	1,804	228,514	636,085,281	2,784	54%
All Male	1,804,431	3,973,030,466	2,202	1,168,854	2,908,811,132	2,489	13%
All Female	1,258,467	2,123,714,153	1,688	790,889	1,706,677,642	2,158	28%
Total	3,062,898	6,096,744,619	1,991	1,959,743	4,615,488,774	2,355	18%

(Figure 1.2—Source Confused.com)

5.2.2. *Suffer higher claims inflation*—Claims inflation for young drivers is increasing at a faster rate than average. Table above shows that both male and female claims costs have rising above the average during 2008.

5.2.3. *Typically young drivers are the most inexperienced*—Experience is key rating component of motor insurance and inexperience results in higher premiums overall.

5.2.4. *High costs of finance*—Due to higher premiums many young drivers have to pay for their insurance by monthly instalments, rather than one upfront payment.

5.3. The impacts of high premiums for young drivers are:

5.3.1. *High premiums will encourage uninsured driving*—Higher premiums make insurance less affordable, especially for the young who have lower disposable incomes. This in turn increases the likelihood of uninsured driving due to the fact they cannot afford to legally drive.

5.3.2. *Under insurance*—Due to high premiums young drivers are more likely to strip out cover they see as unnecessary. Legal cover, courtesy cars and comprehensive cover might be sacrificed to reduce the burden of insurance and result in drivers being underinsured for their personal circumstances. Whilst this

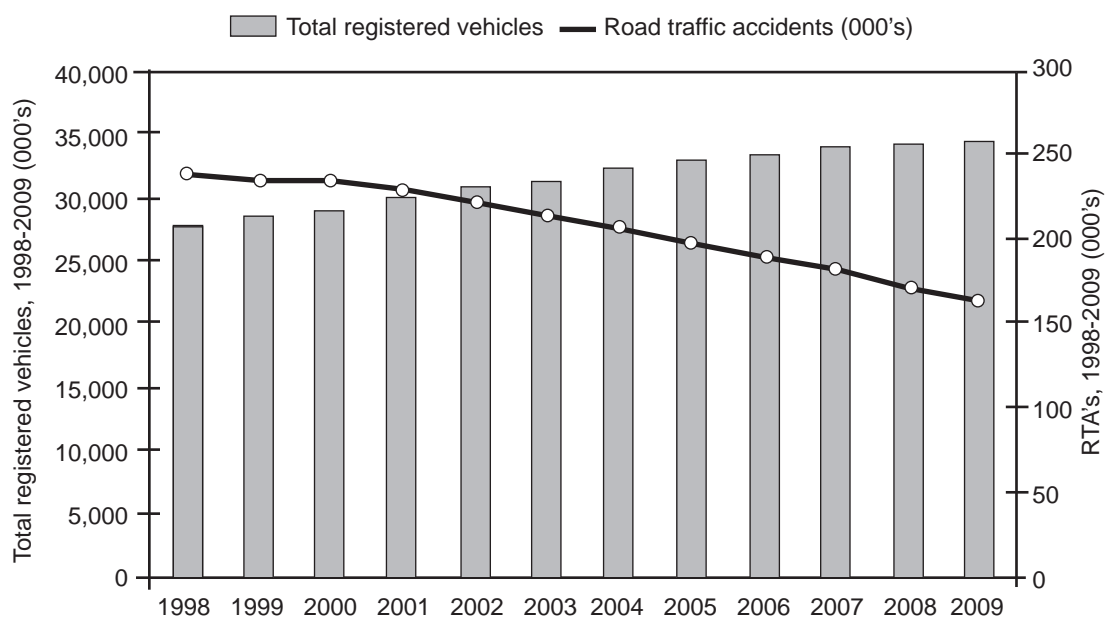
might make insurance more affordable in the mean time it will impact them more heavily when a claim is made.

5.3.3. *Fronting*—Fronting is already a major problem in the industry, especially with young drivers. The probability of fronting a policy will increase as premiums remain higher than average.

5.3.4. *Fraud*—Insurance pricing is based on an application form completed by the customer with “utmost good faith” that the information provided is correct. Higher costs of insurance might encourage drivers to manipulate their information or lie on their insurance application forms to obtain cheaper insurance. They may also exaggerate claim costs & bodily injury during a claim

6. MOTOR INSURANCE IS INFLUENCED BY THE PREVALENCE OF ROAD ACCIDENTS, INSURANCE FRAUD, LEGAL COSTS AND THE NUMBER OF UNINSURED DRIVERS IN THE FOLLOWING WAYS:

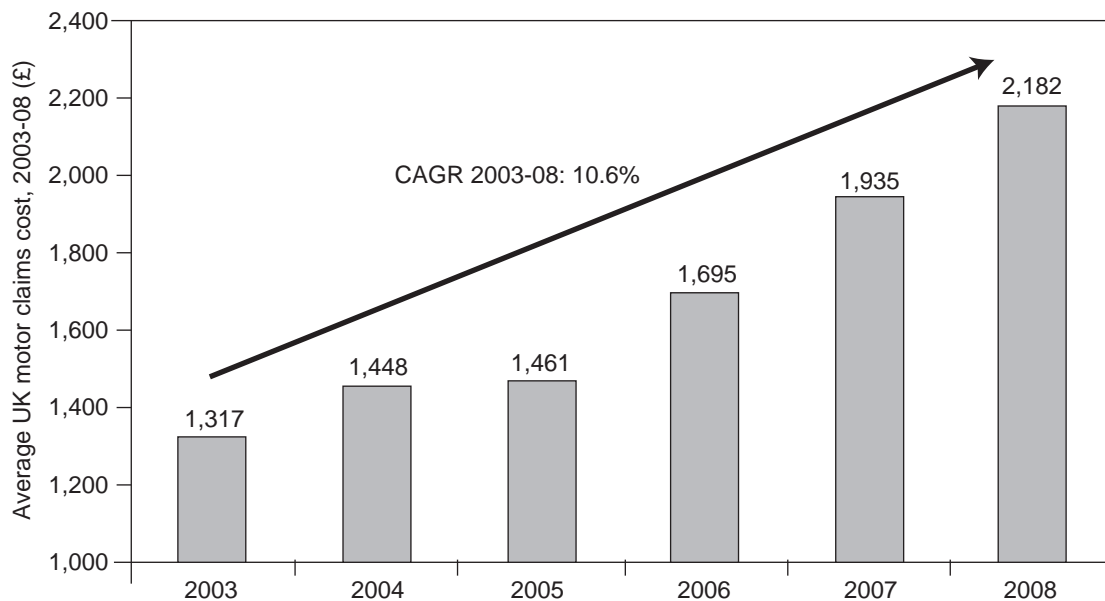
6.1. *Road Traffic Accidents*—Despite the rise in registered vehicles, the number of accidents & people killed or seriously injured has decreased in recent years (see figure 1.3 below). The fact that premiums haven’t decreased leads us to the conclusion that claims frequency doesn’t necessarily result in increased premiums.



Source: Datamonitor, Department for Transport

(Figure 1.4—Source Department of Transport via Data monitor)

Conversely average claim costs have risen significantly during the same time period suggesting that the cost of claims affect insurance premiums more (see figure 1.4 below). According to the ABI medical inflation is the main driver of this increase, especially in the case of bodily injury claims. The average cost of a bodily injury claim far exceeds all other claim types and results in significantly higher outgoings on behalf of the insurance provider (see figure 1.4)



Source: ABI

(Source—ABI via Data Monitor)

Finally the increased number of high-value claims has arisen as a result of the greater involvement of third-party management costs such as credit hire organizations and claims management companies.

6.2. Insurance fraud—More prevalent when premiums are high or in times of financial hardship and economic downturn. As expected, the number of fraudulent incidents increased during the recession as cash-strapped individuals sought to make money from insurers. The most high profile cases of fraud are “cash for crash” scams. Another type of fraud is “fronting” and usually this occurs when a parent declare themselves as the main driver despite one of their children being the primary car user. The Motor Insurers’ Bureau (MIB) found that two thirds of drivers in fact do not even understand what it means to “front”.

Undetected fraud is estimated to increase the cost of an average annual individual policy by around £44. (Source Insurance Fraud Bureau)

6.3. Uninsured Driving—Like fraud uninsured driving increases in times of financial hardship or economic decline. Uninsured driving is typically prevalent in young drivers, with drivers under 26 being 11 times more likely to have an IN10 Conviction in the last five years than over 60’s. (Source: Confused.com)

7. PUBLIC POLICY IMPLICATIONS OF THE RISE IN THE COST OF MOTOR INSURANCE AND STEPS THE GOVERNMENT MIGHT TAKE IN RESPONSE TO THEM ARE AS FOLLOWS:

7.1. More education and support for young drivers. Making driving tests harder and more relevant to current driving and revamping the pass plus scheme could decrease claims, thus decreasing the costs associated with claims, allowing the price of policies to fall.

7.1.1. With 15% of the drivers causing 31% of all accidents and 40% of all claims cost, schemes to educate new drivers and provide them with better experience can only help to bring this down.

7.1.2. The pass plus scheme has started to become less of a desired qualification with some insurers as they don’t see the benefit in lowered risk. Drivers are not getting the benefit of reduced premiums with this qualification. Is it time to re-assess this scheme and improve to make it an attractive option for drivers and insurers alike.

7.2. GPRS technology for younger drivers would help keep accidents down and allow insurance companies to give lower premiums to adopters. Cover Box and green Road, to name two have developed technology to track the driving styles and habits of drivers. They apply these schemes with insurers to provide a lower risk . If the driver is driving adversely then the premiums go up. There is a cost to fitting the technology to vehicles, but by supporting these schemes for younger drivers, we would be likely to see fewer accidents, more responsible driving and as a result lower premiums for these individuals.

7.3. Higher deterrents for uninsured drivers would also have a positive impact on policy prices.

7.3.1. The deterrent for driving without insurance is at maximum a fine of £1,000, more commonly those caught are penalised for £200–£300 (in 2008 average fine dropped from GBP224 to GBP185).³⁰ Where the cost of the penalty remains significantly cheaper than the cost of the policy the incentive to drive legally is diminished.

³⁰ Source <http://www.prweb.com/releases/car/insurance/prweb1621854.htm>

7.4. Facilitate insurers working with with the DVLA databases to cut down on Fraud. Having access to the DVLA databases for convictions and licence types will remove the temptation for fraud (because information will be provided from an official source) and allow insurers to accurately represent the drivers conviction history and the customers risk more accurately in the prices they are offered.

8. In *summary*, Confused.com believes the three biggest contributing factors to the rise in insurance fraud which can be proactively managed are:

8.1 Instances of accidents and high claims amongst young people. Young people aged 17–25 account for 31% of accidents which represents 40% of total claim cost. Reducing the number of accidents further and decreasing the average claim would have a positive effect on insurance prices.

8.2. Put further challenges in place to combat uninsured drivers, making the penalty greater than the cost of insurance, encouraging young people to take insurance in the first place and reducing the cost for honest motorists

8.3. Improve data sharing between insurers and groups such as the DVLA to reduce instances of fraud and to create an industry solution to the new model by which motor insurance is purchased.

November 2010

Written evidence from Motor Insurers’ Bureau (CMI 16)

1. BACKGROUND

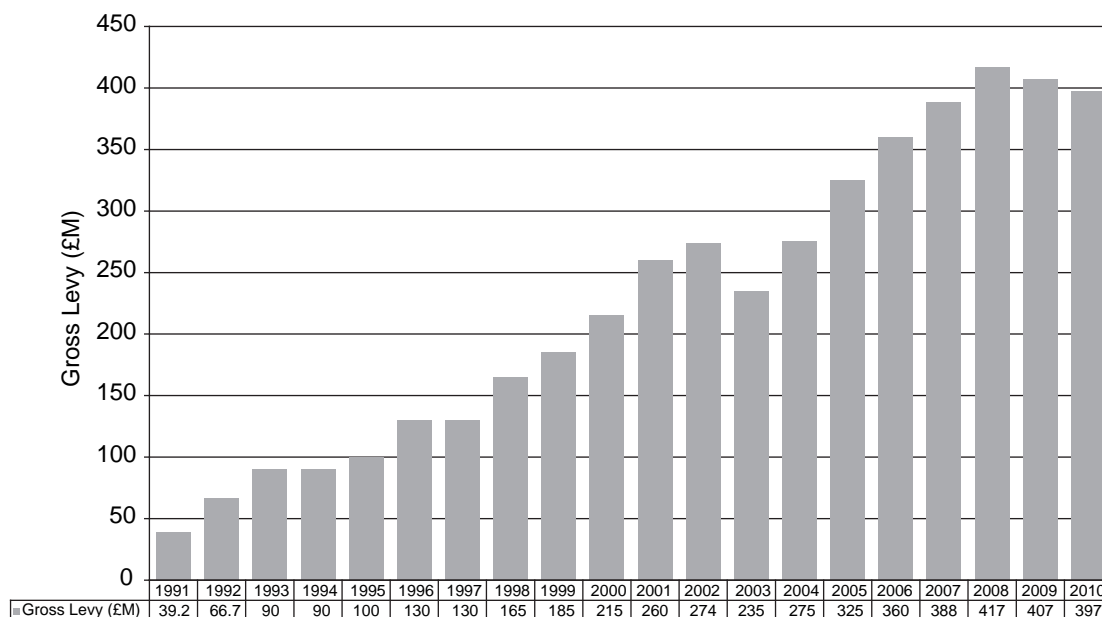
The obligation to have valid liability insurance covering the use of motor vehicles is one of the core principles of the European Community motor insurance legislation. It has been clearly stated by the European Insurance & Occupational Pensions Committee (EIOPC) that Member States should do everything in their power to combat uninsured driving.

Unfortunately, historically the UK has had a very poor record of addressing this problem with levels of uninsured driving exceeding 5% of the vehicles on UK roads or 1 in 20 cars. This compares poorly with the best in Europe such as, for example, Germany, Sweden, Denmark and Austria where levels are less than 1%.

2. THE COST OF UNINSURED DRIVING

The Motor Insurers’ Bureau (MIB) is a company limited by guarantee and was established to ensure that the victims of uninsured driving and “hit and run” drivers do not go uncompensated following an accident. It operates under two agreements with the Department for Transport and currently deals with over 30,000 claims from innocent victims each year at a cost of some £400 million. This is a cost which is ultimately borne by the honest and responsible consumer. In view of the obligations arising under the Road Traffic Act insurers currently also have to deal with a significant number of claims which would otherwise be classed as uninsured. Therefore, the true financial cost of uninsured motoring in the UK almost certainly exceeds £500 million.

This financial burden has, until very recently been increasing relentlessly. The MIB levy on insurers has increased from £39 million in 1991 to £417 million in 2008.



The Motor Insurance Database (MID) is the central insurance database for UK vehicles established by the insurance industry and operated by the MIB. Since its introduction together with the police facility to interrogate the MID and the police power to seize uninsured vehicles, there has been a welcome reversal of the rising trend in the costs of uninsured driving.

On average, one person is injured every 20 minutes and three people are killed each week by uninsured or untraced drivers and whilst this remains unacceptably high there are encouraging signs that matters are improving. With the introduction of the MID, coupled with the concerted effort and collaboration with all UK Police forces, the level of this socially unacceptable crime has fallen by something in the order of 20% since 2006.

This positive enforcement approach has removed over 600,000 uninsured vehicles from our roads since the introduction of the necessary power to seize an uninsured vehicle in August 2005. This has certainly helped drive the improvements to date. However, as pointed out by Professor Greenaway in his report entitled *Uninsured Driving in the United Kingdom* published in July 2004, on the road enforcement activities alone cannot deliver the further significant reduction in the level non-compliance that is required.

The vast majority of drivers in the UK comply with the law but recent surveys indicate that despite the reducing levels of uninsured driving not everyone accepts the responsibility that owning a vehicle carries. A surprisingly large number, particularly of young drivers indicate that they are not aware of their legal obligations with some 10% of 18–34 year olds not knowing it is a legal requirement to insure a car.

The MIB commissioned research last year to help understand people's attitudes to motor insurance and how these might be impacted by the harsh realities of the economic recession. Following on from the research the MIB launched the Stay Insured campaign underlying why, when it comes to driving and motor insurance, staying insured is not only legally but socially and economically the right decision for everyone in the UK. A full copy of the Stay Insured Report is attached to this submission.³¹

3. THE NEXT STEP—CONTINUOUS INSURANCE ENFORCEMENT

In 2004, as a direct response to the increasing problem of uninsured driving, the Government commissioned a review of all areas relating to motor insurance. To address one of the key recommendations of the resulting "Greenaway Report into Uninsured Driving", the Government commissioned DVLA to introduce a record-based compliance and enforcement regime. The powers to do this were inserted at Section 22 of the Road Safety Act 2006. The legislation makes it an offence to be the registered keeper of a vehicle on the road without a valid policy of insurance being in force.

The Department for Transport, DVLA, MIB, ABI and BIBA are currently working on the programme to introduce Continuous Insurance Enforcement (CIE) from March 2011 which is a preventative approach and will focus not on identifying individuals using an uninsured vehicle on the road but uses technology to effectively and efficiently supervise directly from the record a supplementary offence; that of being the registered keeper of a vehicle which is not insured. Effectively, this will involve comparing the DVLA database and the MID to check whether insurance is in place for each vehicle. This approach, being record based, as opposed to actual on road capture means the ability to significantly scale up the requirements to enforce Insurance obligations will reach unprecedented levels, and is expected to significantly reduce the levels of evasion when considered in conjunction with existing police on-road activities. Education and encouragement are watch words of the intended scheme but will require all stakeholders to play their full role.

This is a major combined public and private sector initiative that will not involve large sums of public funding. In fact the insurance industry has already invested in excess of £50 million in developing the MID to enable its use for this purpose. All motor insurers in the UK and BIBA are supporting the introduction of CIE. There are significant benefits to consumers, including a reduction in the subsidy required to fund the consequences of uninsured driving, improved road safety and the consequent impact on public and private funds, more effective use of limited police resources and improved public perception of the government's role in dealing with this problem.

This is an initiative that will deliver real benefits to consumers, lessen the feeling of insurance being a "grudge purchase" for many and ameliorate the impact of other continuing upward pressures on the cost of motor insurance.

November 2010

³¹ Not printed.

Written evidence from AA Insurance (CMI 17)

1. INTRODUCTION

1.1 The Transport Committee is conducting an enquiry into the cost of motor insurance, focusing on the following areas:

- Reasons and consequences of recent increases in the cost of motor insurance.
- Impact on young people of the high cost of motor insurance.
- Extent to which the cost of motor insurance is influenced by the prevalence of road accidents, insurance fraud, legal costs and the number of uninsured drivers.
- Whether there are public policy implications of the rise in the cost of motor insurance and, if so, what steps the Government might take in response to them.

1.2 AA Insurance has been one of the UK's leading private motor insurance brokers in the UK since 1967. It also of course represents the interests of its 15 million roadside assistance members and is a leading commentator on motoring and insurance issues; it also operates a national driving school.

1.3 In addition, AA Insurance has since 1994 published its benchmark "AA British Insurance Premium Index" which tracks the quarterly movement of car and home insurance premiums.

1.4 This Index has become a benchmark study and is closely followed by the insurance industry, the analyst community and by the media.

1.5 This submission comments on all of the points identified in the Committee's request for submissions but focusing on the reasons for, and effect of, high premiums suffered by young drivers.

2. THE REASONS AND CONSEQUENCES OF RECENT INCREASES IN THE COST OF MOTOR INSURANCE

2.1 The cost of motor insurance in the UK has risen substantially since the middle of 2009, as tracked by the AA's British Insurance Premium Index (BIPI). This followed a long period when premiums moved little or even fell, because of competitive pressure and the advent of the price comparison sites in the motor insurance market. This was despite rising costs of accident damage, fraud and personal injury claims.

2.2 Five years ago, AA Insurance warned that a consequence of this would be a sharp increase in premiums that: "would be difficult to explain to our customers" (*appendix 1*).

2.3 *The most recent BIPI published in October 2010 (appendix 2)*, for the third quarter, shows that premiums have continued to rise sharply. Key findings are:

2.3.1 Shoparound Index (average of lowest three quotes from about 90 insurance providers on a basket of 2,500 comprehensive risks):

Overall: up 11.5% (quarter) and 39.3% (12 months) to £792

2.3.2 *Drivers aged 17–22:* up 14.4% (quarter) and 50.9% (12 months) to £1,956

2.3.3 Young men pay considerably higher premiums than women of the same age. For the 17–22 age group, the BIPI averages are:

Men: £2,457

Women: £1,423

2.4 *The primary causes of premium increases are:*

2.4.1 Claims for personal injury, encouraged by a rapid growth in the number of personal injury claims management firms which are using direct cold-call marketing techniques to encourage people to make claims who otherwise would not have done so, or to make claims for injuries that in fact, have not been suffered or which may not be as severe as claimed: typically mild soft tissue damage causing pain in neck and shoulders (whiplash), which is difficult to medically diagnose. Fraud, not just fraudulent personal injury claims (see above) but other attempts to defraud the insurers including "fronting" (typically by adding a young person as a named driver to a policy bought by a parent, when the young person is the main driver); non-disclosure of past claims or convictions; taking out a policy by monthly direct-debit payment and cancelling the payments once insurance documents are delivered; lying about age, occupation or where the car is kept; and driving without insurance.

2.4.2 There are many estimates of what fraud costs the insurance industry and the most recent, from analysts Towers Watson (*October 2010*), suggests that fraudulent claims add just over £80 for every motor policy. According to the ABI, undetected general insurance fraud costs insurers £1.9 billion per annum.

2.4.3 Financial Services Authority (FSA) returns show an industry combined loss ratio of 120% driven by an estimated 30,000 fraudulent accident claims in 2009. Fitch Ratings estimate that the loss ratio is currently 123%—in other words, for every £100 taken in premiums, £123 is being paid out in claims.

2.4.4 Insurers have, therefore, been making significant underwriting losses—and some, such as HSBC and NIG, have withdrawn from the market altogether.

2.4.5 These figures are despite the falling number of road collisions and those killed or seriously injured (KSI) on Britain's roads. Amongst car drivers, the casualty figures fell by 10% to 4,839 KSI in 2009 (*source: Department for Transport*) but there is little change in the casualties amongst young drivers.

- Of men, 30.1% of the total KSI is drivers aged 24 and under.
- Of women, 24.3% of the total are aged 24 and under. However:
- There are more than twice as many casualties amongst young men (1,461) than for young women.

2.4.6 The effect of increasing numbers and costs of personal injury claims has increased insurers' costs by at least 30% per annum: a huge increase against the background of falling accident rates (*source: Institute of Actuaries*).

2.4.7 In addition, the ABI has released figures that show motorists are paying 10p in the £1 to pay for personal injury claim lawyers, which found that while the average personal injury claim following a road collision was £2,430, the average payment for legal costs was £2,100. The industry is paying an estimated £2.7 million every day to personal injury firms.

3. IMPACT ON YOUNG PEOPLE OF THE HIGH COSTS OF MOTOR INSURANCE

3.1 The brunt of premium increases, as described in paragraph 2.3.1 is being borne by young drivers, particularly young men. The first premium for a teenage driver, especially a young man, can run to several thousand pounds even for a modest car

3.2 Many insurers will no longer insure young drivers and an exploration on any price comparison site will show that more than half of insurers will not quote. As a result, the young driver insurance market is less competitive and young drivers have less choice.

3.3 *This is because of the size and frequency of claims made by this group:*

3.3.1 By age 18, 10% of young people have been in a crash where someone has been killed or seriously injured

3.3.2 74% of all deaths amongst young adults are on the road (*Source: Home Office*) yet only 10% of parents consider it to be the biggest threat to them (they believe their youngsters are more at threat from knife crime) (*source: AA/Populus study*).

3.3.3 In 2009, for the first time since 2004, more 16–19 year olds died as passengers in cars than those who died as drivers (*source: Department for Transport*).

3.3.4 Drivers of vehicles aged 10 years or older, those most likely to be driven by young men, are disproportionately involved in speed-related crashes (*source: Department for Transport*).

3.3.5 Only one in eight drivers are under 25 but one in five who die are in this age group

3.3.6 Under age-21 male drivers are 10 times more likely to have an accident than those aged 35 or over; under age-21 female drivers are five times more likely to have an accident than those aged 35 or over.

3.3.7 Average claim value for under-21s is three times greater than for those aged 30 and above.

3.3.8 Number of multi-million pound PI claims is increasing: cost of causing injury leaving permanent scarring, £3 million; cost of putting a passenger in a wheelchair for life, £17 million—two examples of typical serious PI claims.

3.3.9 50% of collisions amongst under-21s happen at night compared with 30% amongst those aged 30 or over.

3.4 The above statistics are having a major impact on young drivers. There is considerable evidence to suggest that a growing number of young drivers will learn to drive (and possibly pass their driving test) while in their teens, but then don't bother to buy a car or continue driving until their 20s. This is partly because the cost of insurance is typically much greater than the value of a first 10-year-old car and partly because they go to University and don't need to drive.

3.5 A 25-year-old buying their first car will typically pay a first car insurance premium a third cheaper than that of a teenager because insurers' claims experiences shows that more mature young adults are less likely to make a claim.

3.6 This suggests that a high proportion of young drivers are those who do not go to university and for whom the car is likely to have greater importance as a symbol of status amongst their peer group. This is likely to be one reason why, as previously identified, there is a high number of young drivers and passengers killed or seriously injured in this age group.

3.7 The AA believes that the insurance industry, road safety organisations, the Government, education authorities, groups representing young people must work together to stop the carnage on Britain's roads and thus enable them to obtain affordable car insurance. Although there have been initiatives to do this, for example DSA's Pass Plus training, they have little effect on insurers' claims experience and, as a result, premium discounts are increasingly less likely to be offered.

3.8 The AA believes that effective training and education is fundamental to improving the crash record of young people. It also believes however, that while proposed changes to the driving test will have minimal impact on the number of casualties amongst young drivers, it is nevertheless a step in the right direction but needs to go much further and is already exploring ways to help.

3.9 Some initiatives being taken by The AA include:

- Sponsorship of a new academic qualification in driving, a BTEC.
- Drive Smart courses offered free through the AA Charitable Trust to at-risk young drivers, ie those who have convictions or have been involved in collisions.
- Development of a new insurance product that uses technology to measure driving standards and provide feedback to help improve driving standards.

4. EXTENT TO WHICH COST OF MOTOR INSURANCE IS INFLUENCED BY PREVALENCE OF ROAD ACCIDENTS, INSURANCE FRAUD, LEGAL COSTS AND UNINSURED DRIVERS

4.1 Much of this has already been covered but to summarise:

4.2 *Prevalence of road accidents*

4.2.1 Road accidents are a determinant of insurance premiums. Premiums are based on claims experience using a range of rating factors that include age, sex, occupation, driving experience, type of car, home address etc that combine to calculate likelihood of making a claim (both accident and theft claims) in order to determine a premium derived from this combination of factors.

4.2.2 Although the number of accidents has declined on Britain's roads the costs of meeting claims have been rising steadily over a long period, to the extent that premiums have had to respond by rising sharply, exacerbated by the recession which has reduced insurers investment income (*see also paragraph 2.2 and appendix 1*). However, the cost of collision repairs has been rising because of the growing complexity of modern motor cars, while personal injury and fraud have more than offset any benefit in terms of reduced numbers of collisions.

4.3 *Insurance fraud*

4.3.1 Insurance fraud is a matter of considerable concern to the insurance industry and there is a range of estimates surrounding the cost to insurers, and thus the premiums paid by motorists. ABI estimates that £930 million of motor insurance fraud went undetected in 2009, adding £39 to the cost of an average motor premium (*source: ABI General Insurance Claims Fraud, 2009*) although as mentioned in paragraph 2.4.2 some estimates put this at up to £80 (*Source: Fitch Ratings, October 2010*). The ABI, on top of this, estimates that the value of detected fraud is the equivalent of £44 on every household's annual insurance costs.

4.3.2 There have been well-publicised cases of organised cash-for crash scams that have a fraudulent claims management company at its heart but there is evidence that many ordinary drivers are indulging in this practice in order to benefit from a non-existent whiplash injury claim. A recent report suggested that one out of every 20 motorists aged under 35 has deliberately braked in such a way as to cause the following motorist to collide with them, placing the responsibility for meeting the claim on the following driver (*source: moneysupermarket survey, September 2010*). This is a deeply worrying development.

4.3.3 There are many other forms of fraud as described in paragraph 2.4.1 and much of this could be prevented if insurers had routine access to the DVLA database which would confirm factors such as age, address, driving experience, number of convictions—all of which influence premium.

4.3.4 The AA is concerned that many of the factors mentioned above can be easily manipulated through the relative anonymity of price comparison sites. For example by going back and deleting a motoring conviction which would reduce the premium might be tempting for many applicants. The AA urges the operators of price comparison sites to improve their technology to reduce the ability of buyers to frequently manipulate factors that determine premium.

4.4 *Legal costs*

4.4.1 Legal costs have had a significant impact on motor premiums. According to the ABI, just under half of every personal injury claim is accounted for by legal costs.

4.4.2 The AA welcomes the recommendations put forward by Lord Justice Jackson in his review of civil litigation and urges the measures to be introduced as soon as possible. These include fixing legal fees for personal injury claims as well as capping the amount of income lawyers can make in no-win no-fee claims and curbing cold-call advertising. It is vital that this culture of compensation is firmly addressed and unless this happens, the cycle of rising premiums will continue.

4.4.3 Lord Young of Graffham has also made a number of widely-reported comments about the compensation culture based on his report (*Common Sense, Common Safety*) to the Prime Minister. At the Conservative Party conference he pointed out that the compensation culture has created a climate of fear of being sued and said: "This is not access to justice, this is incitement to litigate and it must stop." (*source: Insurance Times*). His recommendation that restrictions must be imposed on the type and volume of advertising by claims management organisations is welcome.

4.5 Uninsured driving

4.5.1 Uninsured driving has been an issue in the UK for some time with on average, one out of every 20 motorists driving without cover (*source: MIB*). The advent of continuous insurance enforcement and real-time updating of the Motor Insurance Database (MID) will improve identity of cars that are uninsured. But, of course, it cannot identify those who may not be insured to drive an otherwise insured car. Nevertheless, the increasing use of automatic number plate recognition technology by the police (which draws its data from the MID) has helped to stop this blight from increasing. It is still an issue but no longer a major contributor to rising premiums. Even so, uninsured drivers still cost approximately £30 for every motor insurance policy in force through the levy paid by insurers to the MIB.

The introduction of Continuous Insurance Enforcement (CIE), while welcome, carries the risk of increasing the number of uninsured drivers and thus the possibility of increased insurance premiums.

5. PUBLIC POLICY IMPLICATIONS

5.1 As this paper implies, personal injury claims and fraud are the main drivers of rising car insurance premiums.

5.2 For young drivers, the appalling number of collisions and injuries are forcing up premiums to unaffordable levels, especially for young men.

5.3 The AA would like to see:

5.3.1 the recommendations of the Jackson Review implemented as soon as possible (*paragraph 4.4.2*).

5.3.2 regulation of the claims management industry, as proposed by Lord Young (*paragraph 4.2.3*).

5.3.3 the Government explore how other systems control compensation culture. For example, Scotland and Republic of Ireland control the minor injury claims system so that legal costs are significantly reduced. In Germany, courts assume that any collision below 10km/h cannot cause whiplash injury. Measures of this sort in the UK would wipe out a significant number of personal injury claims.

5.3.4 measure put in place to allow insurers to routinely access the DVLA database as soon as possible, to confirm that information provided by customers (ie driving experience, convictions, address, age, type of licence held) is correct.

5.3.5 driving and road safety as part of the National Curriculum to build awareness of the implications and responsibility of driving a motor car. AA is involved in this process by sponsoring a new BTEC qualification in driving.

5.3.6 the Government strongly resist calls from the EU Advocate General to end the use of gender in the calculation of car insurance premiums. Such a move would increase insurance premiums for everyone, especially young women. It would also risk many insurers choosing not to cover any young driver, reducing competition and choice.

5.3.7 There is anecdotal evidence that there is a propensity amongst those who commit minor insurance fraud to also be involved in other fraudulent or criminal activity, for example benefit crime, avoiding work, unpaid parking offences, petty crime, avoidance of tax and other minor fraud, adding significant costs to other agencies. We would like to see a better co-ordination with the police and justice system to take such criminal activity into account and appropriate penalties imposed.

APPENDIX 1

“VIEW FROM THE TOP” COLUMN PUBLISHED IN POST MAGAZINE JUNE 2005

Not re-printed here.

APPENDIX 2:

BRITISH INSURANCE PREMIUMS PRESS RELEASE, OCTOBER 2010

AA BRITISH INSURANCE PREMIUM INDEX: CAR INSURANCE

Young drivers hit in biggest annual premium increase, says AA Index

14 October 2010: The latest benchmark AA British Insurance Premium Index shows no respite from fast-rising premiums, as another record high is reached.

Over the past quarter, motorists absorbed an increase of 11.5% according to the Shoparound index, which is an average of the cheapest three quotes for each “customer” in the Index basket of 2,800 risks. But over the 12 months ending 30 September the Shoparound cost of an annual comprehensive car insurance policy had risen by 39.3% to £792, the biggest annual jump recorded by the Index.

Young drivers are being hit with the biggest premium increases. Over the past 12 months the average cost of insurance has jumped by 51% for those aged between 17 and 22: after shopping around for their cover, men of this age can now expect to pay an annual premium of around £2,500 and women £1,400.

Simon Douglas, director of AA Insurance, says: “Recent road casualty statistics from the Department for Transport³² show that a third of men who are killed or seriously injured on Britain’s roads are under 25, while the number of young passengers who die in car crashes exceeded the number young drivers killed for the first time in six years. Indeed, car crashes are by far the biggest threat to life amongst young people—considerably more than drugs or knife crime, for instance.³³”

“These are shocking statistics that underline why insurance premiums for young drivers are soaring. Multi-million pound injury claims are no longer unusual.”

Douglas adds: “It’s vital that the insurance industry, road safety organisations and the government work together to stem this terrible toll on young lives.”

The AA already offers “Drive Smart” courses and, for those who have been involved in car crashes or have driving convictions, they are free through the AA Charitable Trust. In addition, the AA is sponsoring a new BTEC qualification in driving behaviour, while a new insurance product that rewards good driving is expected to be launched next year.

But all drivers have been affected by fast-rising premiums over the past 12 months. Douglas says that recent years have seen intense competition encouraged by the growth of price comparison sites, which had kept premiums artificially low to the point that many insurance companies were making large losses on car insurance business.

“Five years ago we warned that sharp premium inflation would be the result of this competition but recession has added to the pain. A proliferation of personal injury claim lawyers has also led to the number of injury claims across the board sharply increase, while fraud has eaten into insurers’ costs to the extent that over the past year, for every £100 taken in premiums, £123 has been paid out in claims,” he says.

Premium increases will continue through into 2011, Douglas believes. “Although the quarterly increases are a little less than the previous quarter, the annual increase was the largest since the AA Index started in 1994, I expect premium inflation to be less severe in future.”

Summary car insurance statistics, quarter ending 30 September 2010 follow

Main Index findings for third quarter 2010

- Comprehensive cover up 11.7% (quarter) and 29.9% (12 months) to £1,249.71; and
- Third party, fire and theft (TPFT) cover up 9.8% (quarter) and 32.2% (12 months) to £1,246.41.

Shoparound index findings (average of cheapest three quotes for each risk)

- Comprehensive cover up 11.5% (quarter) and 39.3% (12 months) to £791.82; and
- TPFT cover up 12.1% (quarter) and 54.6% (12 months) to £1,097.72.

Main Comparison site price movements

- Comprehensive cover up 13.4% (quarter) to £888.84;* and
- TPFT cover up 13.1% (quarter) to £909.02.*

Shoparound comparison site price movements

- Comprehensive cover up 10.3% to 592.08;* and
- TPFT cover up 9.2% to 764.77*.

* Comparison site premiums have only been tracked since Q4 2009 so annual figures not available

Douglas believes that the insurance industry, road safety organisations and the government should work together to find ways to help young drivers become safe and responsible car drivers.

“This can partly be achieved through education, such as “Drive Smart” courses in safe and fuel-efficient driving offered by the AA Driving School. The courses are available free to at-risk new drivers through the AA Charitable Trust.* Similarly, a new BTEC in driving science is being sponsored by the AA.

“New electronic insurance solutions are also being developed that reward safe driving technique which could significantly bring down premiums.”

He adds that despite high initial premiums the most effective way to reduce them is through claim-free driving, which after just one year will bring premiums down by up to a third. “That’s a powerful financial incentive to drive responsibly,” he says, but warns that those who attempt to drive without insurance or use fraudulent means to obtain a cheaper premium, such as fronting, are very likely to be caught.

* Information about Drive Smart: www.theaa.com/drive-smart

³² Department for Transport, road casualties 2009

³³ 74% of all accidental deaths amongst young adults happen on the road, yet only 10% of parents considered this to be the biggest threat to them; knife crime believed to be the biggest threat (AA/Populus study of 18,500 AA members, September 2010)

What the Index tracks

The British Insurance Premium Index records premium movements for 2,800 car insurance “customers” throughout the UK, from more than 80 insurers, brokers and schemes. The premiums are averaged to provide a market “average quoted premium” while the Shoparound premium is an average of the cheapest three premiums returned for each “customer” in the basket of risks, and is thus closer to what customers pay for their cover. For home insurance average premium movements are calculated from 750 customers in the basket of risks and from about 75 insurers, brokers and schemes.

The same basket of risks is used to calculate average premiums from price comparison sites.

AVERAGE PREMIUMS (MOTOR) OCTOBER 2010

<i>Market Summary</i>							
<i>Average Premium</i>	<i>Oct-10</i>	<i>Jul-10</i>	<i>% Change</i>	<i>Oct-09</i>	<i>% Change</i>	<i>Jul-94</i>	<i>% Change</i>
Comprehensive	£1,249.71	£1,119.29	+ 11.7%	£962.18	+ 29.9%	£384.50	+ 225.0%
TPFT Fire & Theft	£1,246.41	£1,135.46	+ 9.8%	£943.08	+ 32.2%	£333.39	+ 273.9%

<i>Shoparound Summary</i>							
<i>Average Premium</i>	<i>Oct-10</i>	<i>Jul-10</i>	<i>% Change</i>	<i>Oct-09</i>	<i>% Change</i>		
Comprehensive	£791.82	£709.91	+ 11.5%	£568.62	+ 39.9%	Shoparound only recorded since 2004	
TPFT Fire & Theft	£1,097.72	£979.66	+ 12.1%	£710.24	+ 54.6%		

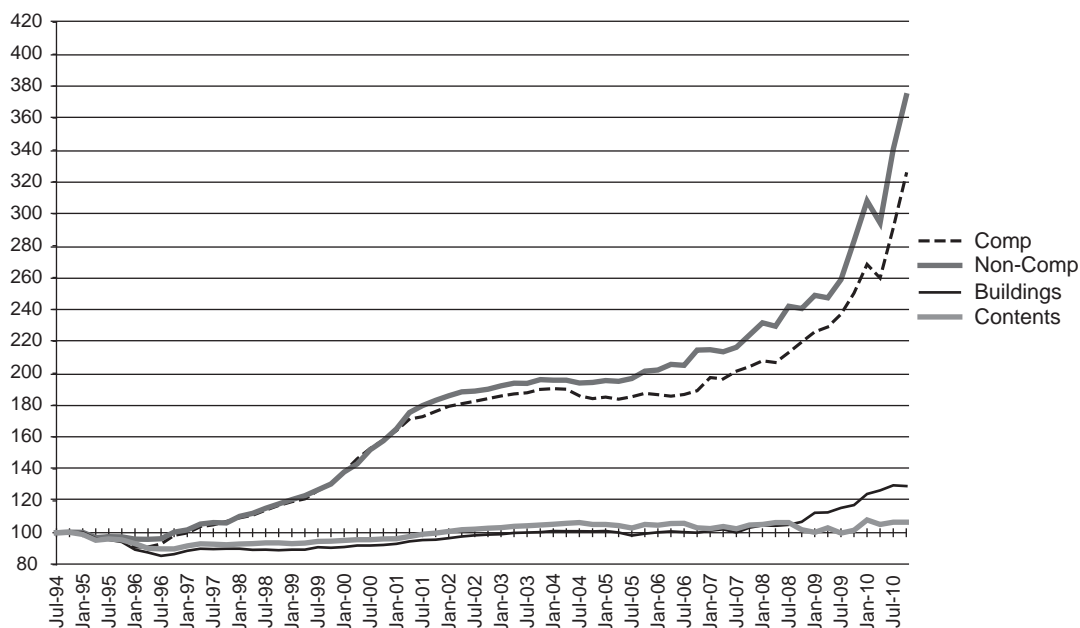
AGGREGATOR AVERAGE PREMIUMS (MOTOR) OCTOBER 2010

<i>Market Summary</i>				
<i>Average Premium</i>	<i>Oct-10</i>	<i>Jul-10</i>	<i>% Change</i>	
Comprehensive	£888.84	£784.08	+ 13.4%	Aggregator prices only recorded since Q4 2009
TPFT Fire & Theft	£909.02	£803.88	+ 13.1%	

<i>Shoparound Summary</i>				
<i>Average Premium</i>	<i>Oct-10</i>	<i>Jul-10</i>	<i>% Change</i>	
Comprehensive	£592.08	£536.70	+ 10.3%	Aggregator prices only recorded since Q4 2009
TPFT Fire & Theft	£764.77	£700.36	+ 9.2%	

ANNUAL SHOPAROUND MOVEMENTS BY AGE AND GENDER

<i>Sex</i>	<i>Age</i>	<i>Ave Premium</i>		<i>Shoparound</i>			
		<i>Oct 10</i>	<i>Jan-10</i>	<i>Apr-10</i>	<i>Jul-10</i>	<i>Oct-10</i>	<i>Annual</i>
Male	17—22	£2,457	+ 9.6%	+ 2.8%	+ 14.7%	+ 13.5%	+ 46.6%
	23—29	£1,191	+ 15.4%	- 1.4%	+ 11.2%	+ 10.7%	+ 40.0%
	30—39	£651	+ 8.8%	- 0.0%	+ 11.1%	+ 7.3%	+ 29.7%
	40—49	£581	+ 10.3%	- 2.5%	+ 7.9%	+ 10.3%	+ 28.0%
	50—59	£473	+ 16.0%	- 6.1%	+ 8.4%	+ 8.1%	+ 27.6%
	60—69	£420	+ 9.0%	- 0.8%	+ 7.8%	+ 11.8%	+ 30.3%
	70 +	£519	+ 9.4%	- 0.1%	+ 11.4%	+ 11.7%	+ 36.1%
Female	17—22	£1,423	+ 9.9%	+ 7.0%	+ 16.9%	+ 15.5%	+ 58.7%
	23—29	£793	+ 12.2%	+ 3.1%	+ 11.4%	+ 10.5%	+ 42.4%
	30—39	£512	+ 10.9%	- 0.7%	+ 7.3%	+ 8.7%	+ 28.4%
	40—49	£500	+ 13.8%	- 2.2%	+ 6.9%	+ 12.2%	+ 33.5%
	50—59	£434	+ 13.9%	- 4.0%	+ 8.1%	+ 11.4%	+ 31.7%
	60—69	£354	+ 9.2%	- 1.6%	+ 6.9%	+ 8.2%	+ 24.2%
	70 +	£387	+ 4.2%	+ 1.4%	+ 9.9%	+ 2.3%	+ 18.9%
All	17—22	£1,956	+ 9.7%	+ 4.2%	+ 15.4%	+ 14.4%	+ 50.9%
	23—29	£989	+ 14.1%	+ 0.4%	+ 11.3%	+ 10.6%	+ 40.9%
	30—39	£582	+ 9.7%	- 0.3%	+ 9.4%	+ 7.9%	+ 29.1%
	40—49	£540	+ 11.9%	- 2.4%	+ 7.5%	+ 11.1%	+ 30.5%
	50—59	£452	+ 15.0%	- 5.1%	+ 8.2%	+ 9.8%	+ 29.7%
	60—69	£390	+ 9.1%	- 1.1%	+ 7.4%	+ 10.2%	+ 27.6%
	70 +	£448	+ 7.0%	+ 0.6%	+ 10.7%	+ 7.1%	+ 27.6%



November 2010

Written evidence from Motor Accident Solicitors Society (MASS) (CMI 18)

1. MOTOR ACCIDENT SOLICITORS SOCIETY (MASS)

1.1 MASS is a non-profit making national association of solicitors who specialise in road traffic accidents, representing the accident victim.

1.2 Formed in 1991, MASS promotes the highest standards of legal services through education and representation in the pursuit of justice for the victims of road traffic accidents.

1.3 MASS comprises 180 solicitor firms that employ over 2,000 legal staff, throughout the UK. Collectively member firms conduct in excess of 400,000 road traffic accident personal injury claims each year.

2. THE COST OF ROAD TRAFFIC ACCIDENTS

2.1 Road accident personal injury (RTAPI) claims represent 674,977 claims out of a total of 861,325 claims, according to Compensation Recovery Unit figures published by the Government in respect of the year 2009–10, which is over 78% of all personal injury claims.³⁴

2.2 On 30 April 2010, a new streamlined process for RTAPI claims was implemented by the Ministry of Justice, with the aim to improve the efficiency of claims up to £10,000, where there is no dispute of liability. It is estimated that the scheme covers in excess of 75% of all RTAPI. In conjunction with this new process, the Insurance Industry participated with Claimant representatives and the Ministry of Justice in round table negotiations to agree a fixed costs regime. An agreement was reached with the insurers as a result of this process.

2.3 Prior to that, Insurers were also engaged in negotiations facilitated by the Civil Justice Council for a Fixed Recoverable Costs regime for RTAPI claims, implemented in October 2003. The figures for legal costs were agreed by Insurers as a culmination of the negotiations which took place. The scheme referred to covered RTAPI claims up to £10,000 of damages. As for the scheme referred to in paragraph 2.2, this represents an agreement with regard to an estimated number of RTAPI claims in excess of 75%. (paragraph 2.2 above refers). Although it was agreed that these figures would be reviewed annually, there has been no review and therefore no increase in the legal fixed costs agreed by the insurers. Furthermore, the costs agreed by Insurers in April 2010 are lower than the costs agreed in 2003!

2.4 The Insurance Industry has consistently argued that one of the reasons for high motor insurance premiums is due to high and unacceptable legal costs. MASS finds this argument extremely surprising given that since 2003 the Insurance Industry has participated in, and agreed to, two separate fixed costs regimes, for legal costs for RTAPI claims up to £10,000. This represents in excess of 75% of all RTAPI claims since 2003.

³⁴ Department for Work & Pensions Performance Statistics

2.5 Road accident claims have risen significantly over the last nine years. MASS is of the view that this rise in accident claims is more the issue for insurers than is the level of legal costs for each claim on which they have negotiated and agreed the legal costs which should apply. MASS would welcome open and transparent disclosure by the Insurers to both the Transport Committee Inquiry and to MASS so that the real source of any increased cost can be properly identified.

3. UNINSURED DRIVING

3.1 For over 15 years, MASS has been campaigning against Uninsured Driving to protect the accident victim and for a “zero tolerance” approach to be adopted.

3.2 In 2009 there were 1.5 million uninsured drivers, 20% of whom were between 17 and 20. The cost to the industry is approximately £500 million, which adds about £30 per year to every policy for the law abiding motorist.

3.3 MASS has campaigned for:

3.3.1 *Increased Penalties*—MASS has consistently argued that the £200 fine for driving without insurance is woefully inadequate (bearing in mind the high cost of insurance premiums) and acts as little or no deterrent to those who fail to adhere to the law for such offences which normally have a pattern of criminality.

3.3.2 *Effective Deterrents*—MASS would like to see the increased use by all Police Forces of the policy to seize and crush vehicles for persistent offenders, along with the use of Automatic Number Plate Recognition. MASS supports the introduction of Continuous Insurance Enforcement (CIE), due to be implemented in January 2011, as a further deterrent. However, we have expressed our disappointment at the low and inadequate penalty of £100 fine for committing this offence.

3.3.3 *Education of Young Drivers*—MASS has for many years been involved in Young Driver Education and believes this is a key element of combating uninsured driving.

3.3.4 *Reporting*—Combating Uninsured Driving in the United Kingdom is currently down to Police detection and through the new system of CIE. MASS also advocates a “helpline” whereby the general public can use a dedicated number to report a suspected uninsured driver, or if they have been involved in an accident with an uninsured or untraced driver.

4. COMBATING THE RISING COST OF MOTOR INSURANCE PREMIUMS

4.1 MASS believes that the Insurance Industry should and could do more to reduce the level of uninsured driving. For example, to investigate the feasibility of lowering the cost of insurance premiums for those young drivers who have a good driving record whilst driving under their parent’s motor insurance policy, and allowing them to transfer the number of years without a claim to their own policy.

4.2 Motor Insurers’ Bureau (MIB) calls for a levy from all its Members (all UK insurers) in order to pay for uninsured and untraced claims. In 2009, the levy required was £407 million, which was a reduction of £10 million from the levy required in 2008. Claim payments for 2009 were £69 million less than the levy called, and £14 million less than the amount paid in 2008. Consequently, in March 2010, the MIB released £40 million back to its Members.³⁵

5. SUMMARY

5.1 MASS questions why in 2010 motor insurance premiums continue to rise when there has been in place fixed legal costs which Insurers have agreed, for in excess of 75% of all RTAPI claims since 2003.

5.2 The MIB’s Annual Report and Accounts for 2009 makes it clear that there was a reduction of £10 million of the levy called on the previous year and claim payments were £69 million less than the levy called. Such was the MIB position with regard to the levy that in March 2010 they released £40 million back to its members. This fact equally makes it surprising why Insurers are not releasing money back to their policy holders through reduced motor insurance premiums.

November 2010

³⁵ Motor Insurers’ Bureau Annual Report & Accounts 2009

Written evidence from the British Insurance Brokers' Association (BIBA) (CMI 19)

The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance organisation representing the interests of insurance brokers, intermediaries and their customers.

BIBA membership includes 1,700 regulated firms. Insurance brokers and intermediaries distribute nearly two-thirds of all UK general insurance. BIBA believe that approximately 50% of the UK's private motor insurance is sold through insurance brokers. This could be direct with brokers or through broker led affinity schemes or broker products on comparison sites. BIBA would like to thank the Transport Select Committee for the opportunity to respond to inquiry.

EXECUTIVE SUMMARY

BIBA has been anticipating increases in private motor insurance rates for some time, with insurers making *significant underwriting losses* during the last 14 successive years. The soft market could not continue ad infinitum because of the reduction in *investment income*, rapid *claims inflation*, the intense competition and *unsustainable rates from comparison sites*. This is combined with aggressive pricing strategies such as dual pricing and illegal activities including *fraud* and *uninsured driving*. Customers have benefited from cheap premiums for many years but now the bubble has burst.

BIBA has outlined an eight point plan where we believe the Government can help.

This document is split into two parts. Part one is our general commentary on the issues. Part two is specific responses to the Transport Select Committee questions.

PART 1 BIBA COMMENTARY

1. *The state of the motor insurance market increases*

1.1 BIBA believes that motor insurance price rises have been inevitable due to the financial losses being made by motor insurers. The key numbers are:

- £1.5 billion underwriting loss in 2009;³⁶
- 14 successive years of underwriting losses;³⁷
- for every £100 collected in premium £122 is paid in claims;³⁸ and
- expected £1billion underwriting loss in 2010.³⁹

2. *Cause of increases*

Claims Inflation

2.1 BIBA members have reported significant claims inflation. For example, a large BIBA broker reports that seven years ago the *propensity to claim* for a non-fault injury following a motor accident was 20%. In 2010 this major broker now reports this has increased to 60%. Insurer Esure have also reported to us a 300% sudden increase in personal injury claims in the B31 postcode despite there being no increase in accidental damage claims. For every £1 Esure collect in premium they are now paying out £3 in personal injury claims in B31.

2.2 Not only has the propensity to claim increased but the *amounts awarded* are also at a record level with awards of £13 million recently being highlighted in the press and the average bodily injury claim award increasing at at least double the rate of inflation.

2.3 Change to the claims culture in the UK has been dramatic ever since Claims Direct and many others in the legal profession started major TV and media campaigns to encourage people to try to claim at every opportunity with a no win no fee offer. There is now a very high willingness to pursue a claim in the UK and the inevitable effect of this is an increase in premium to cover these extra costs.

2.4 The growth of *Claims management companies/accident management companies* has also been a significant development in recent years and we estimate they add at least £1 billion to the cost of motor claims in the UK. Although these claims management companies can offer important services to help customers with credit hire vehicles and help in pursuing recovery of uninsured losses they have also added a new level of costs, some of which our members believe are exaggerated and unnecessary.

Reduced Investment Income

2.5 There are three main reasons why insurers can no longer afford to run at an underwriting loss and rely instead on their investment returns, these are:

- *The Economic Downturn*—The worldwide financial crisis has seen the returns on investments reduce dramatically.

³⁶ ABI

³⁷ ABI

³⁸ ABI

³⁹ Deloitte

- *Capital adequacy solvency II*—Greater capital adequacy requirements from Europe mean that insurers must have a more conservative balance sheet and therefore are not able to invest as much as they have in the past.
- *Fewer reserves*—insurers reserves have been under pressure and rather than continuing to use dwindling reserves they must now charge a higher premium that better reflects the risks on their books.

Competition/Commoditisation

2.6 *Comparison sites* —Insurance comparison sites have seen incredible growth, however this phenomenon has only recently come to prominence, since the introduction of the Financial Services Authority (FSA) insurance regulatory rules in 2005. We feel that more appropriate rules should apply.

2.7 For example, BIBA believes that where prices are reported by a comparison site they must reflect the product criteria searched for. Unfortunately this is not what is always happening as many sites return quotes that do *not* reflect the customers requested cover and instead may introduce a high excess in order to generate the lowest possible premium (so they can get the business). This reduces the premium “pool”.

2.8 The effect that comparison sites have had on the market has been huge with some of our major brokers making 80% of their sales through comparison sites. They have proven to be a popular medium for buying insurance with customers. However, the premiums being charged on comparison sites are below the level of what is reasonable and profitable for an insurer in many instances. Competition is good but comparison sites have created what many BIBA brokers believe to be unsustainable pricing and the customer has been persuaded to purely search for the cheapest price due to continued television advertising and the sites being marketed as “*price comparison sites*” as opposed to “*insurance comparison sites*”.

2.9 Comparison sites have also introduced another level of cost to the industry but insurers are compelled to use them as they are powerful and control a large amount of volume/turnover. Another negative side effect from the comparison site is that some insurers have felt they are not prepared or are unable to compete and have withdrawn some products from the market.

2.10 Some insurers have withdrawn certain products or withdrawn completely from the market. These include: NIG, AXA Premier 35, Quinn, QBE Motor, Zenith (now Markerstudy). Equity motor has reduced market share by a high percentage and withdrawn delegated schemes KGM has significantly reduced capacity. Many Aviva Delegated Schemes have been withdrawn: other withdrawals or reduction in capacity include Corinthian (HSBC), RSA has withdrawn most delegated schemes, Highway (have been acquired by LV), Paragon, Brit Insurance Schemes, Prestige and Europa (underwriting Agency) have all reduced capacity.

2.11 There are some major motor insurers up for sale as well which could reduce the competition. Other insurers have increased their rates by more than 40% but say that they are still prepared to write private motor business (our members give the examples of Zurich and Brit).

Crime

2.12 *Uninsured drivers* cost the innocent motorist more than⁴⁰ £500 million a year and this cost is passed on to motor insurance policies at approximately £30 per policy. The UK has the highest levels of uninsured driving in western Europe but this is somewhere we believe the Government can act, please see section 3.1. Continuous Insurance Enforcement.

2.13 *Fraudulent claims* have been on the increase with fraudulent motor claims costing up to £930 million a year.⁴¹ There are many more staged accidents than there used to be as criminal gangs see the insurance industry as a soft target.

2.14 *Fraudulent misrepresentation* is another worrying side effect that has been flourishing following the success of internet sales and comparison sites. BIBA believes that the lowest levels of fraudulent misrepresentation occur when there is a face-to-face sale eg with an insurance broker. Misrepresentation increases when people buy from a call centre, but the highest level of misrepresentation occurs, when people buy from the internet.

2.15 Some comparison sites prompt people to get cheaper premiums by making changes to their proposal and some personal finance websites such as “Money Saving Expert” have even encouraged people to change their job title to seek a lower quote via his “job picker” tool. It is far easier for a customer to lie or fail to include a fact on a comparison site that makes assumptions about people and does not even ask them all the questions directly.

⁴⁰ MIB

⁴¹ ABI

3. Steps that the Government can take to help:

Continuous Insurance Enforcement (CIE)

3.1 The Government must press ahead with the introduction of CIE to reduce uninsured driving costs. (CIE is the new enforcement system that will systematically compare the DVLA registered keepers database with the Motor Insurance Database (MID) and industry, uninsured drivers and ensure they obtain insurance by an escalating system of penalties. It is also important that the Government support DVLA and the insurance industry with an effective CIE awareness campaign so that DVLA can fulfill their duty to make vehicle keepers aware of changes in the law. This should ultimately reduce uninsured driving and the Motor Insurers Bureau (MIB) levy.

Signpost people to relevant broker where they can find competitive cover (particularly young or non standard drivers)

3.2 Signposting is an important industry solution at no cost to Government. There are important benefits to consumers, particularly those in the more vulnerable age groups with more people being able to find insurance, meaning fewer are left uninsured and unprotected. The Government will benefit with an increased IPT income to Treasury.

3.3 Research carried out as part of the insurance industry “stay insured” campaign demonstrated that young drivers have a poor insurance record as research suggests that 20% or 243,000 of the 1.2 million people, aged between 17 to 20 years old on Britain's roads, do not have motor insurance.

3.4 These drivers are often rejected by comparison sites, banks or supermarkets due to their higher risk profile but they are often unaware that there are specialist insurance brokers who would be able to cater for them.

3.5 To resolve this problem we need to signpost young, inexperienced drivers to suitable insurance providers. Professor Greenaway recommended among other things in his report, “uninsured driving in the UK” that the Department for Transport should have an easily navigable portal on the Driver and Vehicle Licensing Agency and Driving Standards Agency website, and that this should provide rapid access to information. Signposting from these sites is therefore important.

3.6 BIBA believes that signposting drivers, and particularly signposting uninsured drivers to a suitable insurance broker which can offer cover and an instalment facility will have a very positive effect on the rate of uninsured driving.

3.7 Most importantly there are road safety benefits as insured drivers are less likely to leave the scene of an accident.

3.8 Therefore by signposting more consumers to appropriate sources of insurance the financial burden will be spread across the wider insurance industry that is benefiting from the additional premium of insured clients.

3.9 BIBA sits on the HM Treasury Signposting steering group and the opportunity exists for Government to write into the Equality Act regulations a requirement for the insurance industry to signpost rejected customers to a more suitable source. We strongly urge the Government to put through their regulations. BIBA already helped more than 340,000 people a year find suitable cover from a broker via our *Find a Broker* website www.biba.org.uk and our call centre 0870 950 1790.

Regulate Comparison Sites to the Appropriate Standard

3.10 BIBA has sent a detailed response to the Office of Fair Trading and the FSA about appropriate regulation of comparison sites but BIBA does not wish to burden this committee with all of these issues. However we do believe comparison sites are so powerful that they must be more appropriately regulated and the prices reported by the sites must reflect the product criteria searched for, the quotes should be guaranteed, excesses should be clear, “check with insurer” must no longer be allowed, and assumptions must no longer be permitted. This would lead to a cleaner, clearer and more appropriately priced motor insurance market.

Review Pass Plus

3.11 The Pass Plus system is a good idea and BIBA supports post test training. However the system is in need of an update as the claims costs to insurers of those that have undertaken the scheme do not appear to differ much from those that have not. Therefore we would recommend a root and branch review of post test training.

Review the Driving Test

3.12 The current driving test has some gaps which if attended to could improve the high claims frequency and severity experienced by young drivers. In particular better attention could be paid to:

- Hazard Perception.
- Attitude awareness.

— Situational Judgement.

Lord Justice Jackson's Review of Civil Litigation Costs

3.13 Claims costs are spiralling and BIBA believes that the report on civil litigation costs by Lord Jackson should be progressed, although we do not believe a ban on referral fees is appropriate. The personal injury claims portal helps reduce the cost of legal fees and we believe that the use of this could be expanded by allowing higher value claims to be dealt with in this way. This should reduce the cost to the industry and provide a swifter settlement of claims to the customer.

Insurance Premium Tax

3.14 On 4 January 2010 *Insurance Premium tax* increases to 6%, we would suggest a delay to this or even an IPT "holiday" could ease the pressure for motorists while the market adjusts to the harder rates.

Access to Driving Licence Records

3.15 BIBA has been working with the DVLA, DFT, MIB and the ABI with a view to agreeing secure access to driving licence records from the DVLA database. By verifying licence types, lengths held, dates of birth, address, convictions and penalty points a great deal of fraud could be prevented and the fair and correct premium applied to the risk. If the Government can agree to this access the cost of fraud could be reduced.

PART 2—BIBA RESPONSE TO TRANSPORT SELECT COMMITTEES QUESTIONS:

4. *The reasons and consequences of recent increases in the cost of motor insurance?*

4.1 As detailed in our part 1 response, there is no single reason for the increase, it is purely a case of claims costs outweighing the income. The main reasons are:

4.2 *Claims inflation*—The increase in the propensity to claim, the increase in the amounts awarded, the impact of claims management companies and the increases in the number of whiplash claims.

4.3 *Reduced investment income*—The economic downturn reducing return on investments, the impact of solvency II and reduction in reserves.

4.4 *Competition*—While there is a short term gain for consumers with low prices on comparison sites these prices have proven unsustainable.

4.5 *Commoditisation*—Comparison sites have effectively commoditised motor insurance but due to insufficient regulation are offering low level cover and premiums that are often below burning cost.

4.6 *Insurer withdrawals*—some insurers have withdrawn from the market or have reduced their capacity/schemes/products due to the high losses and unsustainable low prices.

4.7 *Uninsured driving*—A £500 million annual cost

4.8 *Fraudulent claims*—staged accidents and fraudulent misrepresentation have increased rapidly.

5. *The impact on young people of the high costs of motor insurance?*

5.1 Young people represent the highest proportion of uninsured drivers in the UK with 20% of the drivers aged 17–20 expected of being uninsured. Insurance brokers are developing new products like the GPS telematics systems that charge a higher rate under certain circumstances per mile to encourage risk management with young drivers, eg there is a greater risk of younger drivers having an accident in an evening and therefore the rate per mile is higher, this should hopefully discourage younger drivers from driving at the most dangerous times and rewarding them with a lower premium.

5.2 The average claim for a 17–19 year old male is £3,433 compared to £1,380 for an over 50 year old male. The AA also say that the under 21 male is ten times more likely to have an accident than the over 35's. Therefore it is plain to see why the premiums are higher for younger drivers although we believe that circumstances could be greatly improved with revision of the driving test, improvements to pass plus and the introduction of telematics.

5.3 It is important to note that *there is NOT a market failure for younger drivers as there are many insurance brokers who specialise in young driver motor insurance*, it is simply a case that the young drivers need to be signposted to a suitable provider rather than be rejected by comparison sites or direct insurers and left without knowledge of where to access an appropriate broker.

6. *The extent to which the cost of motor insurance is influenced by the prevalence of road accidents, insurance fraud, legal costs and the number of uninsured drivers?*

6.1 Motor insurance premiums are massively influenced by the effects of road accidents, insurance fraud, legal costs and the number of uninsured drivers. These elements make up the main costs of claims to the insurance industry and if tackled by Government could relieve the current situation.

7. *Whether there are public policy implications of the rise in the cost of motor insurance and, if so, what steps the Government might take in response to them*

7.1 The rise of the cost of motor insurance was inevitable because of the issues outlined in our report above. A recent statement by Deloitte does state that if motor insurers are successful at increasing premiums whilst maintaining their customer base they could return to profitably as early as 2011 and therefore the rise in premiums should slow dramatically.

7.2 However, many insurers are failing to maintain their customer base as clients seek cheaper alternatives when they receive their increased renewal and they avoid being caught in any dual pricing situation. There are many things that the Government can do to help:

1. Introduce Continuous Insurance Enforcement (CIE) to reduce the cost of uninsured driving.
2. Introducing signposting regulations in the Equality Act in order to Signpost people to the most appropriate insurance provider where they can find competitive cover.
3. Regulate Comparison sites to the appropriate standard.
4. Review the Pass Plus system.
5. Review the driving test.
6. Implement many of Lord Justice Jackson's recommendations.
7. Give an IPT "holiday" on motor business.
8. Provide the insurance industry access to DVLA driver licence records to reduce fraud.

7.3 Full details of our reasons for these eight points are contained in the text of this report.

8. *Conclusion*

8.1 Renewal increases are often due to the practice of dual pricing (where new business is a cheaper rate than renewals) but customers can still use an insurance broker to find them a competitive quotation which we confidently believe would minimise the AA's 40% reported rise. We hope the Transport Select Committee can give full consideration to our eight recommendations above and particularly the signposting solution that we can help with as there is no cost to Government or the consumer and is a win win for everybody and should help motorists with standard or non standard records access suitable and competitive motor insurance.

November 2010

Written evidence from the Department for Transport (CMI 20)

NOTE ON PUBLIC POLICY IMPLICATIONS OF THE RISE IN THE COST OF MOTOR INSURANCE AND POTENTIAL GOVERNMENT RESPONSE

The rising cost of motor insurance is a particular problem for young people, including learner drivers, who are finding that increases are making insurance unaffordable. This is an issue of public policy, because many young people depend on a motor vehicle for access to education and employment; and learn to drive for these reasons.

Significant rises in the cost of insurance might tempt some drivers to drive uninsured, or to obtain cheaper insurance by making false statements about their driving record (such as penalty points accumulated) at the time of purchase, or younger drivers being declared as a named secondary driver on parents' insurance when in fact they are the main driver of a vehicle. The Government is aware of these dangers. From spring 2011, we intend to introduce continuous insurance enforcement, which involves making regular comparisons of DVLA's vehicles database with the Motor Insurance Database run by the insurance industry, to identify and take action against keepers of vehicles which are apparently uninsured. We are also working with the insurance industry with a view to allowing them access, subject to the driver's consent, to relevant details of a driver wishing to take out insurance, such as age and penalty points accumulation.

It is notable that despite significant reductions in the number of casualties, insurance costs have continued to rise. Some of these costs reflect fraudulent claims, as well as weak control of replacement cars, and the growth of the claims compensation industry. We are working with the insurers on ways of managing these costs.

We accept that higher premiums faced by younger drivers reflect the cost to insurers of providing cover. We understand that there are two main reasons for this. In the first place, insurers' figures suggest that as many as a fifth of newly-qualified drivers make a claim within six months of passing their test. Many of these relate only to bumps and scrapes, but the overall cost to an insurer of even modest damage is likely to be more a

young driver will have paid in the annual premium. Of course, the cost of damage claims affects all insured drivers, although groups that are over-represented in claims are likely to cost insurers more. There is, however, a second area where insurers have to make special provision in relation to young people. A minority of accidents lead to catastrophic claims—in particular, where one or more claimant will require long-term—even life-long—medical care. The problem with young drivers is not simply that claims are more likely, but that such costs are liable to be much higher where the claimant is young. The additional public policy concern here is that only a limited number of big insurers can afford provision against such claims, which limits the market in which young people can buy insurance.

Insurers have argued that these public policy concerns support calls they have made for the Government to impose additional regulation on newly-qualified drivers. The Transport Committee has considered this issue in an earlier inquiry on novice drivers. It is argued that road safety might be improved if newly-qualified drivers were not allowed to drive in high-risk circumstances, and various specific restrictions are proposed—which are used in other countries, mainly where driving is permitted below the minimum age here. The Government is committed to avoiding additional regulation. It is concerned that the restrictions proposed would bear down even on those who want to be safe and responsible—who may need the use of a car for access to employment or education. There is also a risk of perverse consequences—for example, limiting the carriage of young passengers would prevent a sober driver providing transport for companions who have been consuming alcohol.

There are alternative approaches. The Department has been working on measures to improve driver training and testing, and is considering whether further measures should be developed. Training should focus not just on the test, but on the challenge of independent driving—including, for example, an understanding of the risks of particular driving conditions, and of distraction and impairment. We also intend to work with the insurance industry on whether new insurance products can be developed, with discounts where young drivers have chosen enhanced training pre- and/or post test; or are happy to accept in return restrictions such as not driving at night.

November 2010

Written evidence from the European Secure Vehicle Alliance (ESVA) (CMI 23)

ESVA was formed in 1992 as an associate parliamentary group focused on reducing the incidence of theft of and from vehicles and whose interests have widened over time to be now concerned with the reduction of all vehicle related crime and disorder and a growing interest in enhancing driver compliance.

In approximate terms—the incidence of theft of vehicles peaked in the mid 1990s at around 400,000 vehicles per year with the ratio of opportunistic to organised crime being approximately 80/20. The rate of theft of vehicles has fallen steadily since then to approximately 100,000 vehicles per year whilst the ratio of opportunistic to organised crime has reversed to 20/80 meaning that whilst opportunistic crime has reduced dramatically—the level of organised vehicle crime has not changed during the past 15 years.

In terms of detection rates for police recorded crime in 2009–10—offences against vehicles at 11% is the lowest of all crime categories versus 28% for all crime and this pattern of poor performance has remained the same for many years due in part to the complexity of vehicle crime and its capacity to work well across police boundaries.

At the peak of vehicle crime in the mid 1990's—the Association of Chief Police Officers (ACPO) presented a plan to the Home Office with 14 recommendations to reduce vehicle crime and ESVA has maintained a keen interest in their proposals since that time. One recommendation was the adoption of the Swedish method of number plate manufacture and distribution—they have one central supplier of security printed number plates linked to their equivalent of the DVLA which has been operating successfully since 1972.

The United Kingdom has 40,000 suppliers of number plates and little control of what is becoming to be regarded as a commodity as are batteries and windscreen wipers.

And yet the UK motorist is charged at least the equivalent of a 50% premium for a set of plates versus the price charged to Swedish motorists.

A second ACPO recommendation which was also mindful of another international initiative was to propose a £1 a policy surcharge to all vehicle insurance policies that would be invested in an expert body dedicated to the reduction of vehicle related crime and fraud. The Texas Automobile Theft Prevention Authority was established in 1991 and continues to operate on the basis of a \$1 a vehicle levy alongside another collaborative network known as the National Insurance Crime Bureau (NICB) which operates across all jurisdictions in the USA. The NICB's remit includes investigations of fraudulent personal injury claims and staged accidents.

ESVA has itself developed strong links with two vehicle crime reduction organisations based in Holland and Australia and these are funded in a significant manner by their country's insurers. Furthermore—such organisations also operate effectively in Sweden, France and South Africa.

In ESVA's view—the British insurance industry and its representative body—the Association of British Insurers (ABI)—have shown a disappointing reluctance to adopt a broad and collaborative approach to reducing vehicle related crime and disorder.

The ACPO Vehicle Crime Intelligence Service (AVCIS) continue to play a key role in developing collaborative networks with a number of stakeholders and are able to demonstrate meaningful returns, for example, in their work with the Finance and Leasing Association on tackling fraud on leased vehicles. ESVA is of the view that the insurance industry are well placed to reduce their costs associated with all aspects of vehicle related crime and fraud by adopting a more significant ‘invest to save’ effort with the police and other investigative bodies.

Some evidence as to the potential value of this approach can be garnered by the success the Motor Insurance Bureau have enjoyed since 2006 by working closely with roadside deployed police Automatic Number Plate Recognition (ANPR) technology.

Before 2006, the number of claims as a result of incidents involving non-insured drivers had continued to rise steadily but have fallen by perhaps as much as 5% per year since then as ANPR was deployed alongside the availability of a national database of vehicles with current insurance which was able to be searched in real time.

ESVA’s prime strategic approach to vehicle crime reduction was to adopt the same strategy as deployed by road safety accident reduction experts namely the 3E’s—Engineering, Enforcement and Education. ESVA took a particular interest in perhaps the most challenging area—Education—which involved to a small degree advising motorists as to how they could reduce their risk of becoming a victim of vehicle crime—and to a larger degree trying to alert young men as to the risks and pitfalls associated with driving stolen or non-insured cars. ESVA helped raise nationally in excess of £1million to develop “motor projects” which demonstrated to young men aged 15 to 19 an appropriate way in which they could learn about cars and the significance of this approach has been to a degree reflected in the growing emphasis on vocational education.

ESVA has also followed with interest the capacity of “black box” technology in cars to monitor the driving of motorists and to provide feedback which is especially valuable to young drivers. The first wave of such initiatives occurred approximately five years ago and failed to achieve sufficient market penetration. ESVA would like to pose the question as to whether a second attempt using this approach has a greater chance of success?

And finally—ESVA would like to sound a note of caution as to the efficacy of the deployment of a punitive enforcement approach associated with non-compliance of young drivers. Current road traffic legislation places a burden on new drivers who in their first two years incur six penalty points which results in their licence being revoked and such drivers being required to take again a driving test. DVLA data indicates that for the past four years—approximately 20,000 new drivers are subject to this penalty per year—but only 12,000 of these young drivers are registered per year as successfully passing their retest. What is the fate of the balancing 8,000 new drivers?

November 2010

Written evidence from The Credit Hire Organisation (CMI 25)

1. ABOUT THE CHO

1.1 This submission is provided by The Credit Hire Organisation (“The CHO”) which is the trade body that represents businesses engaged in the provision of post accident vehicle rental and claims management.

1.2 The CHO works actively with the Association of British Insurers in promoting the General Terms of Agreement (“The GTA”), an industry specific protocol aimed at minimizing the direct and indirect costs associated with post accident vehicle hire claims. The majority of ABI Insurers, some Lloyds Underwriters and the majority of Credit Hire companies subscribe to the GTA and members of The CHO account for around 80% of Credit Hire transactions processed annually.

1.3 As a sector, The CHOs objectives are:

- (i) to deliver ethically based claim management services to UK motorists;
- (ii) to engage and work in collaboration with insurers to provide assistance to consumers in an efficient business process; and
- (iii) to create an operating environment where the financial objectives are clear and include the elimination of the frictional costs involved in the management of claims.

1.4 All members of our industry that undertake insurance mediation or related activities as part of their services are authorized and regulated by the Financial Services Authority. Members involved in person injury services are also regulated by the Ministry of Justice.

2. BACKGROUND TO CREDIT HIRE

2.1 This submission outlines The CHOs assessment of the impact of Credit Hire on motor insurance claim costs in response to certain references in the written and oral evidence already received by the Committee.

2.2 As a matter of law, the innocent victim of a road accident is entitled to compensation in tort. This might involve:

- (i) The provision of funding for the repairs to a customer's own car if their own policy cover is third party or if they do not wish to pursue a claim through their own comprehensive insurer because of the risk to their no claims bonus or the need to pay and recover a large policy excess;
- (ii) Access to a replacement vehicle on credit whilst their own car is being repaired or, if it is not being repaired, for the time it takes to secure a settlement from the negligent party or their own insurer;
- (iii) Access to legal assistance and advice or representation where there is a dispute relating to the circumstances leading to the accident or where the innocent motorist has sustained personal injury.

2.3 Credit Hire is often mischaracterised by insurers as being a trigger for increased insurance premiums when the economic and commercial realities do not support this assertion.

3. THE EMERGENCE AND EVOLUTION OF CREDIT HIRE

3.1 The origins of Credit Hire stretch back to the early 1980s. Motorists initiated the demand for Credit Hire. These were consumers who were reliant on their motorcar for everyday use and who had been the unfortunate victims of a road traffic accident and found themselves without access to mobility.

3.2 In those circumstances, where they were insured on a third party only basis then the only redress they had was to pursue a claim against the insurer of the negligent third party.

3.3 In cases where the innocent motorist was insured comprehensively, although their own insurer would deal with the repair to his car, they were left with a similar remedy in respect of the recovery of their uninsured losses because their comprehensive insurer would usually not provide mobility as part of their insured benefits, nor would the comprehensive insurer seek repayment of their policyholder's excess.

3.4 This meant that there was a division of motor accident claims into claims for insured losses and claims for uninsured losses often with the need for access to a lawyer to gain access to justice.

3.5 The Credit Hire and Credit Repair concept provides funding for motorist who are not comprehensively insured, or choose not to claim on their comprehensive insurance policy, to repair their damaged motor car and reclaim the cost as part of an uninsured loss claim. Both services are aimed at providing a wronged motorist with access to a service that ensures their damaged vehicle is repaired as rapidly as possible and that they get a hire car for the period they are deprived of the use of their own vehicle. The recovery of the losses is concluded by the credit hire company or by solicitors acting on behalf of the innocent motorist.

3.6 As Lord Nicholls stated in the case of *Diamond-v-Lovell* "*the accident car hire arrangements provide a reasonable basis by which no-fault victims can in fact obtain the benefit of the right which the common law and compulsory third party insurance seek to give them against careless drivers.*"

3.7 It is instructive that the response of the insurers to the plight of the innocent victim of their insured's negligence was to mount a series of high profile legal challenges to the fledgling Credit Hire Industry. It might have been better had the same energy and expense been applied to the task of improving the response to the real needs of innocent motorists rather than trying to persuade the appellate courts that consumers should be denied their lawful right to be put back in the position they were in prior to an accident.

3.8 In the landmark House of Lords case of *Giles v Thompson* [1994] Lord Mustill addressed the issue which some insurers have recycled before the committee. That issue was whether Credit Hire represented a danger to the administration of justice by encouraging motorists to hire cars which they do not really require at inflated rates which have to be paid for by insurers.

3.9 Lord Mustill found that not to be a likely outcome when he said in his speech that he found "*the perils to the proper administration of justice much exaggerated*" on the basis that "*as to rates of hire, shrewd insurers will be well equipped with information about local tariffs for the hire of cars as the same type as the motorists own damaged vehicles with which they can expose any exaggeration.*"

3.10 More importantly, whilst addressing the arrangements between the innocent motorist and the insurer of the negligent driver with an eye to public policy, Lord Mustill said "*the balance of advantage is overwhelmingly in favour of those who receive professional and financial assistance to recover a valid claim which would otherwise go unsatisfied.*"

3.11 A further challenge was raised by insurers 10 years ago and it again found its way before the House of Lords. In the case of *Diamond v Lovell* the issues at stake at that time were to do with technical drafting of the hire company rental documentation. The insurers secured a victory against the Credit Hire industry but the speech of Lord Nicholls of Birkenhead addresses the realities of daily life for the motorist.

"Momentary inattention by a driver results in his car running into and damaging another vehicle. The damaged car needs repair and is off the road for some days while being repaired. The owner of the damaged car requires a replacement vehicle. Many car insurance policies make no provision for a replacement if the car is damaged in an accident. So the victim of a no fault accident has to make his own arrangements to tide himself over the days he is without a car."

“Under and ordinary car hiring agreement, the hirer has to produce the hire charge up front. Usually the amount of money involved is not large but for many people it is still a considerable sum to have to find. Further, there is no certainty the money will ever be recovered from the insurers of the car whose driver was at fault. The innocent motorist has no clout when it comes to seeking payment from someone else’s insurers. And no one would wish to be involved in court proceedings to recover the money from insurers. So there are many cases where innocent motorists make do as best they can. They manage somehow without a car, or borrow one from a relation, or get lifts from friends. Either that or they hire a car and write off the hire charges as just one of those things.”

“So it comes about that accident car hire companies are fulfilling a real need. They provide replacement and additional services as well. The hirer does not have to produce any money, either at the time of hiring or at all. The hire company pursues the allegedly negligent driver’s insurers. The hire company is not deterred by having to bring court proceedings should this become necessary.”

“These are valuable additional services...The position in law is that the negligent driver, backed by his insurers, is liable to pay reasonable charges incurred in hiring a replacement car if this is reasonably necessary... In *Giles v Thompson* [1994] 1 A.C. 142, 155A, Lord Mustill observed that ‘there exists in practical terms a gap in the remedies available to the motorist from which the errant driver, and hence his insurers, frequently profit’.”

“The additional services provided by accident car hire companies bridge this gap. They redress the imbalance between the individual car owner and the insurance companies. They enable car owners to shift from themselves to the insurance companies a loss which, in practice, owners of cars have to bear themselves.”

4. THE FORMATION OF THE ASSOCIATION OF BRITISH INSURERS GTA

4.1 The legal determinations detailed above are important. It was no accident that following the Judgment in the case of *Dimond*, an initiative between insurance and credit hire companies crystallised in the form of a protocol. The GTA had at its formation the intention of removing confrontation, avoiding costly litigation and stimulating collaboration in the management and settlement of hundreds of thousands of accident claims annually.

4.2 Nearly 10 years ago, a Technical Committee was established to “run” the GTA. It comprises an equal number of insurers and CHO that subscriber to the protocol. Every year since 2003, the GTA Technical Committee has agreed a tariff for hire rates with insurers as well as the terms, conditions and process for handling Credit Hire claims.

4.3 In addition, by engaging with each other within defined administrative and procedural protocols, insurers have focused on managing down the overall cost per claim and credit hire operators have concentrated on the goal of reducing friction in the management of claims and improving the speed at which they might settle.

4.4 The GTA has always been an equitable compromise between two disconnected parts of a supply chain that recognised the right to the innocent motorist to be provided with a replacement vehicle at the expense of the negligent driver or their insurer.

4.5 To the credit of supporting insurers and credit hire companies, the GTA is still supported 10 years later and it serves as the mechanism by which about 80% of Credit Hire/Repair claims can be settled within 90 days of a claim being submitted to an at fault insurer for payment.

4.6 The GTA requires the Credit Hire company to take on a significant administrative burden in proactively controlling the paper flow and the management of the innocent motorists claim (including managing and controlling the speed of the repair to their vehicle) in order to ensure that the overall cost of the claim is kept as low as it can be.

4.7 Against this background, it is difficult to see how insurers can attribute their current financial under performance in motor underwriting to the costs associated with the provision of a hire car to the innocent victim of a road accident at rates that are negotiated annually by the two sides of the industry.

4.8 The CHOs view is that some of this motivation is a feature of the dysfunctional motor insurance market where, at best, motor underwriting delivers breakeven results. It appears that the race for a larger share of premium income, in order to drive bigger investment returns, may have failed the market. This results from economic conditions that have depressed investment returns. Filling the deficit through price rises is unpalatable for consumers.

4.9 High profile Credit Hire litigation has unfortunately continued with the Court of Appeal deciding in favour of the innocent motorist in the case of *Clark v Ardington Electrical Services* in 2002 and then again in the case of *Copley v Lawn* in 2009.

4.10 In that later case the insurer of the negligent party (who were not at that time subscribers to the GTA) were criticized by the Court for writing to the innocent victim of an accident in which their insured was negligent “*in an unpleasant and threatening tone*” which did not “*even suggest that the recipient should pass it to his insurer or solicitor for advice as to its contents.*” Part of the strategy of that insurer had apparently been to attempt to reduce its cost base by trampling over the rights of innocent motorists.

4.11 It is worthy of mention that, as well as trying to reduce costs that from 2008 levels, many insurers sought to supplement their non premium revenues and provide a post accident mobility solution by referring considerable claim volumes to credit hire operators.

4.12 Tenders from all of the larger insurers saw supply relations crystallise in the last three years such that insurers were able to use Credit Hire companies to offer their own policyholders access to a replacement vehicle on a Credit Hire basis. The benefits to insurers in this respect were fourfold:

- (i) they recognised and benefitted from the speedy and efficient service provided to Claimant's by CHO's;
- (ii) they were not geared up to provide these services themselves and, where they do, they are not so good at meeting the consumer's legitimate needs so referring claims to credit hire operators is a positive step;
- (iii) they acknowledge that the management of the claim and the monitoring of the repair to their client's vehicle can reduce the time taken to get the motorists claim satisfactorily resolved and credit hire companies are obliged to do this as part of the GTA; and
- (iv) they receive significant referral income which helps meet the costs of their own claims process.

4.13 Insurers that manage the supply chain effectively can use the income derived to improve operating ratios and offer lower premiums in the market gaining market share. This is a classic example of market forces operating for the benefit of the consumer.

4.14 Efficient operators who offer an excellent service can also offer the most attractive premiums. It is no coincidence that it is the traditional composite insurers that lead the campaign against the Credit Hire industry.

5. MOTOR UNDERWRITING LOSSES

5.1 The leading accountancy and actuarial consultancy firm, Deloitte, predicted that the motor insurance industry was set to make losses in 2009 and 2010. James Rakow, insurance associate partner at Deloitte, commented:

“Results at a headline level for UK motor insurers have shown this market cruising along at close to underwriting breakeven point from 2001 to 2007. In 2008, the latest year for which results are available... motor insurers were making an underwriting loss of £5 for every £100 of premium. In 2008, investment market conditions were good enough for insurers to recoup this loss and make a small insurance profit. In 2009 I don't think that insurers will be able to rely on investment performance to save them from making a loss.”

5.2 In fact, the latest figures from Deloitte's Motor Premium index shows that motor premiums are increasing at the rate of 11% for the year to September.

5.3 The CHO believes that the main reasons for the current significant increases in motor insurance premiums are:

- (i) an increase in the number and type of fraudulent claims;
- (ii) an increase in the cost of bodily injury claims;
- (iii) the sustained low investment returns;
- (iv) unrealistic premiums charged in prior years as a result of insurers trying to retain set volumes of business in a very competitive market;
- (v) many insurers passing ownership of policyholders to intermediaries, especially aggregators who have sold motor insurance on price; a price increased to allow for their profit margin; and
- (vi) simple operational inefficiencies amongst motor insurers

6. MOTOR PREMIUM ISSUES

6.1 Fraudulent claims are, by their nature, difficult to detect but the Credit Hire industry experiences a continual frustration in their attempts to work with the insurance industry to identify and deal with suspect claims as early as possible in the supply pipeline. This is an area where The CHO would wish insurers to take a more collaborative approach.

6.2 Insurers are under the mistaken impression that the Credit Hire industry benefits from staged accidents and other fraudulent claims. The same customers that perpetrate these frauds steal, damage and do not return credit hire vehicles—use the CHO's cars without any intention of pursuing a legitimate claim.

6.3 While the cost of bodily injury claims may be increasing The CHO members have not noticed a rise in the percentage of injury claims reported as a percentage of claims handled. What they have witnessed, especially where insurers act as the referral source for Credit Hire claims, is the elimination of any injury claims as part of the referral because the referring not at fault insurer will pass or sell those claims to their own solicitor panel for a far higher fee than that which the Credit Hire operator could command.

6.4 There is, in addition, mounting evidence that insurers effectively inflate their own costs by slow processing of claims, their own high legal costs and by pursuing claims that have little chance of success.

6.5 While some businesses benefit from low investment returns, many businesses, including insurers, have suffered. A few years ago an insurer could be happy with an underwriting loss of up to 10% of premiums in the knowledge that overall profits would be made as a result of investment income. This no longer applies and many insurers have been slow to recognise the new economic realities.

6.6 The insurance cycle and uneconomic insurance premiums are not folk law but reality in a very competitive market and one that has reduced policyholder loyalty and less control over policyholder buying behaviour.

6.7 Many insurers have co-operated to see their ownership of policyholders pass intermediaries, especially aggregators. They have dictated premiums and insurers have had to meet their needs to attract policyholders. Increasingly their needs have been the lowest possible premium.

6.8 Many CHOs (as well as other businesses involved with motor insurers such as bodyshops) are suffering as a result of operational inefficiencies amongst insurers. They have become a significant cause of tension, a direct catalyst of increased operating cost and the trigger for litigation as a means of resolving older claims that have not been settled through the GTA protocol.

6.9 Claim backlogs of 12 weeks or more, delays in locating and dealing with files that have been outsourced to solicitors or claim management companies or general insurer headcount reductions which can result in companies refusing to take any inbound calls for literally days on end all conspire to increase costs in the supply chain. Inevitably they will drive variable costs higher for insurers as the options to conclude claims become restricted.

7. CREDIT HIRE COSTS

7.1 The cost effect of Credit Hire claims is routinely mischaracterised and always used as a headline to misdirect people's thoughts. The extensive legal diligence and review on the validity and value of Credit Hire services per se and the cooperation, which has been at the heart of the GTA for 10 years, means that:

- (i) A subscribing GTA insurer is always presented with a claim more rapidly than at any time in the past.
- (ii) The claim is submitted to the office, team or electronic agent of their choice in a format defined by them without unnecessary paperwork.
- (iii) In all cases, liability has either been pre-determined or is agreed within days of the original submission ensuring that one of the objections to settling a claim has been removed early on.
- (iv) The credit hire period is kept to an absolute minimum as a consequence of the systems and processes in place at the Credit Hire company.
- (v) The rules for which individual hire car can be supplied and the eventual agreed rate that can be charged for the hire car are at a significant discount to the spot hire rate.
- (vi) At the time the claim is submitted for settlement insurers are presented with everything necessary for them to deal with the claim with the minimum amount of effort based on the principles embedded within the GTA.

8. CURRENT ECONOMIC CONDITIONS

8.1 The impact of the recession has been felt throughout the UK economy. The Credit Hire sector has seen a material deterioration in the speed of payment of claims such that the average debtor days across the industry now ranges from a low of 100 days to a high of 300 days. The use by insurers of solicitors to manage claims on their behalf has fed cost, delay and friction back into the system as solicitors engaged by insurers seek to maximize their earning opportunity by delaying the settlement of claims.

8.2 Looking back to the early 1980's it appears that very little has changed in the level of cover provided in a Comprehensive motor insurance policy. Access to a small courtesy vehicle may now be an insured policy benefit which the motorist pays for as part of their annual insurance premium. Alternatively, insurers may insist that their approved body repair network provides and funds the cost of a small courtesy vehicle to satisfy the mobility needs of their insured policyholders. Or they may recognize, as the appellate courts have recognized over the last 20 years, that Credit Hire companies offer a valuable service to consumers which is perhaps even more valuable to consumers in the current economic climate.

8.3 Quantifying the size of that benefit or the costs to the insurance industry is difficult. The CHO estimates the annual cost of credit hire charged by members to be less than £500 million but it is wrong to seek to apportion that cost across policyholders as if it were an avoidable cost in a market place where insurers collect £12 billion in motor premium and achieve breakeven at best.

8.4 Car hire has a cost. Whether it is car hire paid for by an insurer on behalf of a client, paid for by a motorist directly and recovered as part of an uninsured loss claim or provided on credit by a CHO, the best that insurers could hope to achieve is a small reduction in the overall hire bill they face assuming that they can keep all of the other operational efficiencies in place.

8.5 The concern is that if motorists who found themselves in need of a replacement vehicle following an accident were unable to fund hire charges themselves, the number of claims involving hire might fall and the

overall cost may also decline. However, the consequence would be that innocent motorists would be deprived of access to mobility in the same way as they were 30 years ago before the law was clarified to protect them.

8.6 Repeating the extract from the speech of Lord Mustil In *Giles v Thompson* [1994]1 A.C. 142, 155A, “there exists in practical terms a gap in the remedies available to the motorist from which the errant driver, and hence his insurers, frequently profit”.

8.7 It is not the cost of credit hire which has a £500 million price tag, it is the cost of hire following an accident and insurers and credit hire companies have worked together to ensure that it is a managed cost which passes the cost benefit analysis run by each subscribing insurer and each credit hire company.

December 2010

Supplementary evidence from The Credit Hire Organisation (CMI 25a)

At last week's hearing there was confusion as to what had been happening to motor insurance premiums/claims/results over the last few years. I, and others, were trying to emphasise:

- (i) Premiums for private car motorists had not increased over the last few years (due to great competition), claims had increased a little and results had deteriorated significantly to a point where very large increases in premiums were required for most motor insurers in order for them to remain in the business. The following table (source ABI statistics) illustrates this:

UK DOMESTIC (EXCLUDING COMMERCIAL VEHICLES) MOTOR INSURANCE STATISTICS

Year	Domestic (private) UK Net Written Premiums £m	Private Car Number of vehicles (exposure) £m	Net Domestic Claims incurred £m	Domestic Underwriting Result £m	Private Car Number of Claims 000s
2005	7,563	23.6	6,211	(232)	4,260
2006	7,491	24.6	6,179	(448)	4,410
2007	7,813	24.5	6,245	(398)	4,298
2008	8,017	23.9	6,730	(601)	4,000
2009	7,570	24.2	7,442	(1,500)	3,899

- (ii) Underwriting losses (that is premiums minus claim costs and expenses) had in the past been offset by investment earnings and that is why a motor insurer could make a small overall profit even if they made an underwriting loss (as the industry has done for the last 15 years). In the last few years investment returns have fallen dramatically with lower interest rates, so the investment earnings cannot offset underwriting losses.
- (iii) Big increases in premiums had been put into effect by most insurers over the last few months to try and restore profitability.
- (iv) The latest AA motor insurance index release states "But all drivers have been affected by fast-rising premiums over the past 12 months. Douglas [Simon Douglas, director of AA Insurance] says that recent years have seen intense competition encouraged by the growth of price comparison sites, which had kept premiums artificially low to the point that many insurance companies were making large losses on car insurance business." It is, however, worth noting that the AA index has been indicating premiums have increased over the last few years (with very large increases in 2010) whereas, as the table above shows, insurance companies have been actually receiving the same or less in premiums (except for 2010 where figures are not yet available). There is a difference with what the AA Index suggests is the cost of insurance and what motorists end up paying as a result of shopping around/ changing insurer/no-claim discounts.

January 2011

Written evidence from the Association of Personal Injury Lawyers (CMI 27)

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 20-year history of working to help injured people gain the access to justice they need and deserve. Our 4,700 members are committed to supporting the association's aims, and all are signed up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives, paralegals and some academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, and governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury.
- To promote and develop expertise in the practice of personal injury law.

- To promote wider redress for personal injury in the legal system.
- To campaign for improvements in personal injury law.
- To promote safety and alert the public to hazards wherever they arise.

We welcome the opportunity to provide evidence to the Transport Committee on the cost of motor insurance. While noting the terms of reference, our evidence is restricted to issues which reflect the expertise of our members.

INTRODUCTION AND KEY PRINCIPLES

1. We understand the driving need both politically and economically to keep expenditure under control. It must be remembered, however, that people who are injured through no fault of their own must retain the right to claim the redress which they need and which is their right.

2. When discussing the cost of personal injury claims, it is common to hear that rising costs are to be laid at the door of the claimant and the claimant lawyer and that the answer is to restrict the availability of independent legal advice and restrict the claimant's damages. This is a very serious proposition for those people who are vulnerable and who need, and have a right, to claim proper redress when they are guilty of nothing except, in the case of this evidence, getting into their vehicles. It is not the role of the injured person to subsidise the insurance industry.

3. This does not mean that there is no room for improvement in the system, and APIL continues with its policy of dialogue and education, and works hard to introduce improvements wherever possible and, more importantly, where such improvements are to the benefit of people injured through no fault of their own.

4. We are concerned about many of the misconceptions which currently abound about the system for claiming compensation in England and Wales, some of which have been presented to the Transport Select Committee, and which we would like to correct in this evidence.

THE COST OF NEEDLESS INJURY

5. It must be remembered that it is expensive to injure someone, especially if that injury is very serious and leads to a need for future medical care, or adaptations to the home. Even so-called 'small claims' can be incredibly traumatic for those who suffer the injury. Compensation is only available when negligence is proven and, while it may sound trite, the best way to cut costs is obviously to cut the negligence which causes needless injury in the first place.

6. Insurers continue to suggest that costs are increasing and are disproportionate to damages recovered. We know from the last UK Bodily Injuries Award Study⁴² that legal costs as a percentage of total payouts by insurers⁴³ have remained constant at 30% for many years. We also know that damages remain below the levels that the Law Commission suggested they should be at in 1999 when the commission suggested an increase in damages for pain, suffering and loss of amenity. This suggests that costs are probably at about the right level but that, in fact, damages need to increase.

7. Where injuries do occur it is imperative, both for the welfare of the injured person and in order to limit legal costs that claims for compensation are dealt with quickly and efficiently and here the remedy is very much in the insurers' own hands. Research conducted by APIL has shown that defendants (and, therefore, their insurers) indulge in behaviour which inevitably prolongs cases and results in increased costs. In more than 2,000 cases relating to lower value claims which ultimately settled for general damages of £5,000 or less:

- the final offer made to a claimant by a defendant's insurer was more than 50% higher than the first offer;
- 63% of defendants' insurers who subsequently admitted liability failed to do so during the so-called "protocol period" (the first three months of the claim); and
- 73% of cases included an element of complexity.

8. The insurance industry has also developed a growing practise of effectively generating claims against itself, and distorting the market in a bid to pay potential claims early in an effort to avoid paying legal costs. Earlier evidence to the committee has included reference to what the Association of British Insurers euphemistically calls 'third party assistance'. What this actually means is that the insurer of the defendant driver approaches the injured person and offers to settle the claim direct. The insurer is, in this instance, its own judge and jury about what compensation is appropriate. APIL has serious concerns about this practice, not least because it is not transparent, nor is it properly regulated, which means injured people, who are usually completely unfamiliar with how compensation should be calculated, are doubly vulnerable. Not all insurers are as scrupulous as they should be about reminding people that they are entitled to independent legal advice. We will never know just how many people are being under-compensated because they are left to deal with their cases direct with insurers, when they have little or no knowledge of how the system works.

⁴² ABI and IUA 4th Bodily Injury Awards Study 2007.

⁴³ Ibid (damages to costs ratio in private car comprehensive claims).

9. In addition, by approaching claimants in this way, the insurance companies are “capturing” claims from people who might never have claimed compensation otherwise. They do this through direct telephone calls, text messages and emails. Contrary to the popular and perpetual myth, there is no “compensation culture” in this country. People are not queuing up to claim compensation payments. Many people who are approached in this way may not have claimed compensation at all if they had not been approached by the insurer, but it is very difficult for anyone to ignore repeated and persistent offers of compensation. One example has been provided by one of our members in Scotland whose daughter, a student, was involved in a road traffic collision. Although a little shaken and sore after the event, she did not need to see her doctor. She was, however, pursued relentlessly by the insurer of the driver who was at fault in this instance, and who wanted to offer her compensation. In the end her privacy was invaded to such an extent that she accepted the payment which was being forced on her just to prevent the intrusion.

NEW CLAIMS PROCESS FOR ROAD TRAFFIC CLAIMS UNDER THE VALUE OF £10,000

10. The committee has heard evidence already about the new claims process. It was introduced by the previous Government to reduce delay and costs in the system for these types of claims. The new process was developed with the hard work and co-operation of all key stakeholders, including APIL, which sits on the board of stakeholders which manages and governs the process. According to the Ministry of Justice, the new system accommodates 75% of all personal injury claims.

11. It may well be the case that, in time, the new system delivers on the Government’s objectives, but to suggest at this stage that there is any firm evidence that it is doing so now is both misleading and premature. The new scheme is only seven months old and has not been properly tried or tested. Only a handful of cases have even reached the final stage of the process. The electronic portal is still beset by quite fundamental teething problems and there are other significant issues to resolve, for example, who owns it, who runs it, who pays for it and who owns the data. It needs to run for at least a year and then be subject to careful review to make sure it's effective before even contemplating any extension of the scheme to other categories of case, as suggested by Lord Young, and has been mentioned in previous evidence.

REFERRAL FEES

12. Earlier evidence that referral fees increase the cost of premiums was highly misleading. Referral fees are paid usually by solicitors to claims management companies, if they provide them with cases, or to insurance companies for passing cases on to them. In the latter example, these are usually situations in which the solicitor is part of a panel of law firms retained by the insurer.

13. There are no circumstances of which we are aware which would result in referral fees generating an increase in insurance premiums. As is the case with any marketing activity, a solicitor is not allowed to recover the cost of referral fees from the losing party, but pays the fee from his own account.

14. APIL’s only concern in relation to referral fees is, however, the protection of the injured person, and we believe the only way to achieve this is through a combination of regulation (as this is not a properly regulated area) and education.

15. It is vital that consumers are properly protected and that referral fees are transparent. Both proper consumer protection and transparency would be impossible to deliver if referral fees were to be driven back underground, which is what the Legal Services Consumer Panel concludes could be the consequence of a ban or a cap. It is proving equally unrealistic to expect solicitors to police the activities of introducers. What is needed now is robust, joined-up regulation, and a level playing field for all agencies involved. This, together with a culture of openness and transparency, is particularly important with Alternative Business Structures on the horizon, as they will create an even more complex market. The Solicitors Regulation Authority needs to play a more active role in the policing of solicitors’ behaviour and, in particular, in ensuring that injured people are aware of the existence of referral fee arrangements from the outset of cases.

FRAUD

16. Fraud is clearly a major problem for the insurance industry. Obviously, there is no place for fraudulent claims in the legal system and APIL has actively sought dialogue, and is currently working, with those directly involved in this issue, including the Insurance Fraud Bureau (IFB) and the Forum of Insurance Lawyers (FOIL). We are very keen actively to assist the IFB in its drive to work with stakeholders to reduce fraud and some of the activities we are considering in conjunction with the IFB are a survey of APIL members and exploration of the possibility of helping APIL members improve screening for fraud.

17. While lawyers have to have a degree of good faith in what a client says, investigations and evidence play a large part in determining whether or not a case has merit. We know our members take this issue extremely seriously and are far from complacent about fraud. But we need the insurers and all those who are familiar with fraudulent tactics, to keep us informed about current developments so our members are properly prepared when dealing with their clients.

18. Insurers are obviously entitled to do whatever is necessary, and should certainly fight a case if they believe a case is clearly fraudulent, although claims of fraud should, obviously, be supported with clear evidence.

LORD JUSTICE JACKSON'S RECOMMENDATIONS

19. Lord Justice Jackson's proposals for civil litigation costs have been lauded in earlier evidence as the answer to the insurers' difficulties in relation to the high cost of motor insurance. This is despite the fact that he offers no remedy for the major concerns expressed in relation to fraud, or the propensity for younger drivers to have more bodily injury claims.

20. In fact, Lord Justice Jackson's recommendations will deny access to justice for many of the most seriously injured people, as he is seeking to transfer part of the burden of costs onto the innocent party and he is doing this in a climate in which we know damages are too low in any event. Legal costs should continue to be met by the negligent person who caused the needless injury in the first place, not the innocent victim who was injured through no fault of his own. This "Jackson levy" on seriously injured people is unfair and unjust.

December 2010

Written evidence from Mark Boleat (CMI 28)

INTRODUCTION

1. This evidence is based on my experience in a number of different capacities:
 - Director-General of the Association of British Insurers, 1993–99.
 - Involvement in the establishment of the regulatory regime for claims management companies under the Compensation Act 2006, as a consultant (2005–06), the regulator (2006–07) and again as a consultant (2007–10). Most recently I wrote the (July 2010), the fourth of a series of impact reports.
 - Member of the City of London Police Committee with particular responsibility for economic crime (2006 to date).

COMMON GROUND

2. There is general agreement that:
 - The number of motor insurance claims has increased in relation to the number of accidents.
 - Claims management companies (or more precisely intermediaries—most are mere introducers) have played a role in this trend.
 - There is a significant amount of fraudulent claims; the insurance companies estimated undetected motor insurance fraud is running at about £900 million a year, which is reflected in insurance premiums.
 - The motor insurance market is very competitive; there is no question of cartels or excessive profits.

CLAIMS MANAGEMENT COMPANIES ARE NOT A CAUSE OF THE PROBLEM - DON'T SHOOT THE MESSENGER

3. It is wrong to blame claims management companies or referral fees for the present situation. The analysis in my most recent impact report concluded:

- "A major reason for the increase in the proportion of actual claims to the number of potential claims is the reforms to the claims process introduced in 1999 and 2000.
- Claims management companies were not an independent factor in increasing the number of claims, but rather were the means by which a market opportunity was exploited."

4. Claims management companies have helped people obtain compensation to which they were entitled who would not otherwise have done so. They have therefore contributed to access to justice. Some of the discussion of this issue seems to imply that people claiming compensation is a "bad thing" and that it should be made more difficult. Advertising and marketing play an essential role in this market as they do in any others. Why is it right for insurers to advertise motor insurance (and their "acquisition costs"—ie marketing costs, amount to about 30% of premiums), but wrong for other businesses to advertise for claimants? Restricting or controlling the volume of advertising by claims management companies and solicitors (one of Lord Young's recommendations that is unlikely to be implemented) is both inappropriate and ineffective. Solicitors and claims management companies would easily find ways round such a ban.

5. Banning referral fees is similarly illogical and unworkable. They are a form of marketing. There can be no grounds for banning what is in effect the outsourcing of marketing by a firm of solicitors, while allowing solicitors themselves to do as much marketing as they like. Referral fees have not pushed up the cost of insurance; there is no transmission mechanism by which this can happen. Rather, the reforms to the claims process made personal injury claims a valuable commodity, which solicitors have been prepared to pay for. Whether they pay for those claims by their own advertising and marketing or by paying a specialist company

to do their advertising for them or by paying referral fees is immaterial. It is relevant to note here that insurance companies are themselves significant receivers of referral fees, so presumably it is a practice that they are comfortable with.

FRAUD

6. The claims process reforms improved access to justice, but like any measure that does this they also increased the opportunities for fraud, and there is no question that there are many fraudulent claims. If the cost of undetected insurance claims is £900 million a year, it is surprising that the insurers have not spent rather more money dealing with the problem. However, ultimately they do not meet most of the cost. Given that motor insurance is, to some extent, a compulsory product it makes little difference to insurance companies collectively whether fraud puts £10 or £50 on the cost of the average premium; it matters rather more to their customers.

7. Motor insurance fraud is undertaken by criminal gangs that are also engaged in other forms of crime. While the insurers have made commendable efforts to deal the problem individually and collectively, the problem can be addressed properly only with the assistance of the police, and police action has to target the enablers (solicitors, doctors and engineers) and the masterminds behind the fraud, not the foot soldiers who perhaps are paid £100 for claiming that they have had an accident and received an injury. This is not a police priority, and the necessary police resources to deal with the problem will not exist unless they are funded by the insurance companies or other parties. A useful analogy is the Dedicated Cheque and Plastic Card Unit operated by the City of London Police but funded entirely by the banks.

8. It is relevant to note the sort of police work that is necessary to deal with this sort of crime. Recently, six professionals were charged as part of a City of London Police investigation into a suspected multi-million pound fraud against the UK insurance industry. The charges of money laundering and fraud by false representation followed an investigation into allegations that an organised crime group staged 'cash for crash' accidents. The General Medical Council, Solicitors Regulatory Authority and the Insurance Fraud Bureau supported the police investigation. The five men and one woman, several of whom are linked to the medical and legal professions, have appeared at City of London Magistrates Court and are currently on bail.

9. As Head of Claims Management Regulation at the Ministry of Justice I initiated the Fraudulent Motor Accident Claims Strategy Group, comprising the insurers, police forces and other relevant bodies. This has played a useful role in sharing information and establishing contacts, but has not been sufficient. I understand that productive discussions have recently taken place between the insurance industry and the City of London Police and I hope that these might lead to the establishment of a dedicated police unit to tackle insurance fraud. The problem can be addressed satisfactorily only by the Police and the insurance industry working together at a national level. It will not be solved by individual insurance companies dealing with individual police forces. Localism will not work here.

December 2010

Written evidence from ACPO Vehicle Crime Intelligence Service (CMI 31)

In recent years the cost of motor insurance has risen sharply. All the current market trends indicate that further large increases should be expected. A number of factors contribute to the increases which are reflected in the premiums paid by vehicle users. In each of these templates a short description is given of causes and consequences together with some early thoughts on how they might be addressed.

PROBLEM SUMMARY

Driving Without Insurance

Collectively, increased third party claims, increased litigation costs, the temporary use of replacement vehicles (courtesy cars), increased personal injury claims and suspected organised criminal activity in regard to fraudulent collision claims are forcing an increase in motor insurance premiums.

The increased cost of motor insurance is leading to an increasing number of vehicle users, particularly young people, driving without insurance cover or operating the vehicle under cover provided to another person (often a parent). In some cases this practice, referred to as '*fronting*', invalidates the policy.

EVIDENCE BASE

1. The Motor Insurance Bureau (MIB) estimates that 5% of vehicle users drive without insurance—this equates to 1.75 million vehicles in regular use.
2. 54% of uninsured drivers are estimated as being in the 17–29 age group.
3. Typical rates for new and young drivers between the ages of 17 and 22 are over £2400 per annum for male drivers and £1400 for females.

4. Uninsured young or new drivers are all the more significant because analysis undertaken by Thatcham (August 2008) revealed that an 18 year old driver is over three times more likely to be involved in a crash than a mature driver. 1 in 5 new drivers has a crash within one year of qualifying.

5. A report from the Select Committee on Environment, Transport and Regional Affairs showed that although 17–24 year olds hold only 11% of driving licences, they are involved in 25% of fatal and serious injury accidents annually. Over 3,000 young drivers aged under 25 are killed or seriously injured on UK roads each year.

6. In 2008, 185,000 uninsured cars were seized by the police. This is more than twice the number that were seized in 2006.

SCALE

The Motor Insurers Bureau (MIB) applies a levy representing about 3% of premiums on all insurers to cater for claims against uninsured drivers. In 1991 this fund amounted to £39 million. By 2009 it had risen to £407 million.

The MIB paid out £500 million in compensation to 30,000 claimants in 2009 where the third party to a collision event proved to be uninsured.

INTERVENTION OPPORTUNITIES AND SOLUTIONS

- A. Continuous Insurance Enforcement scheme
- B. Police led targeted vehicle seizure campaigns utilising ANPR
- C. Intelligence led investigations and interventions

PROBLEM SUMMARY

Increased Impact of Personal Injury Claims

Despite significant decreases in serious road traffic collisions within the UK, successful claims for whiplash injury have increased to the highest rates in Europe. Many are considered fraudulent.

A number of third party companies actively pursue and support parties involved in collisions to submit injury claims. Many do so on a *no-win, no-fee* basis

An increasing proportion of the cost associated with settling claims is incurred in payment of legal fees. The average legal cost to damages award ratio is now 1.08:1

EVIDENCE BASE

1. The number of road traffic collisions that result in death or serious (life changing) injury has reduced by 30% over the past 10 years.
2. Despite this, personal injury claims doubled between 2002 and 2009 to £14 billion each year.
3. 430,000 people now make whiplash injury claims each year.
4. Between 42% and 51% of each compensation award is now attributed to legal costs.

SCALE

There were 163,554 road accidents reported to the police involving personal injury in 2009, 4% fewer than in 2008. Of these, 21,997 accidents involved serious injuries, 5% fewer than in 2008 (23,121).

INTERVENTION OPPORTUNITIES AND SOLUTIONS

- A. Claims analysis to identify suspect groups (repeat claims, geographic and temporal anomalies)
- B. Claims analysis to identify “rouge” claims management operators
- C. Targeted intervention and investigation

PROBLEM SUMMARY

Fraudulent Claims

Insurance fraud is becoming increasingly complex. Induced motor accidents are an example of organised fraud, where an innocent motorist is forced to crash into the back of the fraudster’s vehicle. Claims are then made against the innocent motorist, and these often include accounts of fictitious injuries from gang members, some of whom may not even have been involved in the accident. In many cases criminal gangs have bogus claims running with numerous insurers at the same time. Other examples of organised insurance crime include

fraudulent arson or disability claims and supplier fraud, where insurers receive bills for work that has not been done.

EVIDENCE BASE

1. The Association of British Insurers (ABI) reported a 30% increase in fraudulent claims between 2007 and 2009 with the associated cost rising from £1.6 billion to £1.9 billion.

2. Insurers are exposing an average of 2,300 fraudulent claims across on policy areas, to the value of £16 million, each and every week, the vehicle insurance share of this total in financial terms is £7.9 million per week (£410 million in 2009).

3. The Insurance Fraud Bureau (IFB) estimates that there were 30,000 staged collision claims in 2009 at a cost to insurers of £350 million .

4. Costs are ultimately borne by the honest motorist. The cost of fraud is estimated by the IFB at £44 per annum on each and every policy

SCALE

The ABI estimate that £930 million of motor insurance fraud went undetected in 2009.

The ABI estimates undetected general insurance claims fraud totals £1.9 billion a year. Of this figure, the IFB estimates the insurance industry's exposure to fraudulent organised motor insurance claims is £350 million per year. This costs honest customers over £4 million every week.

INTERVENTION OPPORTUNITIES AND SOLUTIONS

A. Intelligence-led targeted investigations undertaken by police-led multi-disciplinary team.

December 2011

Written evidence from Claims Standards Council (CMI 36)

INTRODUCTION

The Claims Standards Council [CSC] was established in 2004 to unite the claims management industry and assist in its regulation. The CSC is the trade association representing claims management businesses, and aims to ensure that the claims management sector is fairly and effectively promoted to lawyers, insurers, and the Government, and to ensure a balanced view of the sector. The CSC has 126 members who actively operate claims management services in personal injury and financial services.

A full history of the CSC can be seen here—<http://www.claimscouncil.org/about>

WHAT IS A CLAIMS MANAGEMENT COMPANY—BACKGROUND

The term most commonly used to describe claims management companies is “Ambulance Chaser”; an American term first presented by the *Daily Mail* in an article describing the two most famous claims management companies, Claims Direct and The Accident Group [TAG]. These two companies epitomised the types of business that highlighted the potential for abuse and fuelled the emergence of many similar organisations.

To put the activity in context, it is important to understand why this industry emerged. In 2000 legal aid was withdrawn and a system known as conditional fee arrangements—“no win no fee”—was implemented for consumers to fund the costs of making claims. This meant that the losing side of a personal injury claim had to cover the costs of both sides, and consumers were encouraged to take out insurance to cover these costs. Claims Management Companies [CMCs] emerged and promoted themselves to consumers offering advice to people wishing to make a claim and referring them on to a solicitor.

The techniques used by CMCs to market the opportunity to make a personal injury claim were misleading the public into believing they could make money easily. They used aggressive marketing techniques and even suggested people could make false claims with little or no risk. Many consumers, far from being compensated, ended up owing money to the CMCs.

Naturally, the idea of making huge profits from the activity of claims marketing and management attracted many unsavoury and unscrupulous individuals who very quickly understood that there were no controls or regulation to stop them.

There are many case studies highlighting the abuses, and the CSC were instrumental in bringing these to the attention of the press and the Government in an attempt to try and self-regulate the industry in 2003.

An example which encapsulated the problem involved an individual standing on a street corner or outside an A&E department encouraging anyone to consider making a claim simply by offering them £100 in cash to

sign up to pursue one. Most people encouraged by a bribe of £100 cash would sign up. That sales person would then take the lead and sell it to a solicitor for anything up to £700, clearly making a tidy profit. This was commonplace outside A&E departments across the UK and clearly defines the terminology “Ambulance Chaser”. This malpractice and others led—rightly—to a perception of a “compensation culture” and to the collapse of Claims Direct and the Accident Group.

The CMCs were quite rightly in those days described by law firms and the insurance industry as abusing the system—but it was clear that someone was buying these leads and the blame for encouraging and fuelling this activity at that time has to lie at the door of the solicitors who continued to buy these leads with little or no investigation into how they were obtained.

THE PROBLEM WAS CLEAR

- The claimant had become a commodity sold to the highest bidder.
- There were no rules on procurement of a claimant.
- There were huge misleading marketing statements and activities which broke every ASA rule.
- The current system did not work—and in many cases claimants were left owing fees to CMCs.

Following David Arculus’s report—“Better Routes to Redress” it was clear the Government needed to bring in some sort of regulation. Initially it was hoped that self-regulation would work but following an assessment by the DCA of the ability of the trade body [CSC] to self-regulate it was crystal clear that regulation was needed urgently if the consumer was to be protected.

In that assessment, by Mark Boleat it also became clear that Claims Management Companies were not the only cause of the problem. In his report he rightly stated:

“A major reason for the increase in the proportion of actual claims to the number of potential claims is the reforms to the claims process introduced in 1999 and 2000. Claims management companies were not an independent factor in increasing the number of claims, but rather were the means by which a market opportunity was exploited.”

The decision to bring in regulation in 2005 was welcomed by every stakeholder in the personal injury sector, and especially by the firms that were not abusing the current system but had worked to bring some self-regulation to the industry. The leadership by firms that joined the CSC helped the Government understand the various issues that were often misrepresented in the press and by other stakeholders. Notable for their contributions were claimant law firm Russell Jones & Walker and claims management company Accident Advice Helpline, both significant organisations who firmly believed that regulation was critical if the consumer were to be protected from the malpractices of some and who recognised that the entire sector were to blame for the emergence of the abuses.

The Government found an innovative, low cost and effective way of bringing in regulation that worked and could be implemented quickly.

“Imaginative” is not often used to describe the civil service, but in the case of implementing the “Compensation Act 2006” it was both imaginative and effective. It was only able to do this by setting up a Regulatory Consultative Group of stakeholders who met regularly to help the government design and implement regulation that could work. It also helped other stakeholders fully understand the processes and how CMCs operated—a surprising statement considering every solicitor represented by APIL and MASS had relationships with introducers of one kind or another.

The result was unique and effective and standards rose quickly. The Policy Director of the Claims Standards Council summed up the effectiveness of the regulation in a report by the Better Regulation Executive published in October 2009.

“The regulation has teeth—it is not just regulation for regulation’s sake and this only happened because of the engagement with stakeholders”.

Since 2006—much has changed in the sector and the activity of claims management is sophisticated, with only very small pockets of abuse—usually criminal “Cash for Crash” cases.

The legal sector is now the biggest advertiser in personal injury with Injury Lawyers for You and National Accident Helpline the biggest spenders in the sector.

It is clear that CMCs have helped people obtain compensation to which they were entitled who would not otherwise have done so. They have therefore contributed to access to justice.

Today every part of the sector operates claims management activity.

1. Traditional CMCs still promote services through TV advertising and websites etc.
2. Law firms operate websites and outsource marketing services to all types of advertising and marketing agencies.
3. Law firms join marketing collectives—IL4U, NAH, and Claims Direct.
4. Insurance brokers use telesales services to secure personal injury clients.

5. Accident management companies sell personal injury leads to panel solicitors in the same way as a claims management company.

We therefore find the recommendation made by Lord Young to restrict or ban advertising inappropriate and ineffective, especially as both would have a critical impact on any service offered to the consumer and be unenforceable anyway. Clever marketing people will only find another route to obtain clients. You also have to consider that the consumer is now very well educated in their rights and entitlement.

The idea that you can ban referral fees is also misguided—the market has developed in such a way that it would be possible to get round any such regulation. These fees are part of the marketing process that allows solicitors to outsource cost-effectively their new business function. Referral fees are paid to everyone in the supply chain including insurers who receive significant referral fees from their partners. For example, insurer A will receive a fee for passing onto a third party firm a lead for a claim—so clearly the insurance sector is comfortable with this process.

Claims Process Reform—reducing costs

The MOJ Road Traffic Accident [RTA] portal has helped reduce legal costs in the personal injury process significantly, and continued developments by outsourcing firms and the soon to be implemented ABS structures mean this market will continue to develop and be commoditised. Ultimately swift and cost effective services, already being demonstrated by the likes of Judicata, Sentinel Alliance and other legal process outsourcing companies, will enhance ‘Access to Justice’ for the consumer.

Lord Young’s and Lord Jackson’s reports are out of date and out of touch with what has happened since 2005–06—the market has matured and will continue to develop without the need for costly unnecessary interference from the legislator.

January 2011

Supplementary evidence from the Department for Transport (CMI 20a)

I was pleased to have the opportunity to give evidence at the recent Transport Select Committee on motor insurance costs on 11 January.

There is one issue in response to question 266 which I would like to correct to ensure that the Committee has an accurate account. It concerns the Department’s work with the insurance industry on access to the DVLA driver record. A detailed plan, agreed with the insurance industry, to include costs, funds and timetable for delivery, will be completed within six months. The timetable for implementation has not yet been finalised with the insurance industry.

January 2011

Further supplementary evidence from the Department for Transport (CMI 20b)

Thank you for your letter of 18 January and your question on whether a no fault system for motor insurance would be desirable in the UK.

This is a question of liability rather than insurance. Under UK civil law, the principle of civil liability is predicated on the establishment of fault and the need for any allegation of fault to be proved on the basis of probability. In order to prove fault, one needs to prove that the defendant’s actions caused the accident and were either negligent or intentional.

A change from the current fault based system for motor insurance would only undermine a well established legal principle. Moreover, it may result in perverse consequences, for example unfair results in cases where the motorist is driving entirely responsibly and the accident is caused by the irresponsible or negligent behaviour of the other road user. It would also remove the incentive for road users to act responsibly which could have an undesirable effect on road safety. More generally, it could lead to an anomaly in law of negligence whereby claims involving personal injury or damage to property would be treated differently in law solely on the basis of how the injury or damage was sustained.

Some campaigners argue that there is a road safety benefit from stricter liability. They say that stricter liability has the psychological effect of making drivers more aware of vulnerable road users (cyclists, pedestrians, and children). In support of their argument they point out that countries which apply such a system have better cycle and pedestrian safety. However, there is no firm evidence of a causal link and there are other factors which may explain these differences including environment, social and behavioural factors. There is nothing to suggest that stricter liability will motivate drivers to drive safely more than any other factor for example the consequences of being fined, disqualified or imprisoned for causing death or injury on the roads.

The article you attached on the Canadian system is interesting. It does suggest freedom of choice in whether a tort or no fault system is applied in a province. However, it is always difficult to compare legal systems in different jurisdictions and given the size of the UK it could be confusing to have the same level of choice. It

is also important to remember that a no fault system may not necessarily lead to a reduction in insurance costs. While an element of legal costs may be saved, compensation awards may be higher.

February 2011

Supplementary evidence from Duncan Anderson, Towers Watson⁴⁴ (CMI 3a)

The submission by the CHO provides a supporting table, sourced from the ABI. We cannot reconcile this table to our readily available sources but also do not feel it necessary to understand the table. The CHO states that during the period covered by the table, the market showed relatively benign movements in total average premium. Towers Watson would accept this conclusion but might debate the actual numbers.

Measuring movements in insurance premiums is very difficult for a number of reasons. Three areas where current private car insurance premium indexes might not explain the whole market trends are discussed below.

1. RENEWALS

Insurers, knowing more about renewing customers than new customers, may well chose to encourage existing customers to renew by moderating any significant increases they are applying in their underlying structures (which may have been set to handle new customers who may have poorer claims experience in their first year compared to renewing customers' existing experience). One major reason for insurers to manage their renewals in such way is to avoid the need to incur acquisition costs to replace renewal business with new business whose claims experience may be worse and more variable. However, there is no "public" information on the detail of insurer's actions with regard to renewals and any moderations applied.

2. NATURAL AGING

Customers renewing their policy on the same basis as the previous year are likely to see a decrease in premiums (even if they have full NCD), assuming the insurer has not changed its rating position. This is because the customers profile will age e.g. the customer will be a year older, the car will be a year older, the distance in years to any claims and convictions increases. The underlying risk, and so the insurance premium which reflects risk, will usually reduce.

3. SHOPPING AROUND

The customer's ability to shop around, especially with the rise of comparison sites, has increased in recent years. As a result customers may switch provider to a cheaper rate (or negotiate with their current insurer to match a competitor's rate) much more readily than in the past. In addition, customers may chose to purchase from insurers that are not necessarily the cheapest in the market since, for example, the insurer may have a good brand, offer more coverage, include desirable "add ons" for free.

It is difficult to find one measure that records all aspects of market premium movement and, in addition, any attempt at measuring market movements is likely to differ from someone else's attempt. It does not mean that one or the other's (or both) attempts are wrong—simply that the source data used and the approach adopted will give rise to differences. This may be why the respondents' widely accepted view of the market trends might be questioned by the CHO submission.

It might be helpful to bring together some information that supports the movements in the market that have been commented on by most respondents. There are a wide variety of sources of information available but we have attempted to comment on examples from each broad area: Premium Movement Indexes, Government Data and Insurers Commentary/Results presentations in the market.

Premium Movement Indexes

Both premium index measures commented on below, the AA and the Confused.com/Towers Watson indexes, provide benchmark movements for the lowest premiums available in the market place based upon the source data available. They both use data related to comparison sites which reflect the rating of the majority of insurers in the market place. This does not mean that it reflects all rating in the market place e.g. RBS has companies on comparison sites but have significant products sold directly to customers.

AA British Insurance Premium Index

The AA index has traditionally focussed on the broker market. Before the rise of direct writers and comparison sites this information would be viewed by the market as the benchmark to use for market movements. The AA recognised that Comparison sites, now responsible for over 50% of new business in the Private Car market, have altered market dynamics. For this reason, in 2010 they introduced an additional index that measures the market movements seen on comparison sites.

⁴⁴ Towers Watson has recently acquired EMB Consultancy LLP, from which Duncan Anderson previously submitted evidence to the Committee

For both the broker and comparison site indexes the AA use a few thousand risk profiles to monitor market movements.

The AA last published index information for the third quarter 2010:

AA Broker Focus

Year to 30 September 2010	Comprehensive	39.9%
	TPFT	54.6%

AA Comparison Sites

Quarter to 30 September 2010	Comprehensive	10.3%
	TPFT	9.2%

The broker focus annual increase is significant as is the in quarter increase for comparison sites.

Confused.com/Towers Watson (formerly Confused.com/EMB) Index

This index uses the millions of quotes Confused.com receive monthly to derive a view of market movements for the cheapest new business premium in the market place. This is a fairly technical piece of work that involves undertaking a statistical analysis of each months quotes and applying the resulting model to a profile of 4 million risks that represents the whole market's mix of business.

<i>Year</i>	<i>Annual Increase</i>	
	<i>Comprehensive</i>	<i>TPFT</i>
2007	-1.4%	2.9%
2008	1.8%	8.1%
2009	12.6%	21.6%
2010	38.2%	56.3%

This index records that the early years movements, that are available for comparison in the CHO table, are relatively benign (Comprehensive business forming over 90% of written private car business with TPFT the majority of the rest).

In 2009 the index shows that some significant movements have applied. The CHO table does not show such a high increase. Ignoring the accuracy of the data in the table, we would expect that, given the increase in 2009 were applied towards the end of 2009, that the vast majority of new business policies written in the year would not see that level of increase and so for the whole year the increase indicated would be reduced significantly when measured in aggregate. This dampening effect does not mean that significant increases were not applied to the new business market in 2009, only that the impact was towards the end of 2009. In the renewing market, for reasons identified above (like insurer premium increase moderation) the index could well be moderated. However, the underlying trend for renewal business would still be to apply increases but implemented over a longer times span than in the new business market.

Government Data—CPI

The Consumer Prices Index (CPI) is the main domestic measure of UK inflation for macroeconomic purposes. A consumer price index (CPI) measures changes through time in the price level of consumer goods and services purchased by households. The CPI actually consists of a large number of sub indexes one of which is labelled "Transport Insurance". Towers Watson believe that insurers supply premium information for a small number of risks from which this index is created.

The "Transport Insurance" sub index shows the following annual increases

<i>Year</i>	<i>Annual Increases</i>
2007	4.2%
2008	1.7%
2009	22.4%
2010	32.2%

Again, this index shows significant increases being applied in the market place in the last two years.

As discussed earlier, each index may show different actual numbers but what is more important is that the broad trend and levels displayed and the consistency between them. It could be argued that insurers could manipulate the CPI information and the AA BIPI index. It could also be argued that these two indexes might be distorted because of the small number of risks underpinning them. However, the Towers Watson/Confused index is based on millions of real customer quotes and openly available insurer premiums for each of them.

Given that there could still be some debate around the indexes, their nature and their foundation, it might be worth stating what has been said in public by insurers about their actions within the marketplace. These indications tend to be combination of narrative and indicative increases and are only available at infrequent points in time.

Insurers' Commentary

RBS Quarter 2 2010

"Total in-force policies have declined due to a reduction in motor policies following significant re-pricing as well as exiting less profitable partnership and broker business".

Zurich January 2010

"We have seen a 30% increase in bodily injury frequency with a worsening trend throughout 2009. This, combined with high inflation, has resulted in a 50% increase in the cost of covering bodily injury losses in the last few years. With this trend showing no signs of slowing down, we are taking decisive steps to lead the market in driving the corrective rate action that the motor line of business clearly needs. As a result we will move rates on our broker business by as much as 20% in March to address this trend, over and above the rating action we have already taken. As this is an industry and distribution-wide issue, our colleagues in the Direct channel are taking similar action on their book. However, if the trends in bodily injury and related claims farming activity continue even this may not be enough. As an escalating market issue, we recognise that all insurers will be seeing this trend, but by acting now, we can move quickly to provide our customers with a sustainable level of long term pricing".

Aviva and RSA—August 2010 article

"Aviva, Britain's biggest insurer, said today it had imposed 'double-digit' increases in motor premiums over the past six months while also increasing home insurance rates.

David McMillan, head of Aviva UK general insurance, said: "It is not surprising that rates have continued to harden this year. If you look at the underlying inflation in bodily injury claims that we have had in the market for the last three or four years, in many respects it is surprising rates didn't harden sooner."

He added: "There is no sign of a let-up in this inflation, so I expect this market phenomenon to continue."

RSA, which owns the More Than insurance brand, has raised its rates by 13% for motor policies. It said it "continues to take action on rates as and when necessary".

Insurer's results presentations

RSA	Increases achieved in 2010 up to 30 September	18%
AXA Motor	Increases achieved in 2010 up to 30 June 2010	14%
Admiral	Increases achieved in 2010 up to 30 June 2010	14%
(Admiral says that this represents achieved increases of 22% in year up to 30 June 2010)		

CONCLUSION

From each of the sources examined the broad message is:

- Increases are being applied in the UK private car market
- This is a more recent trend
- The increases are significant

Towers Watson hopes this note helps put the CHO commentary into context and explains the widely presented view on private car rating increases in the market place.

February 2011

ISBN 978-0-215-55677-6



9 780215 556776

