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Transport Committee

Driving premiums down: fraud and the cost of motor insurance

First Report of Session 2014–15

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to the report*

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Summary

This is the fourth report we have published since 2010 on the cost of motor insurance. Although premiums are now falling, our reports have lifted the lid on a highly dysfunctional market in which the pursuit of profit by the different firms involved has led to higher prices for consumers and, in some cases, business practices which are not in the consumer interest. In addition, the business models of firms in this area have, inadvertently, encouraged criminal activity. Concerted activity by a number of Government departments and agencies, working with all interested parties, is required to tackle the various problems which have been identified.

This report reviews Government plans to tackle fraudulent and exaggerated motor insurance claims, particularly for whiplash injuries. We follow up previous recommendations on court procedure and medical panels and also deal with recently announced Government policy in the following areas:

- The Government has said it will require courts to strike out “dishonest” insurance claims where, for example, there has been gross exaggeration. We agree in principle but caution against hasty legislation because there may be complex legal implications.
- The Government wishes to prohibit solicitors from offering inducements, such as cash or tablet computers, to people considering making claims. We agree.
- Steps are being taken to prohibit insurers from offering to settle whiplash claims before the claimant has undergone a medical examination. We agree and would like to see this practice banned altogether.

Progress in enabling insurers and claimant solicitors to share data about potentially fraudulent claims has been slow. When data sharing begins it should be compulsory, otherwise only the most reputable firms will be involved.

We also recommend that the Government oversee funding arrangements for the police Insurance Fraud Enforcement Department, to make sure that this unit, currently funded by the insurance industry, has a long-term future.

Finally, we also note evidence that new forms of potentially dishonest practice—such as ordering additional medical reports on psychological harm arising from road traffic accidents—are emerging. The Government should press the Solicitors Regulation Authority to stop some solicitors from playing the system to maximise their income from unnecessary medical reports.

1 Introduction

1. This is the fourth in a series of reports we have published since 2011 on the cost of motor insurance.¹ Our original interest in this subject was due to the extraordinary increase in motor insurance premiums at the start of this decade. In 2010 average quoted premiums were increasing at an annual rate of over 30%. The average quoted premium for men aged between 17 and 22 in October 2010 was £2,457; the corresponding figure for women of the same age was £1,423.²

2. In more recent times, average premiums have fallen back. According to the AA, average quoted premiums fell by 16.6% in the year to March 2014 and are now lower than at any time since late 2010.³ Nevertheless, our original inquiry uncovered a host of problems relating to motor insurance and led to a surge in ministerial interest in this area.⁴ The Office of Fair Trading also launched an inquiry focusing on the costs borne by the insurers of drivers at fault for accidents, particularly in relation to car hire and repairs, which has led to further work and recommendations by the Competition and Markets Authority.⁵

3. Our 2012 and 2013 reports focused principally on the impact of the number of claims for whiplash injuries on premiums. We made recommendations aimed at reducing fraudulent and exaggerated claims, whilst maintaining access to justice for the genuinely injured.

4. The Government has described a whiplash injury as:⁶

The neck pain which occurs after the soft tissue in the spine has been stretched and strained when the body is thrown in a sudden, forceful jerk.

There is no generally accepted objective test for a whiplash injury. There are no physical manifestations of the injury and whiplash cannot be diagnosed using a CT or MRI scan. The number of whiplash claims from road traffic accidents peaked in 2010-11 at over 560,000, around 70% of all claims arising from such accidents. Since then, the number of claims has diminished.⁷ However, claims for back or neck injuries have increased in this

1 The previous reports were: Transport Committee, Fourth Report, 2010-12, *The cost of motor insurance*, HC 591 (hereafter *CMI 1*); Twelfth Report, 2010-12, *Cost of motor insurance – follow up*, HC 1451; and Fourth Report, 2013-14, *Cost of motor insurance: whiplash*, HC 117 (hereafter *CMI 3*).

2 *CMI 1*, paragraphs 1 and 4.

3 AA British Insurance Premium Index, Q1 2014.

4 For the Prime Minister's summit on motor insurance see *CMI 3*, paragraph 32.

5 <https://www.gov.uk/government/news/cma-sets-out-changes-for-private-motor-insurance>.

6 *CMI 3*, paragraph 9.

7 *CMI 3*, paragraph 20 and tables 1 and 2. The total number of road traffic accident claims in 2012-13 has been corrected upwards to 818,334. The equivalent figure for 2013-14 is 772, 843 see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306064/cases-registered-cru-2013-14.csv/preview.

time. The Government told us that in 2012-13 87% of road traffic personal injury claims related to the neck area.⁸

5. In our 2013 report we drew attention to the lack of authoritative data about the prevalence of fraudulent or exaggerated claims for whiplash injuries. Estimates by insurance firms and solicitors of the percentage of claims which were fraudulent ranged from 0.1% to over 60%. We called on the Government to press the insurance industry to provide better data about fraudulent or exaggerated personal injury claims, so that there is a stronger evidence base for policy decisions.⁹ In response, the Ministry of Justice (MoJ) said:¹⁰

We intend to better define the nature and extent of the whiplash problem by working with stakeholders to develop accurate baseline data on the number of neck and back whiplash and other soft tissue injuries. Building on this we will work to identify and classify fraudulent or exaggerated whiplash claims. This will enable us to validate the estimates made by those in the personal injury sector and ensure the public are aware of the true scale and nature of the problem.

6. In May 2014, the Association of British Insurers (ABI) announced that there had been 59,900 “dishonest” motor insurance claims in 2013, with a value of £811 million, up by one third from 2012.¹¹ These figures were quoted by the Government in an announcement on 7 June of new measures to combat motor insurance fraud, which we will discuss below.¹² It is not clear from published material how the ABI has arrived at these figures or what counts as “dishonest”. Nor is there any evidence that these figures have arisen from the work to develop accurate baseline data which the Government told us it would begin. **We reiterate our earlier recommendation that the Government should act to ensure that there exists better data about fraudulent or exaggerated personal injury claims, so that there is a stronger evidence base for policy decisions. Since the Government has cited the ABI’s figures for dishonest claims in 2013 it should explain how the figures have been arrived at and how dishonest claims have been defined.**

7. Our 2013 report focused on proposals by the Ministry of Justice to reduce the number and size of whiplash claims. Its proposals covered four main areas:

8 Transport Committee, Eleventh Special Report, 2013-14, Cost of motor insurance: whiplash: Further Government Response to the Committee's Fourth Report of Session 2013-14, HC 902 (hereafter *Further reply to CMI 3*), p4.

9 *CMI 3*, paragraphs 24-29.

10 Reducing the number and costs of whiplash claims: A Government response to consultation on arrangements concerning whiplash injuries in England and Wales and Cost of motor insurance – whiplash: A Government response to the House of Commons Transport Committee, Ministry of Justice, October 2013, Cm 8738 (hereafter *First reply to CMI 3*), paragraph 23.

11 <https://www.abi.org.uk/News/News-releases/2014/05/Insurance-cheats-feel-the-heat-value-of-fraudulent-claims-uncovered-by-insurers-hits-record-level>.

12 <https://www.gov.uk/government/news/bogus-claims-to-be-thrown-out-as-government-steps-up-insurance-fraud-crackdown>.

- Raising the threshold for dealing with whiplash claims using the small claims court procedure from £1,000 to £5,000 (thereby capturing the majority of such claims);
- The creation of independent medical panels of accredited professionals to improve diagnosis of whiplash and the provision of objective medical information to the court;
- Action to challenge fraudulent or exaggerated claims; and
- better data sharing between insurers and solicitors.

In our next chapter we look at each of these areas, reviewing the Government's response to our 2013 report, the views of 29 insurance and legal firms, trade associations and other interested parties which responded to our request for submissions on the Government's position on these matters, and our correspondence with the Government, the Solicitors Regulation Authority, the ABI and the Motor Accident Solicitors Society (MASS) about specific questions raised by the submissions. We are grateful to those who contributed to this inquiry.

2 Ministry of Justice proposals to tackle whiplash fraud

Use of small claims procedure

8. The Government's proposal to raise the small claims threshold for whiplash claims (or personal injury claims more generally) from £1,000 to £5,000 was the most controversial aspect of the package of measure published by the Ministry of Justice in December 2012. Broadly speaking, insurers were in favour because most whiplash claims would be caught by the change and would thereby be simpler and cheaper to deal with: solicitors were against the change, citing concerns about access to justice.

9. We acknowledged that there were good arguments for and against the change. On balance, we did not support the proposal at that time. We thought it likely that access to justice would be impaired; claims management companies would find a way to enter the process, fuelling another boom in their activities; and use of the small claims track could prove counterproductive in efforts to discourage fraudulent and exaggerated claims.¹³ We recommended that, before reconsidering this matter at some later date, the Government should:

- Analyse the impact of the electronic portal for submitting personal injury claims on claims management and costs;
- Consider further ways in which litigants in person could be assisted to use the small claims process, particularly in order to counter the inequality of arms likely to arise in personal injury claims; and
- Consider ways in which use of the small claims track could be combined with the routine submission of expert evidence, such as a medical report, to help restrict opportunities for fraud and exaggeration.

10. Whilst still favouring the change to the small claims threshold, the Government accepted our recommendation that, on balance, it was preferable not to proceed with the change at present. We welcome the Government's willingness to engage with the scrutiny process and to change its position as a result of the arguments put to it, particularly in relation to access to justice and possible counterproductive effects of the change.

11. The Government said that it would:¹⁴

Seek to ensure that adequate safeguards are developed to protect genuine claimants from any detrimental effects relating to access to justice or to the under-settling of claims from any future rise in the limit

¹³ *CMI 3*, paragraphs 50-54.

¹⁴ *First reply to CMI 3*, paragraph 42.

We recommend that the Government inform us of what work is underway or planned to develop adequate safeguards to protect claimants from adverse consequences of raising the threshold for using the small claims procedure for personal injury cases.

Medical panels

12. The Government has proposed that medical reports for whiplash injury claims¹⁵ should be supplied by independent medical panels (comprising accredited professionals) using a standard report form, and should be available equally to claimants, insurers, and (for contested claims) the courts.¹⁶ We broadly agreed with this proposal and said:

- the accredited professionals need not all be doctors;
- the practitioners instructed to prepare such reports must be provided with information about the accident and the claimant's medical records;
- the MoJ should explain whether it wishes to mandate for general use the standard medical report form already used for whiplash claims processed using the electronic portal, or introduce an altogether new form.
- a random audit, perhaps by an existing regulator, of at least a proportion of medical reports prepared each year is essential.

13. The Government broadly agreed with these points, although it acknowledged that the provision of information about the accident and the claimant's medical records would have cost implications.¹⁷ The standard report form used in the electronic claims portal will be replaced by an "improved" form, following consultation with interested parties.¹⁸

14. The MoJ said that precise details of how these recommendations would be implemented would be developed "at pace".¹⁹ A stakeholder group has been established to undertake the work. The evidence we received demonstrated that there are numerous complex matters to be resolved.²⁰ The MoJ recently gave stakeholders just 26 days to comment on various detailed changes to the road traffic accident protocol and civil procedure rules, with the intention of the changes being made in July and implemented in

15 The Government intends to apply this system to "similar road traffic accident soft tissue injuries, such as those to the back and neck" as well as to 'classic' whiplash claims: *First reply to CMI 3*, paragraph 9.

16 *A consultation on arrangements concerning whiplash injuries in England and Wales*, Ministry of Justice, December 2012, Cm 8425 (hereafter *Whiplash consultation*) Part 2.

17 *Further reply to CMI 3*, p7.

18 *Further reply to CMI 3*, p4.

19 *First reply to CMI 3*, paragraph 13.

20 For example, see submissions from Express Solicitors (CMI0005) paragraphs 9-17, AXA Insurance (CMI0006) section 2, Your Legal Friend (CMI0008) paragraphs 11-15, Co-operative Insurance (CMI0011), Aviva (CMI0013) paragraphs 5-20, Association of Personal Injury Lawyers (CMI0014) paragraphs 1-8, Royal and Sun Alliance Insurance plc (CMI0015) paragraphs 15-26, Forum of Insurance Lawyers (CMI0016) paragraphs 3-14, Enterprise Rent-A-Car (CMI0019), Irwin Mitchell Solicitors (CMI0020) p3 and p5, Association of British Insurers (CMI0025) paragraph 7 and Motor Accident Solicitors Society (CMI0028) paragraph 13.

October.²¹ Details of how medical panels will be established—such as the qualifications doctors need to have in order to be accredited or how medical reports will be audited—remain unclear. The Government has committed to publishing details of the scheme and a full impact assessment in due course.²²

15. Although we welcome the Government’s obvious desire to get on with establishing independent medical panels as soon as possible, we are concerned that numerous detailed matters are being decided hastily and, in some cases, without much consideration of different options. We recommend that the Government publish for consultation comprehensive proposals for how medical panels will work, in time for the new system to be introduced by next Easter.

16. We wish to comment on two further issues in this area which have been raised with us by witnesses. Firstly, in proposing to introduce independent medical panels for whiplash reports, the Government is seeking to “address the links which may impair the independence of medical examiners, so that they are not paid by those who favour a certain outcome in their diagnosis and so that they do not have other financial interests in the outcome of the claim”.²³ However, this may run counter to other legal changes introduced by the current Government to enable legal practices to be owned by non-legal entities, in what are known as “alternative business structures” (ABSs).²⁴ For example, Co-operative Insurance said:²⁵

We foresee the situation whereby an accredited practitioner could be employed within one entity of an ABS, and the claimant solicitor being another entity within it. We believe that this would be wholly unacceptable, as for the system to be ‘fit for purpose’ it is crucial that independence and transparency are truly in existence.

17. We wrote to Chris Grayling MP, the Secretary of State for Justice, on this point and he replied:²⁶

We do not believe [the Government’s commitment to addressing links which may impair the independence of medical examiners] to be at odds with our support for ABS, but clearly we have to come up with arrangements that address concerns around independence, particularly where a [medical reporting organisation] is owned by, or associated with, an ABS. As a minimum, financial links between organisations involved in the claim process should be open and transparent. This means looking at ways to

21 <http://www.justice.gov.uk/downloads/civil-justice-reforms/whiplash-proposal-on-fixed-costs-for-medical-examinations.pdf>.

22 *First reply to CMI 3*, paragraph 17.

23 *Whiplash consultation* paragraph 12.

24 For example, see Keoghs (CMI0007) section 1.

25 Co-operative Insurance (CMI0011).

26 *Letter*, 12 March 2014.

improve transparency in relation to payment for reports so that experts are paid on completion of the report and regardless of the outcome of the claim.

The MoJ has subsequently published detailed proposals to ensure that “there should not be a financial link between the party commissioning the medical report and any intermediary organisation through which the report is provided (or indeed with the medical examiner), other than for payment of the examination/report”.²⁷ **In our view, medical reporting organisations should be prohibited from providing reports on whiplash and other soft tissue injuries for claims being pursued by solicitors belonging to the same business structure. Furthermore, a robust accreditation system should provide mechanisms for penalising practitioners whose work is influenced by their view of what the claimant might want in a report. We welcome the Government’s intention to act in this area.**

18. We also noted concerns from Xpede Medical, a small medical reporting agency employing one member of staff, that the Government’s proposals would favour larger firms at the expense of smaller ones. Xpede said:

There could be a tender process requesting medical legal agencies to bid for the tender. This process would mean small startup companies should as mine will have to spend tens of thousands of pounds just to prepare to run for the tender process ... small companies like mine will close down leaving only the big companies, including the ones owned by personal injury solicitor firms, to run for tender.

Xpede also expressed concerns about the costs of accreditation for medical staff.²⁸ **We recommend that the Government explain how it will prevent small firms being squeezed out by the introduction of independent medical reporting panels for whiplash and related injuries.**

Challenging fraudulent or exaggerated claims

Striking out exaggerated claims

19. In our most recent report on whiplash we drew attention to the case of *Summers v Fairclough Homes Ltd*, which was decided by the Supreme Court in 2012.²⁹ In this case, an employee exaggerated the extent of injuries he had suffered at work in order to claim £800,000 in damages. Although the courts have the power, in exceptional circumstances, to strike out claims which have been grossly exaggerated, in this case damages of £80,000 were awarded in relation to the genuine injury. Insurers raised this case as an example of undue leniency which might be said to have the effect of encouraging exaggerated claims.

27 [Letter](#) from Lord Faulks QC to stakeholders, 2 May 2014, section 3.

28 Xpede Medical Ltd (CMI0024).

29 [CMI 3](#), paragraphs 56-58.

20. We acknowledged the force of the argument that gross exaggeration of a claim should lead to it being rejected outright, even if there were grounds otherwise to award compensation. However, we noted that this is a complex area of law and judicial decisions invariably rest on the facts in individual cases. We asked for the MoJ's view on this matter. It said:³⁰

The courts' approach reflects long-established legal principles which have implications across the spectrum of tort law. The Government understands that the issue has been raised with the Law Commission for possible consideration as part of its forthcoming 12th programme of law reform. The Commission will be discussing proposals for its programme with the Ministry of Justice shortly, and we will consider further whether to support its consideration of this issue.

The Law Commission is currently considering whether or not to undertake work in this area.³¹

21. On 7 June, the MoJ announced that it would introduce measures “requiring courts to throw out compensation applications in full where the claimant has been fundamentally dishonest—to stop people who have had an accident from exploiting the system by making bogus claims or grossly exaggerating the extent of their injuries”, unless a substantial injustice would arise as a result.³² No further details of how or when this change would be made have been released.

22. We support, in principle, the Government's proposal to require courts to strike out compensation claims where it can be shown that a claimant has been “fundamentally dishonest” by, for example, exaggerating the claim. Several witnesses also supported the change and suggested that the UK could follow the example of the Republic of Ireland in legislating on this matter. However, there was also widespread recognition that the legal issues are complex and deserved detailed consideration by the Law Commission.³³ ***We call on the Government to clarify how and when it intends to introduce measures requiring courts to throw out compensation applications in full where the claimant has been fundamentally dishonest. Although we broadly support this initiative we would caution against hasty legislation: the legal issues need to be fully thought through so that the eventual solution is effective and does not have unintended consequences.***

30 *Further reply to CMI 3*, pp5-6.

31 <http://lawcommission.justice.gov.uk/consultations/2572.htm>.

32 <https://www.gov.uk/government/news/bogus-claims-to-be-thrown-out-as-government-steps-up-insurance-fraud-crackdown>.

33 For example, Aviva(CMI0013) paragraph 44, Forum of Insurance Lawyers (CMI0016) paragraphs 15-18, DWF LLP (CMI0021) paragraph 12, Ageas UK (CMI0023) paragraphs 4.1-4.2, Association of British Insurers (CMI0025) paragraphs 30-31 and the Motor Accident Solicitors Society (CMI0028) section 9.

Inducements to claim

23. Many witnesses—solicitors as well as insurers—argued that solicitors should be prohibited from offering inducements, such as cash or tablet computers, to people considering making claims. It was suggested that inducements to claim could encourage people to make fraudulent claims.³⁴ Claims management companies were prohibited from offering such inducements in 2013.³⁵

24. We raised this matter with the Solicitors Regulation Authority, which said that “there was insufficient evidence for the imposition of a ban on solicitors offering inducements to claimants”. It drew attention to the principles which solicitors are required to follow which, it argued, should ensure that the provision of inducements did not diminish public trust in the legal profession.³⁶

25. On 7 June, the Government announced that it planned to ban solicitors from offering inducements to claim.³⁷ No further details of how or when this ban will be implemented have been published. **Inducements to claim are likely to have encouraged fraudulent claims so we support the Government’s intention to ban them. We call on the Government to publish details of how and when this change will be made.**

Pre-medical offers

26. We have commented previously on how insurers sometimes offer to settle whiplash claims before a claimant has been subject to a medical assessment.³⁸ This can make financial sense for the insurer, given the cost of defending whiplash claims and the difficulties in doing so successfully. However, it is widely accepted that this practice could encourage the submission of fraudulent or exaggerated claims, particularly towards the end of the three-year period in which such claims can be made.³⁹ For example, the Association of Chief Police Officers told us that the practice of offering compensation without there being a medical examination “does not help to weed out any fraudsters who may be uncomfortable about faking an injury to a medical examiner”.⁴⁰

27. In its response to the consultation on the Government’s whiplash proposals, the MoJ said it was “attracted to introducing a rule to ensure that a medical examination and report is completed before a claim can proceed”.⁴¹ Some insurers have reacted cautiously to this

34 For example, Keoghs (CMI0007) section 2, Zurich Insurance (CMI0010) section 2, Aviva (CMI0013) paragraph 33, Royal and Sun Alliance Insurance (CMI0015) paragraph 31, Forum of Insurance Lawyers (CMI0016) paragraph 20, Association of British Insurers (CMI0025) paragraph 28, Motor Accident Solicitors Society (CMI0028) paragraph 18.

35 *First reply to CMI 3*, paragraph 29.

36 Solicitors Regulation Authority (CMI0031).

37 <https://www.gov.uk/government/news/bogus-claims-to-be-thrown-out-as-government-steps-up-insurance-fraud-crackdown>.

38 *CMI 3*, paragraph 63.

39 For example, Association of British Insurers (CMI0025) paragraph 24.

40 ACPO (CMI0027) paragraph 29.

41 *First reply to CMI 3*, paragraph 24.

proposal. The Association of British Insurers said insurers would need to have confidence that medical reports were worthwhile, fees for reports would have to be controlled, and, in some cases, such as with very minor injuries or claims for injuries sustained months or years earlier, reports would add no value. It warned that:⁴²

Any move to prevent the ability of offer to settle claims before a medical report has been obtained and before the proposed reforms to the medico-legal reporting system are implemented will only serve to increase insurers' claims costs which will ultimately put increasing pressure on car insurance premiums.

The Government has recently restated its intention generally to prohibit pre-medical offers but is consulting on whether they should be permitted if a claimant has obtained their own medical report, outside of the system for independent panels currently being designed.⁴³

28. We are in no doubt that fraudulent and exaggerated claims have been encouraged by the insurers' practice of paying out for whiplash claims without requiring a medical examination. We strongly agree with the Government's intention to prohibit such offers, as part of the new system for independent medical panels for diagnosis and reporting.

29. Problems caused by claims for injuries sustained months or years ago could be ameliorated by reducing the period in which claims can be made or by requiring firmer contemporary evidence of the impact of the injury. We have made the case for these changes previously, although the Government has not yet been persuaded. In our view, these changes will be required to make the system work effectively.

30. It is unfortunate that the ABI should argue that action to tackle fraudulent and exaggerated claims, by insisting on medical examinations, will increase premiums. We would have hoped for a firmer commitment from the industry to driving out fraud. In our view, money saved from reducing fraudulent and exaggerated claims should more than compensate for any extra costs resulting from more stringent requirements for dealing with whiplash claims.

Claims for psychological damage

31. Axa Insurance drew our attention to claims for psychological reactions to road traffic accidents, which, like whiplash injuries, may be difficult to diagnose objectively. Axa said:⁴⁴

Restricting the scheme to soft tissue injuries runs the risk of moving the problem to other areas. Although psychological reaction to alleged physical injury is unusual and accounts for less than 1% of all motor claims registered with the Compensation Recovery Unit of the Department of Work and

42 Association of British Insurers (CMI0025) paragraph 27.

43 [Letter](#) from Lord Faulks QC to stakeholders, 2 May 2014, section 4.

44 AXA Insurance (CMI0006) paragraph 2.1.a.

Pensions, allegations of travel anxiety or some form of psychological reaction is a common additional feature in many whiplash claims. In the context of low value road traffic accidents an undesirable situation could arise where, in future, there is a robust medical assessment process supported by an accreditation and monitoring process in place for physical injury, but a separate and potentially less rigorous approach in respect of reports addressing any psychological reaction to a road traffic accident.

32. The ABI told us that it was concerned that some solicitors were increasingly ordering additional medical reports on psychological injuries, adding significantly to the cost of claims. Furthermore:

In a number of cases, unqualified individuals are testing claimants for psychological injury. In addition, the questionnaires being used to assess claimants are insufficiently rigorous to reach a robust clinical diagnosis of traumatic anxiety, depression or adjustment disorder without a review being undertaken of the claimant's medical history and records to assess the impact of any pre-existing psychological injury. In addition, even if a psychological injury results from an RTA, there remain doubts as to the effectiveness on the claimant's recovery of providing cognitive behavioural therapy so soon following an RTA

The ABI went on to say that “where a claim for psychological injury is made, that claim is often being advanced for the benefit of the claimant's solicitor rather than the claimant themselves given that the former is seeking to maximise the fee income that can be derived from the claim”.⁴⁵

33. The ABI suggested that separate psychological reports were ordered in around 2% of whiplash, neck and back injury claims, twice as many as before 2011.⁴⁶ The Motor Accident Solicitors Society said that its own survey had shown that separate psychological reports were requested in 4% of cases. It concluded that “this is clearly an area that requires closer investigation in the future”.⁴⁷ ***Once proposals for independent medical panels for whiplash injuries have been implemented and shown to work, the Government should be prepared to extend their scope to other types of injury if necessary. We also recommend that the Government press the Solicitors Regulation Authority to stop some solicitors from playing the system to maximise their income from unnecessary medical reports.***

Policing

34. In our first report on the cost of motor insurance, we recommended that the insurers should fund a police unit specialising in tackling insurance fraud. In July 2011, an Insurance Fraud Enforcement Department (IFED) in the City of London Police was set up,

⁴⁵ Association of British Insurers (CMI0033).

⁴⁶ Association of British Insurers (CMI0033).

⁴⁷ Motor Accident Solicitors Society (CMI0032).

funded to the tune of £9 million over three years by the ABI. Additional funding has since been secured from Lloyd's of London.⁴⁸ IFED deals with all forms of insurance fraud and in relation to motor insurance has focused its efforts on 'cash for crash' scams, particularly those in which criminals deliberately cause accidents in order to make claims. We were told that "organised crime groups often have close links with professional enablers including: car replacement companies; car repair body shops; motor engineers; doctors and solicitors".⁴⁹

35. We are in no doubt of the value of IFED as one element in the fight against motor insurance fraud. As the Association of Chief Police Officers argued, IFED "has introduced the very real possibility that insurance fraudsters will be investigated, arrested and prosecuted. This is acting as a deterrent and making insurance fraud a less attractive proposition".⁵⁰ IFED's funding beyond this year appears to be uncertain. **We expect the insurance industry to continue funding the police Insurance Fraud Enforcement Department in the long-term: we recommend that the Government oversee IFED's funding arrangements to make sure that the unit has a long-term future.**

Data sharing

36. We have previously called for greater sharing of data—between insurers and the Driver and Vehicle Licensing Agency (DVLA) and between insurers and claimant solicitors—to help tackle fraud. The MyLicence database, enabling insurers to check DVLA data in real time has just gone live.⁵¹ Data sharing between insurers and solicitors could help identify claimants with a record of making claims. Progress has been slow and the Government has recently called for work on detailed arrangements to be completed by the summer.⁵² **We are pleased to note that better data sharing to tackle motor insurance fraud is now beginning. We share the Government's wish to see results as soon as possible, but it will also be important to get the details of the scheme right. In particular, data sharing should be compulsory: otherwise, only the most reputable firms will take part and the impact on fraud will be limited.**

48 Association of Chief Police Officers (CMI0027) paragraphs 1 and 6.

49 Association of Chief Police Officers (CMI0027) paragraph 23.

50 Association of Chief Police Officers (CMI0027) paragraph 35.

51 See <https://www.abi.org.uk/Insurance-and-savings/Topics-and-issues/Insurance-industry-access-to-driver-data>.

52 Submission from the ABI, Motor Accident Solicitors Society, Association of Personal Injury Lawyers and the Law Society (CMI0035) and [reply](#) from Lord Franks QC dated 7 April 2014.

3 Conclusion

37. In 2010, when we first started to look at the factors explaining the rising cost of motor insurance, there was little political interest in the issue. Our inquiry put the issue on the political agenda. Since then, there have been debates in Parliament, a prime ministerial summit, legislative changes, industry working groups, and reports from the Office of Fair Trading and the Competition Commission. Our recommendations have been taken seriously by Government. Many have been taken up for further consideration or implementation or, where the Government has not agreed with us, we have received a full explanation of the alternative view. Our recommendation that the Government should not at this change the threshold below which whiplash claims are dealt with using the small claims court procedure was particularly influential. We have also provided a forum for insurers and solicitors, so often at loggerheads in the debate on the cost of motor insurance, to debate the issues. This, as one of our witnesses noted, has opened up the debate.⁵³ All in all, our work in this area has demonstrated the value of good scrutiny by a select committee.

38. Our work has lifted the lid on a highly dysfunctional market in which the pursuit of profit by the different firms involved has led to higher prices for consumers and, in some cases, business practices which are not in the consumer interest. Furthermore, the business models of firms in this area have, inadvertently, encouraged criminal activity. There is no clearer example of this than insurance firms' willingness to pay compensation for whiplash claims which they suspect are fraudulent without requiring the claimant to undergo a medical examination.

39. The Government has shown its commitment to tackling these problems. However, many of the measures discussed in this report are still being designed. Other action is also required—such as implementation of the Competition and Market Authority's recommendations to improve the information available to consumers about the products they buy from motor insurers, to control the costs of car hire for an insured driver not at fault for an accident, and to regulate price comparison websites.⁵⁴ The work of the City of London Police Insurance Fraud Department is also important, particularly in relation to deliberate 'crash for cash' scams, and there is far more the Government could do to improve young driver safety.

40. There is scope for greater co-ordination between Government departments to tackle these inter-related questions: and work on these issues must carry on after the 2015 election. The Government must continue to engage with all interested parties, rather than just with the insurance industry, as has been the case in the past. It must all make sure that its reforms lead to a sustainable reduction in motor insurance premiums, which must not be allowed to bounce back to the extraordinarily high levels of the turn of the decade. If

53 Your Legal Friend (CMI0008) paragraph 9.

54 <https://www.gov.uk/government/news/cma-sets-out-changes-for-private-motor-insurance>.

momentum is lost, the problems we have identified and attempted to solve will re-emerge, to the detriment of motorists who end up paying the bill.

Conclusions and recommendations

Better data

1. We reiterate our earlier recommendation that the Government should act to ensure that there exists better data about fraudulent or exaggerated personal injury claims, so that there is a stronger evidence base for policy decisions. Since the Government has cited the ABI's figures for dishonest claims in 2013 it should explain how the figures have been arrived at and how dishonest claims have been defined. (Paragraph 6)

Use of small claims procedure

2. We recommend that the Government inform us of what work is underway or planned to develop adequate safeguards to protect claimants from adverse consequences of raising the threshold for using the small claims procedure for personal injury cases. (Paragraph 11)

Medical panels

3. Although we welcome the Government's obvious desire to get on with establishing independent medical panels as soon as possible, we are concerned that numerous detailed matters are being decided hastily and, in some cases, without much consideration of different options. We recommend that the Government publish for consultation comprehensive proposals for how medical panels will work, in time for the new system to be introduced by next Easter. (Paragraph 15)
4. In our view, medical reporting organisations should be prohibited from providing reports on whiplash and other soft tissue injuries for claims being pursued by solicitors belonging to the same business structure. Furthermore, a robust accreditation system should provide mechanisms for penalising practitioners whose work is influenced by their view of what the claimant might want in a report. We welcome the Government's intention to act in this area. (Paragraph 17)
5. We recommend that the Government explain how it will prevent small firms being squeezed out by the introduction of independent medical reporting panels for whiplash and related injuries. (Paragraph 18)

Striking out exaggerated claims

6. We call on the Government to clarify how and when it intends to introduce measures requiring courts to throw out compensation applications in full where the claimant has been fundamentally dishonest. Although we broadly support this initiative we would caution against hasty legislation: the legal issues need to be fully thought through so that the eventual solution is effective and does not have unintended consequences. (Paragraph 22)

Inducements to claim

7. Inducements to claim are likely to have encouraged fraudulent claims so we support the Government's intention to ban them. We call on the Government to publish details of how and when this change will be made. (Paragraph 25)

Pre-medical offers

8. We are in no doubt that fraudulent and exaggerated claims have been encouraged by the insurers' practice of paying out for whiplash claims without requiring a medical examination. We strongly agree with the Government's intention to prohibit such offers, as part of the new system for independent medical panels for diagnosis and reporting. (Paragraph 28)
9. Problems caused by claims for injuries sustained months or years ago could be ameliorated by reducing the period in which claims can be made or by requiring firmer contemporary evidence of the impact of the injury. We have made the case for these changes previously, although the Government has not yet been persuaded. In our view, these changes will be required to make the system work effectively. (Paragraph 29)
10. It is unfortunate that the ABI should argue that action to tackle fraudulent and exaggerated claims, by insisting on medical examinations, will increase premiums. We would have hoped for a firmer commitment from the industry to driving out fraud. In our view, money saved from reducing fraudulent and exaggerated claims should more than compensate for any extra costs resulting from more stringent requirements for dealing with whiplash claims. (Paragraph 30)

Claims for psychological damage

11. Once proposals for independent medical panels for whiplash injuries have been implemented and shown to work, the Government should be prepared to extend their scope to other types of injury if necessary. We also recommend that the Government press the Solicitors Regulation Authority to stop some solicitors from playing the system to maximise their income from unnecessary medical reports. (Paragraph 33)

Policing

12. We expect the insurance industry to continue funding the police Insurance Fraud Enforcement Department in the long-term: we recommend that the Government oversee IFED's funding arrangements to make sure that the unit has a long-term future. (Paragraph 35)

Data sharing

13. We are pleased to note that better data sharing to tackle motor insurance fraud is now beginning. We share the Government's wish to see results as soon as possible, but it will also be important to get the details of the scheme right. In particular, data

sharing should be compulsory: otherwise, only the most reputable firms will take part and the impact on fraud will be limited. (Paragraph 36)

Formal Minutes

Monday 30 June 2014

Members present:

Mrs Louise Ellman, in the Chair

Sarah Champion
Jim Dobbin
Jim Fitzpatrick
Karen Lumley
Jason McCartney

Karl McCartney
Mr Adrian Sanders
Chloe Smith
Graham Stringer
Martin Vickers

Draft Report (*Driving premiums down: fraud and 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 40 read and agreed to.

Summary agreed to.

Resolved, That the Report be the First 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.

[Adjourned till Monday 7 July at 4.00 pm]

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at www.parliament.uk/transcom. INQ numbers are generated by the evidence processing system and so may not be complete.

- 1 Access to Justice Action Group (AJAG) ([CMI0004](#))
- 2 Ageas UK Limited ([CMI0023](#))
- 3 Association of British Insurers ([CMI0025](#))
- 4 Association of British Insurers ([CMI0033](#))
- 5 Association of British Insurers ([CMI0036](#))
- 6 Association of British Insurers, Motor Accident Solicitors Society, Association of Personal Injury Lawyers and the Law Society ([CMI0035](#))
- 7 Association of Chief Police Officers ([CMI0027](#))
- 8 Association of Personal Injury Lawyers ([CMI0014](#))
- 9 Aviva ([CMI0013](#))
- 10 Axa Insurance ([CMI0006](#))
- 11 BVRLA ([CMI0003](#))
- 12 Claims Portal Limited ([CMI0030](#))
- 13 DWF LLP ([CMI0021](#))
- 14 Enterprise Rent-A-Car ([CMI0019](#))
- 15 esure Group Plc ([CMI0009](#))
- 16 Express Solicitors ([CMI0005](#))
- 17 Foil, The Forum Of Insurance Lawyers ([CMI0016](#))
- 18 Foil, The Forum Of Insurance Lawyers ([CMI0018](#))
- 19 Irwin Mitchell Solicitors ([CMI0020](#))
- 20 Keoghs ([CMI0007](#))
- 21 Liverpool Law Society ([CMI0026](#))
- 22 Manchester Law Society ([CMI0034](#))
- 23 Motor Accident Solicitors Society ([CMI0028](#))
- 24 Motor Accident Solicitors Society ([CMI0032](#))
- 25 Neuropas Global Uk Limited ([CMI0002](#))
- 26 Ontime Group ([CMI0012](#))
- 27 Robert Hay ([CMI0001](#))
- 28 Royal and Sun Alliance Insurance Plc ([CMI0015](#))
- 29 Slater & Gordon ([CMI0017](#))
- 30 Solicitors Regulation Authority ([CMI0031](#))
- 31 The Co-Operative Insurance ([CMI0011](#))
- 32 Thompsons Solicitors ([CMI0029](#))
- 33 Xpede Medical Ltd ([CMI0024](#))
- 34 Your Legal Friend ([CMI0008](#))
- 35 Zurich Insurance Plc ([CMI0010](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at www.parliament.uk/transcom.

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

Session 2014–15

First Report	Driving premiums down: fraud and the cost of motor insurance	HC 285 (Incorporating HC 286, Session 20013–14)
First Special Report	Forging ahead: UK shipping strategy	HC 254

Session 2013–14

Seventeenth Report	Land transport expenditure: Who decides?	HC 1140
Sixteenth Report	National Policy Statement on National Networks	HC 1135
Fifteenth Report	Better roads: improving England's strategic road network	HC 850
Fourteenth Report	Putting passengers first, disruption at Gatwick, Christmas Eve 2013	HC 956
Seventeenth Special Report	Land transport security—scope for further EU involvement?: Further Government Response to the Committees Eleventh Report of Session 2012–13	HC 1192
Thirteenth Report	Forging ahead?: UK shipping strategy	HC 630
Twelfth Report	Future programme 2014	HC 1143
Eleventh Report	Safety at level crossings	HC 680 (HC 1260) (HC 274)
Tenth Report	Ready and waiting? Transport preparations for winter weather	HC 681 (HC 1139)
Ninth Report	High speed rail: on track?	HC 851 (HC 1085)
Fifteenth Special Report	Cancellation of the InterCity West Coast competition: Government update on the Laidlaw and Brown reports	HC 1086
Eighth Report	Access to ports	HC 266 (HC 1083)
Seventh Report	Local authority parking enforcement	HC 118 (HC 970)
Seventh Special Report	The new European motorcycle test: Government Response to the Committee's Sixth Report of 2009–10	HC 656
Sixth Report	Flight Time Limitation: Follow-up	HC 641 (HC 795)
Fifth Report	Access to transport for disabled people	HC 116 (HC 870)
Fourth Report	Cost of motor insurance: whiplash	HC 117 (CM 8738)
Third Report	The work of the Vehicle and Operator Services Agency (VOSA)	HC 583 (HC 678)
Second Report	Future programme: 2013–14	HC 438

Fifth Special Report	The European Commission's 4 th Railway Package: Government Response to the Committee's Twelfth Report of Session 2012–13	HC 439
Third Special Report	Rail 2020: Rail Delivery Group and Passenger Focus responses to the Committee's Seventh Report of Session 2012–13	HC 81
Fourth Special Report	Land transport security—scope for further EU involvement?: Government Response to the Committee's Eleventh Report of Session 2012–13	HC 177
Second Special Report	Marine Pilotage: Government Response to the Committee's Ninth Report of Session 2012–13	HC 79
First Report	Aviation strategy	HC 78 (HC 596)
First Special Report	Cancellation of the InterCity West Coast franchise competition: Government Response to the Committee's Eighth Report of Session 2012–13	HC 80

Session 2012–13

Twelfth Report	The European Commission's 4 th Railway Package	HC 1001(HC 439)
Eleventh Report	Land transport security—scope for further EU involvement?	HC 875
Ninth Special Report	Rail 2020: Government and Office of Rail Regulation Responses to the Committee's Seventh Report of 2012–13	HC 1059
Tenth Report	The Coastguard, Emergency Towing Vessels and the Maritime Incident Response Group: follow up: Government Response to the Committee's Sixth Report of 2012–13	HC 1018
Ninth Report	Marine Pilotage	HC 840
Eighth Report	Cancellation of the InterCity West Coast franchise competition	HC 537
Eighth Special Report	Plug-in vehicles, plugged in policy?: Government Response to the Committee's Fourth Report of Session 2012–13	HC 884
Seventh Report	Rail 2020	HC 329
Sixth Report	The Coastguard, Emergency Towing Vessels and the Maritime Incident Response Group: follow up	HC 647
Fifth Report	Future programme: autumn and winter 2012–13	HC 591
Fourth Report	Plug-in vehicles, plugged in policy?	HC 239
Third Report	Competition in the local bus market	HC 10 (HC 761) (Incorporating HC 1861–i–iii)
Fifth Special Report	Flight Time Limitations: Government Response To The Committee's First Report Of Session 2012–13	HC 558
Fourth Special Report	Air Travel Organisers' Licensing (Atol) Reform: Government Response To The Committee's Seventeenth Report Of Session 2010–12	HC 557
Second Report	Road safety	HC 506 (HC 648) Incorporating HC 1738

First Report	Flight time limitations	HC 164 Incorporating HC 1838
Third Special Report	Sulphur emissions by ships: Government Response to the Committee's Sixteenth Report of Session 2010–12	HC 87
Second Special Report	Counting the cost: financial scrutiny of the Department for Transport 2011–12: Government Response to the Committee's Fifteenth Report of Session 2010–12	HC 15
First Special Report	Draft Civil Aviation Bill: Pre-Legislative Scrutiny: Government Response to the Committee's Thirteenth Report of Session 2010–12	HC 11

Session 2010–12

Seventeenth Report	Air Travel Organisers' Licensing (ATOL) reform	HC 1798
Sixteenth Report	Sulphur emissions by ships	HC 1561
Fifteenth Report	Counting the cost: financial scrutiny of the Department for Transport 2011–12	HC 1560
Fourteenth Report	Cable theft on the Railway	HC 1609 (HC 1933)
Thirteenth Report	Draft Civil Aviation Bill: Pre-Legislative Scrutiny	HC 1694
Twelfth Report	Cost of motor insurance: follow up	HC 1451 (HC 1934)
Eleventh Report	Thameslink rolling stock procurement	HC 1453 (HC 1935)
Tenth Report	High Speed Rail	HC 1185–I (HC 1754)
Ninth Report	Out of the jam: reducing congestion on our roads	HC 872 (HC 1661)
Eighth Report	Bus Services after the Spending Review	HC 750 (HC 1550)
Seventh Report	Taxis and private hire vehicles: the road to reform	HC 720 (HC 1507)
Sixth Report	The Coastguard, Emergency Towing Vessels and the Maritime Incident Response Group	HC 948, incorporating HC 752–i (HC 1482)
Fifth Report	Keeping the UK moving: The impact on transport of the winter weather in December 2010	HC 794 (HC 1467)
Fourth Report	The cost of motor insurance	HC 591 (HC 1466)
Third Report	Transport and the economy	HC 473 (HC 962)
Second Report	Financial Scrutiny of the Department for Transport	HC 683
First Report	Drink and drug driving law	HC 460 (Cm 8050)
Tenth Special Report	The proposal for a National Policy Statement on Ports: Government Response to the Committee Fifth Report of Session 2009–10	HC 1598
Third Special Report	The performance of the Department for Transport: Government response to the Committee's Fourth Report of Session 2009–10	HC 549
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
First Special Report	The major road network: Government response to the Committee's Eighth Report of Session 2009–10	HC 421

