

WHAT NEXT FOR PI?

Reforms have led to strong progress in tackling the whiplash epidemic, but the job isn't done yet. What can parties involved in PI expect in the future?

By Sara Costantini

The last two years have seen seismic changes in the way the insurance industry handles personal injury claims. Government reforms were introduced to tackle the dysfunctional motor insurance market and to positively impact motor insurance premiums. The focus on regulating whiplash claims in particular has been welcomed — but has it been successful?

Whiplash claims cost the insurance industry more than £2bn annually and add approximately £90 to the average motor insurance premium.

The UK has been hailed as the 'Whiplash capital of Europe'. Here, 78% of low-value motor PI claims are for whiplash, compared with an average of 48% throughout the rest of Europe.

In April this year the Insurance Fraud Bureau estimated one in seven personal injury claims are linked to suspected crash-for-cash claims. Anecdotally, following the Jackson Reforms, the *Legal, Aid, Sentencing and Punishment of Offenders Act 2012* and the Civil Justice Reforms, insurers say they are seeing the same level of spurious claims — but overall they are benefiting from lower claims settlement costs due to introduction of the fixed-fee regime.

It is still early days in terms of whiplash-related reform. The second round of reforms is yet to be played out — including the medical expert accreditation scheme, the launch of central IT Hub MedCo and proposed data sharing between claimant law firms and the insurance industry.

But while the insurance industry continues to monitor the situation, what of the

entrepreneurial criminal fraternity targeting insurers with organised fraud rings? They too, it would seem, are reviewing their strategies and diversifying.

In tightening the fraud controls around whiplash claims, has fraud risk merely been displaced to other areas of PI — particularly those sectors where conclusive medical evidence is difficult to find? Insurers are reporting an increase in industrial deafness claims and stress-related psychological injury claims — conditions some might suggest are as difficult as whiplash to accurately assess and diagnose.

There are also suggestions that rehabilitation bills being passed on to insurers after motor accidents are increasingly being fraudulently inflated. When organised, systematic and applied in high volumes, this can be an additional healthy revenue stream for an organised fraud ring.

The market has yet to experience the full impact of the 'fundamental dishonesty' clause proposed as part of the *Criminal Justice and Courts Bill*. As part of this, genuinely injured claimants could receive no insurance payout if they are found to have been fundamentally dishonest in exaggerating the severity of their injury. It is hoped this will act as a deterrent and see more moderate and realistic claims being brought.

Only last month Admiral won a significant victory against a dishonest whiplash claim, which saw the claimant required to pay all Admiral's costs for defending the case. This suggests having a regulatory framework and creating common standards signals progress.

However, as an industry we need to combine this with a strategy to support behavioural change, educating the public that insurance fraud is not a victimless crime. That way the PI claimants of the future will be supported in their time of genuine need and the general public will not be footing the cost of fraud alongside their insurance providers. ■



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