



Ministry
of Justice

Reducing the number and costs of whiplash claims:

A Government response to consultation on arrangements concerning whiplash injuries in England and Wales

Cost of motor insurance – whiplash:

A Government response to the House of Commons Transport Committee



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Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

October 2013

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Contact details

This document is the post-consultation report for the consultation paper, ‘Reducing the number and costs of whiplash claims’.

It will cover:

- the background to the report
- a summary of the responses to the report
- a response to the specific questions raised in the report.

This document also serves as the Government’s response to the House of Commons Transport Committee inquiry report ‘Cost of motor insurance: whiplash’.

Further copies of this report and the consultation paper can be obtained by contacting **Scott Tubbritt** at the address below:

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This report is also available on the Ministry’s website: www.gov.uk/moj

Alternative format versions of this publication can be requested from Scott.Tubbritt@justice.gsi.gov.uk or on 020 3334 3157.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

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Foreword



For too long honest drivers have been bearing the cost – through higher insurance premiums – of a system that is open to abuse. We want to tackle that abuse to help drive down the cost of living and deliver a system that hard working, law abiding people can have confidence in.

In February 2012, the Prime Minister held a summit with the insurance industry to discuss the increasing cost of motor insurance premiums. Since then, the Government has introduced reforms to remove incentives for excessive litigation, making a significant difference to the costs involved in the culture of claims, including:

- a reform of no win no fee agreements, so lawyers will no longer be able to double their fees if they win at the sole expense of defendants and their insurers;
- a ban on referral fees paid between lawyers, insurers, claims firms, garages and others for profitable claims, by implementing Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
- claims firms banned from offering upfront cash incentives or other gifts to people who bring claims to them;
- the Claims Portal, used by lawyers and insurers to settle payouts for road accidents quickly and simply, has been extended to cover claims up to the value of £25,000 and now extends beyond road traffic accidents to claims for accidents at work and in public places;
- increased the fixed penalty for driving without insurance from £200 to £300; and since introducing Continuous Insurance Enforcement in 2011, making it illegal to own an uninsured vehicle unless it has a registered statutory off road notification, the number of vehicles without insurance has fallen from 1.4m in 2010 to 1.2m in 2012.

Between December 2012 and March 2013, the Ministry of Justice also consulted on specific measures to reduce the number and costs of whiplash claims.

The Government expects the insurance companies to act on the commitment they made at the Prime Minister's summit in February 2012 to pass on to consumers and businesses industry estimated savings of approximately £1.5–£2bn¹ that could come from the reforms on both legal fees and future changes to whiplash claims.

We are starting to see the impact of these reforms and motor insurance premiums are beginning to fall. Figures published by the AA's British Insurance Premium Index² in October 2013 show that selected quoted premiums have fallen by more than 12% over the previous year. However, more can and should be done to improve things for consumers.

¹ 'Lifting the bonnet on car insurance – what are the real costs', ABI March 2013 page 2.

² Average 'Shoparound' quote for an annual comprehensive car insurance policy.

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The Government is determined to do more to reduce insurance premiums further to help with the cost of living. Fraudulent, exaggerated and unnecessary insurance claims continue to place a significant financial burden on each and every motorist. The Association of British Insurers estimates that 7% of all motor claims in 2011 were fraudulent, and that dishonest personal motor insurance frauds worth £441 million were detected by the industry in 2011.³

So, in this response the Government sets out what action we intend to take following consultation to reduce the number and costs of whiplash claims. We also set out our response to the Transport Committee's inquiry report on the 'Cost of motor insurance: whiplash' published on 31 July 2013, as this covers many of the same issues raised in our consultation.

We are grateful to the Committee for their valuable and thoughtful findings, which we have taken into account. There is much common ground between the Government and the Committee on how best now to reduce fraudulent and exaggerated whiplash claims.

First, the Government wishes to press ahead with our consultation proposal to introduce independent medical panels,⁴ backed up by an accreditation scheme, to establish a new more robust system of medical reporting and scrutiny. This should mean that exaggerated and fraudulent whiplash claims are challenged whilst ensuring that the genuinely injured, backed up by good quality medical evidence, can get the help and compensation they deserve. We want to work with all sides, including insurers and claimants, to develop a comprehensive, effective and proportionate system of independent medical panels. We are grateful to representatives from all sides of the industry for their early constructive proposals in this area.

We also want to work with all sides to tackle together those practices which can contribute to the inflated number of whiplash claims. For example, we want insurers to end the practice of making offers to settle claims without requiring medical reports. We also want insurers to share more of their data on suspected fraudulent or exaggerated claims with claimant lawyers, and we want claimant lawyers to carry out more effective checks on their potential clients before taking on claims.

On the consultation options to increase the Small Claims track threshold, the Government has carefully considered responses. We believe that there are good arguments for increasing the Small Claims track to £5000 for all road traffic accidents to raise incentives to challenge fraudulent or exaggerated insurance claims. At the same time, we have listened to the views of the Transport Committee and others that now may not be the right time to raise the Small Claims limit because of the risks that it may deter access to justice for the genuinely injured and encourage the growth of those disreputable claims firms which so damage the industry. At this stage, we have decided to defer any increase in the Small Claims track until we can determine the impact of our wider reforms on motor insurance premiums and better safeguard against the risks identified above. We believe that this is the right thing to do for all parts of our society.

³ https://www.abi.org.uk/~/_/media/Files/Documents/Publications/Public/Migrated/Fraud/ABI%20no%20hiding%20place%20-%20insurance%20fraud%20exposed.ashx

⁴ A register of medical practitioners approved to assess claimants suffering from possible whiplash injuries arising from a road traffic accident.

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The measures set out in this consultation response will provide an effective response to support hardworking motorists and families by deterring fraudulent and exaggerated whiplash claims and reducing the cost to premiums of dealing with those claims.

A handwritten signature in black ink, appearing to read 'Chris Grayling', with a long horizontal flourish extending to the right.

Chris Grayling

Lord Chancellor and Secretary of State for Justice

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Introduction

1. The consultation paper ‘Reducing the number and costs of whiplash claims’ was published on 11 December 2012.
2. It invited comments on arrangements concerning whiplash injuries in England and Wales. The measures in the consultation sought to remedy two areas where the current arrangements are imperfect: the difficulties in diagnosing the injury; and the nature and cost of the court system that can work against insurers challenging suspect claims.
3. The consultation considered the creation of independent medical panels to support better diagnosis of possible whiplash injuries. It also looked at the Small Claims track threshold for personal injury claims arising from road traffic accidents, which provides a more cost effective route for straightforward claims and self represented litigants.
4. The aim is to deter fraudulent, exaggerated and unnecessary claims and reduce the cost of dealing with whiplash claims while preserving access to justice.
5. The consultation period closed on 8 March 2013. This report summarises the responses, including how the consultation process influenced the final shape of the proposal consulted upon.
6. This report also represents the Government’s response to the House of Commons Transport Committee report on the ‘Costs of motor insurance: whiplash’ published on 31 July 2013.
7. A list of respondents is at Annex B.

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Part One – Better Medical Evidence

8. The Government considers, from the evidence provided by the responses to the consultation and by the Transport Committee report, that there is broad support for its proposal to create independent specialist medical panels to support better diagnosis of possible whiplash injuries and the giving of objective, impartial advice including to the court. We now intend to take this system forward and to develop specific proposals in conjunction with stakeholders.
9. We will do so not only for whiplash claims, but also propose to apply the same rigorous system to claims for similar road traffic accident soft tissue injuries, such as those to the back and neck. We note, as has the Transport Committee, that there may be an emerging increasing trend of such claims for other forms of soft tissue injury.
10. We are persuaded that a form of accreditation system should serve as the basis of these proposals, which may draw on accreditation systems currently in operation. Accreditation should be open to all suitable practitioners (we have no plans to limit accreditation to doctors). The Government favours an element of random peer review with scrutiny built into this system, although the exact details of these proposals are yet to be determined.
11. It is likely that once established, only medical reports from accredited examiners would be accepted as evidence in whiplash claims. The Government sees merit in developing a specific, standardised form for such reports to ensure that information requirements are comprehensive but simplified as much as possible. Examinations will be supported by updated guidance on current best practice to improve consistency. The Government also favours medical reports being made available equally to claimants, insurers and (for disputed claims) the courts.
12. We also wish 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.
13. The Government now proposes to work closely with all key stakeholders to develop at pace the precise specifics of the new independent medical panel scheme. We aim to develop a system which improves and provides remedies to the current problems in the whiplash and Road Traffic Accident (RTA) claim medical reporting process without unnecessary regulation and bureaucracy.
14. The Government is particularly pleased that representatives from all sides of the industry – the Association of British Insurers, the Forum of Insurance Lawyers, the Association of Medical Reporting Organisations and the Motor Accident Solicitors Society – have come forward to the Government in consensus with their proposed model for reforming the whiplash medical reporting system.

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15. We believe that there is scope for areas of common ground between the Government and the industry and we look forward to working together in partnership to discuss their proposed model. We are keen to explore, for example, the ‘industry model’ vision for how the new system will be self-funding, with options for funding through an annual accreditation fee or by a levy on each medical report fee (or a combination).
16. This would meet the Government’s intention that the costs of the new independent medical panel system should not fall on the public purse.
17. Once the Government has worked up the details with the industry and consulted with those who have a specific interest such as the Department of Health and NHS England, we will publish the details of the proposed new scheme together with a full Impact Assessment.
18. In the area of medical reports the Transport Committee made one further recommendation around reducing the current three year limitation period. The Government has no plans to change this. The limitation period is long-standing and applies to personal injury actions arising from negligence or breach of duty. It is intended to strike a balance between allowing the claimant time to bring the legal action and ensuring that the defendant does not have to defend claims where it is difficult to obtain truthful evidence. Creating a specific RTA personal injury limitation period would make the law more complex but is possible. However, doing so may increase the number of cases in the short term, and may front-load the expenses into a shorter period with potential cost implications for the courts and the parties. Changing the law in this way would also make claims for changes in other special cases harder to resist.

Part Two – Further Action to Challenge Fraudulent or Exaggerated Claims

19. Analysis of the evidence has shown that a number of perverse and dysfunctional behaviours in whiplash claims have developed over recent years. In trying to control costs insurers have developed a culture of not challenging potentially frivolous or exaggerated claims. This behaviour has ultimately encouraged more people to make claims. In addition to this, claimant solicitors have also developed behaviours such as accepting cases from geographically distant Claims Management Companies (CMCs) which can often result in poor or even non-existent checks on the claimant's identity or validity of their claim.
20. Such behaviours have to stop and a sense of proportionality must be returned to the way claims are made and handled in future. To address this, the Government intends to work with stakeholders to diminish or eradicate such behaviours from the system.
21. The Government has already introduced significant reforms to civil litigation funding and costs, through changes to the law in Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. In addition, the fixed recoverable costs for claimant lawyers in respect of low value RTA claims have been reduced. These reforms came into effect earlier this year; they are intended to control the costs of litigation and to deter unmeritorious litigation. However, the Government has recognised that there are specific concerns in relation to whiplash claims, as set out in the consultation paper. This response paper sets out the further specific actions that the Government will be taking.
22. The Government believes that it is vital that all involved in this industry co-operate to ensure that, not only do the genuinely injured receive the help and support they deserve, but that those making unnecessary, exaggerated or fraudulent claims are effectively deterred or prevented from doing so.
23. 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.
24. To ensure genuinely injured claimants get the right help when they need it – and to deter the opportunistic from making exaggerated or fraudulent claims – the Government is attracted to introducing a rule to ensure that a medical examination and report is completed before a claim can proceed. The exact proposal is being developed, but this should provide more certainty to the costs of medical reports and provide both parties with the information they require to make an accurate assessment of the treatment and/or compensation required to settle the claim. This should also mean an end to the practice of pre-medical offers to settle, which can lead to unmeritorious or exaggerated claims being made by some claimants, including fraudulent claims by uninjured claimants, and reduce the risk of under-settlement for the genuinely injured.

25. In 2012 the insurance industry launched the Insurance Fraud Register which enables insurers to share their data on known fraudsters with each other. The Government strongly encourages the insurance industry to share this data on potential fraudsters with claimant lawyers to help to stop such claims at source.
26. The Association of British Insurers is also funding the Insurance Fraud Enforcement Department (IFED), a specialist police unit attached to City of London Police. IFED is dedicated to tackling insurance fraud, including motor insurance fraud and organised ‘crash for cash’ gangs, where offenders stage or contrive an accident with the purpose of claiming on an innocent motorist’s insurance. In 2012, IFED made 260 arrests, secured 12 convictions and issued 76 cautions.⁵ We expect their impact to become more noticeable during 2013, as more cases proceed through the courts.
27. By sharing data the insurance industry will help the claimant lawyer sector engage in more rigorous ‘know your client’ checks. In the past CMCs have been used by lawyers to help weed out unmeritorious claims, although the sharp increase in the number of road traffic related personal injury claims over recent years may indicate that this screening process has not been as effective as it could have been.
28. The current Solicitor Regulation Authority Principles (which all lawyers must adhere to) require lawyers to act with integrity and in a way that maintains the trust of the public in lawyers and in the provision of legal services. Checking the veracity of a claim effectively supports this principle and allows lawyers to contribute to the fight against fraudulent and exaggerated claims by taking back ownership and responsibility for this vital process.
29. On 1 April 2013 the Ministry of Justice banned CMCs from offering cash inducements to consumers to make claims. Both the Association of Personal Injury Lawyers and the Motor Accident Solicitors Society have called for this ban to be extended to cover lawyers who can currently still offer such inducements. The Government will consider this issue with the Solicitors Regulation Authority.
30. The Transport Committee has called for greater transparency to the consumer in relation to the financial and other links between insurers and other companies which may have an interest in a claim. The Government supports this position and will consider very carefully any recommendations made by the Competition Commission, which is currently undertaking an investigation into the Private Motor Insurance sector. In addition the Government intends to consult with the Association of British Insurers and the appropriate industry regulators on ways to increase such transparency.
31. Insurance fraud is not a victimless crime and more needs to be done to educate consumers of the consequences of making a fraudulent claim or of exaggerating an injury. The Government intends to work closely with all stakeholders in the personal injury sector to ensure that consumers understand that making such claims is wrong and, while at present, it tends to result in higher premiums for all honest motorists it should be understood that in future it will lead to legal action being taken against dishonest claimants.

⁵ <http://www.cityoflondon.police.uk/NR/rdonlyres/06894EB0-EAAB-4FD5-8444-03CDE7866E3D/0/IFEDReviewWebversionfinal.pdf>

32. The Transport Committee asked for an update on progress with the project to enable insurers to gain real-time access to the Driver Vehicle Licensing Agency (DVLA) database. We are committed to reducing the number of uninsured drivers on our roads. Tackling fraud is a key element to making this happen and good progress is being made in allowing the insurance industry access to DVLA driver details on penalty points and disqualifications. The Department for Transport (DfT) and the DVLA have been working very closely with the Motor Insurance Industry on a project to deliver Insurance Industry Access to the Driver Database (the IIADD project). The systems to enable this are currently in development and on track to go live in spring 2014.
33. The Transport Committee expressed disappointment to hear from witnesses from the legal profession that they had not been invited to the Prime Minister's summit. Nor were the Committee aware of any substantive contact with DfT Ministers.
34. The insurance summits were not intended to replace the normal consultation process which has continued in a fully inclusive way with all stakeholders on the policy initiatives and measures which resulted from these early discussions. The views and opinions from a wide range of stakeholder groups are always important to the Government in developing policy, and we will continue to engage with all relevant groups at the appropriate times.
35. The summits were hosted by the Cabinet Office and DfT. The first was held at the instigation of the Prime Minister to discuss the rising costs that many drivers, families, consumers and businesses were facing to their motor insurance premiums. The summits allowed the Government and the insurance industry to discuss actions that both could take to help bring premiums down in an open and frank manner. The summit concluded that in order to reduce insurance costs further there needed to be a more rigorous process for dealing with whiplash claims and to make young drivers safer.
36. The Government is expecting that any future changes that are implemented should result in a reduction in the high cost of vehicle insurance currently facing motorists – especially young drivers. DfT is publishing a Green Paper later in the year on young drivers which proposes a range of action to improve the safety of newly-qualified drivers:
 - a minimum learning period before candidates are permitted to sit their test;
 - enabling learner drivers to take lessons on motorways, and perhaps during adverse weather conditions or during darkness to encourage greater practice prior to taking a test;
 - increasing the existing probationary period from 2 to 3 years for a new driver's licence to be revoked if they receive 6 or more penalty points;
 - making the driving test more rigorous to better prepare learners to drive unsupervised; and
 - incentives for young drivers to take up additional training after passing their test.

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37. The Government supports and encourages continuing progress by vehicle manufacturers and the insurance industry to develop and encourage vehicles with advanced emergency braking systems, thereby reducing the number of collisions and in turn the number of cases where it is alleged that whiplash has occurred. These braking systems already exist, but they are not universal in the vehicle fleet. In the current context they are particularly relevant when the vehicle is travelling at lower speeds – as then the only injury might be whiplash – whereas when a vehicle is moving faster the injuries are more likely to be more severe (and more visible/detectable). Based on limited industry figures it is estimated that buying a vehicle with this system could result in a reduction in premiums. The insurance industry can help with this by giving lower premiums to vehicles with these braking systems and spreading information about these vehicles.

Part Three – The Small Claims Track Threshold

38. Having taken account of views expressed during consultation, the Government remains of the view that extending the Small Claims track would be beneficial in providing a low cost route to bringing a claim through the courts, with each side bearing its own costs.
39. It could result in significant savings to defendants as the claims go through the Small Claims track rather than the more expensive Fast Track process. This may make it easier for defendants who admit liability for an accident, but who are unable to agree quantum, to challenge exaggerated claims.
40. In saving the defendants' costs and enabling them to challenge exaggerated and fraudulent claims, extending the Small Claims threshold would enable the Government to keep up the momentum on insurers to reduce the cost of motor insurance premiums to the benefit of motorists and their families. The Government believes that there are good arguments for extending the Small Claims limit generally for personal injury claims.
41. However, the Government has also carefully considered both the full range of consultation responses and the Transport Committee's report. Given those views, we are persuaded that, on balance, it would not be appropriate to increase the Small Claims limit for RTA-related personal injury at this stage.
42. The Government accepts that currently extending the Small Claims limit may have an adverse effect on genuine victims of RTA injuries. In particular, the Government will 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.
43. The Government is also keen to ensure that raising the Small Claims limit does not lead to any unscrupulous CMCs taking advantage of any resulting increase in self representing litigants and entering the market to offer advice services which might not be in claimants' best interests. With the help of Government reforms through the ban on payment of referral fees in personal injury cases and a separate ban on CMCs offering financial or similar rewards as a potential inducement to make a claim, the number of CMCs operating in the personal injury sector has fallen significantly – from 2300 at the start of 2013 to just over 1400 at the end of September this year. Annual CMC turnover for this sector for the year 2012–13 was down by 22%.⁶
44. We also consider that much remains to be done, not only by insurers but across the industry as a whole, to address existing behaviours and disincentives which do not do enough to discourage fraudulent and exaggerated claims. More information is given in Part Two about how we propose to work with both the insurance and claimant sectors on this.

⁶ <http://www.justice.gov.uk/downloads/publications/corporate-reports/cmr/cmr-annual-report-2013.pdf>

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45. Therefore, while the Government believes that an increase in the Small Claims limit in this sector would provide additional benefits, it regards it as sensible and pragmatic to consider the combined impact of earlier reforms before embarking on any further change now. As detailed elsewhere in this response, the Government has already taken a number of significant steps to tackle the over-inflated personal injury claims market. We also wish to take further time to consider how best to mitigate any negative impacts which might arise as a result of increasing the Small Claims track limit. The Government will though keep this issue under consideration for implementation when appropriate.

Part Four – The whiplash issue and data sharing

46. The Government considers that there is sufficient evidence of high and recently increasing case volumes and sufficient anecdotal information to justify consideration of further possible reform. There may be merit in taking early action to tackle an emerging problem or to prevent a potential problem from arising, compared to waiting for a problem to escalate. The Government does not consider that potential solutions should be delayed until definitive and robust data on international comparisons is available.
47. The Government notes the Transport Committee's observation about the apparent trend in whiplash claims, and would point out that data provided by the DWP Claims Regulation Unit (CRU) on whiplash numbers is subject to regular revision. It is also important to note that other categories of injury recorded by the CRU, such as the 'neck and back' are similar in nature to 'whiplash'. This should be considered when coming to a view on the number of soft tissue injuries made.
48. Government data on whiplash numbers is provided by the CRU, which does not retain historical data. It will not, therefore, be possible to provide any in depth pre-2008 statistics nor an analysis of them, as recommended by the Transport Committee.
49. We consider that information exchange between the police, who are often notified about road traffic accidents involving personal injury, and the DfT – including its arms-length bodies such as the Highways Agency – should help the highways authorities target spending on improving road safety. Insurers are best placed to consider, on a case by case basis when receiving a claim, whether a claim might in some way be exaggerated or fraudulent, and are best placed to draw together this information for the sector as a whole.
50. The provision of robust data by insurers on case volumes, case injury types, initial claim values, and final case settlements would be beneficial, together with information on suspected exaggerated and fraudulent claims and on claims which were withdrawn. The Government does not intend to adopt a formal regulatory or legal information gathering power in respect of this information. Instead the Government invites the insurance industry and its representative bodies to collect this information and to publish it.
51. The Government notes the Transport Committee's view that some whiplash claims may be fraudulent or exaggerated. The Committee has also asked the Government to give its view on how to improve the collection of data about road accidents. The Committee is particularly interested in how to improve the detection of fraudulent personal injury claims as well as help highways authorities target spending on improving road safety. The road accident statistics which DfT publish are gathered by the police as motorists are not obliged to report every accident to the police where drivers stop and exchange details, in accordance with the Road Traffic Act 1988. Therefore not every accident is recorded. If motorists were obliged to report all accidents to the police this would require a change in legislation and would significantly increase cost and bureaucracy.

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52. The Transport Committee raised the comments made by Mr Roger Carter about road traffic accident statistics.⁷ The Government is actively engaged with Roger Carter's work on highways authorities getting access to claims data from insurers and recognise that this data would be valuable for filling in the gaps of unreported accidents and providing information for highways authorities on where to target road safety improvements. The Government would not support forcing insurers to supply data through legislation. We are trying to work closely with the Association of British Insurers on reducing insurance premiums for young drivers. Mandating a central collection of data at this stage might jeopardise this work. We recognise that it is likely to be a challenge for insurers to create comparable datasets and to match vehicles involved in the same accident but which are insured with different companies.
53. Roger Carter also put forward an interim proposal in order to force drivers to report personal-injury accidents to the police. The Government does not believe that section 170 of the Road Traffic Act requires drivers to report accidents to the police (the Act requires them to exchange details at the scene and only report the accident if this does not happen). Therefore we do not consider this proposal to be proportionate.

⁷ <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmtran/117/11705.htm#a2>

Assessment of the costs and benefits of the reforms

54. This initial cost benefit assessment of the proposed reforms identifies impacts on individuals, groups and businesses in the UK. The reforms will be finalised following further consultation with the industry.

Key assumptions

55. The following key assumptions apply to the assessment of expected costs and benefits:

- **Reduced volume of unmeritorious whiplash and other road traffic accident personal injury claims and settlements:** The introduction of more rigorous medical assessments is assumed to result directly in fewer unmeritorious claims being pursued and settled, but not to impact on the volume of meritorious claims.
- **Reduced unmeritorious exaggeration of claims or of final settlements:** More rigorous medical assessments are assumed to result directly in less unmeritorious exaggeration of claims and/or of final settlements, but to have no impact on meritorious claims.

Costs

Costs of medical panels

56. The reforms generate direct costs of establishing and operating medical panels. The panels are expected to be self-funded, i.e. not funded by the Government. The costs of establishing and operating medical panels may be met directly either by experts and/or by defendants (insurers) via a levy. If met by experts then these costs might be reflected in the price of expert reports, and hence in turn passed on by experts to defendants (insurers) in cases which defendants (insurers) settle, or passed to claimants where claims are unsuccessful. Where unsuccessful claimants are funded by no win no fee arrangements it is possible that they themselves would not meet the costs of their reports but that their no win no fee provider would.
57. The extent and nature of the costs of establishing and operating medical panels will depend upon the scope of the scheme, which is yet to be determined. Functions might theoretically include the following possibilities; setting accreditation requirements and accrediting experts, setting report standards and operating peer reviews, determining how reports are allocated to experts, determining how reports are paid for, setting prices for expert reports, monitoring and auditing expert performance, and taking enforcement action.
58. There are a range of options for how each of these potential functions might be carried out, if they are included in the model. Other options relate to whether new bodies are needed to perform these functions, and also whether these functions are performed by government bodies or by industry or professional bodies. Some of the desired outcomes associated with these possible functions might also be achieved in other ways, e.g. by contractual means.

Costs to experts

59. Experts may directly incur increased costs as a result of any new accreditation requirements and other requirements increasing the amount and/or quality of work required to produce a report, e.g. relating to the depth of examination. This would include any increased costs of obtaining more information, e.g. accident reports and medical reports.
60. Experts may directly incur increased costs from engaging with the medical panels, e.g. in relation to any peer review or auditing requirements, or other monitoring and enforcement activity.
61. Experts may directly incur increased costs in relation to acquiring work and being commissioned to undertake reports, and in relation to payment mechanisms. The extent to which all of the above possible costs arise would depend upon the precise functions of the medical panel system and how they are carried out in practice. These are yet to be determined.
62. As explained above, it is possible that the costs of establishing and operating the new medical panels themselves might be met directly by experts. This is yet to be determined. The medical panels will not be financed by the Government.
63. Whilst experts might incur the above increased costs it is expected that they would be reflected in the price charged by experts for their reports. These costs would therefore be passed to defendants (insurers) in cases which defendants settle and would be passed to claimants where claims are unsuccessful. Where unsuccessful claimants are funded by no win no fee arrangements it is possible that they themselves would not meet the costs of their reports but that their no win no fee provider would.
64. Whilst increased costs might be passed on by experts it is also possible that experts might lose out if their profit margins were lower in future. If under the medical panel scheme, the price of medical reports were to be set and quality standards for expert reports assured, it is possible that some experts would undertake more work whilst securing less of a profit margin. Any reduction in expert profit levels would constitute a transfer cost to experts, to the benefit of those who pay for expert reports. It is unclear whether this impact would arise.
65. Increased costs to experts relate, at least in part, to increased levels of business for experts, i.e. to more work, and/or to higher quality work, being required on average per report. The assumed reduction in claim volumes may, however, lead to a reduction in the levels of business for experts. The overall level of business for experts would also be affected if all claims in future were accompanied by an expert report but if only some claims currently include an expert report. The overall impact on levels of business for experts is ambiguous.
66. Experts are likely to incur adjustment costs, not just from any change in the overall level of business and in the nature of business (e.g. higher quality reports), but also from accreditation requirements. These might lead to some current experts not producing reports in future, and to others producing more reports in future, depending upon whether they meet future accreditation requirements. Where some experts no longer produce reports in future it is assumed that they engage in other profitable activities.

Costs to defendants (insurers)

67. As explained above, it is possible that the costs of establishing and operating the new medical panels themselves might be met directly by defendants (insurers). This is yet to be determined. The medical panels will not be financed by the Government.
68. If the costs of establishing and operating medical panels were instead directly met by experts then they might be reflected in the price of expert reports. They may then be passed on by experts to defendants (insurers) in cases settled by defendants (insurers).
69. Any increased costs of producing expert reports, as outlined above, might also be reflected in the price experts charge for their reports, which in turn might be passed to defendants (insurers) in cases settled by defendants (insurers).

Costs to claimants

70. Claimants may directly incur increased costs from being examined by experts. They might be examined for a longer period of time and in more depth.
71. If the costs of establishing and operating medical panels were directly met by experts then they might be reflected in the price of expert reports. They may then be passed by experts to claimants where claims are unsuccessful. Where unsuccessful claimants are funded by no win no fee arrangements it is possible that they themselves would not meet the costs of their reports but that their no win no fee provider would.
72. Claimants would lose out from securing reduced compensation, in particular from making fewer successful unmeritorious claims and from receiving fewer settlements which are unnecessarily exaggerated. Compensation payments constitute transfer payments.
73. Claimants would lose out if there was an increased delay in settling cases. This may include cash flow costs as well as a loss in welfare from receiving settlements later.

Costs to legal services providers

74. If fewer cases were pursued by claimants there may be a reduction in business for legal services providers. If this were so it is assumed that legal services providers would engage in other profitable activities. Adjustment costs may be incurred. Impacts on legal services providers would be secondary impacts.

Costs to claims management companies

75. If fewer cases were pursued by claimants there may be a reduction in business for claims management companies. If this were so it is assumed that CMCs would engage in other profitable activities. Adjustment costs may be incurred. Impacts on claims management companies would be secondary impacts.

Costs for HM Courts and Tribunals Service (HMCTS)

76. If fewer claims were pursued then there might be a reduction in court case volumes, especially in the number of court proceedings issued. If so there would be a reduction in overall HMCTS fee income. HMCTS operates on a cost recovery basis in the longer term, and any reduction in income is assumed to be comparable to the reduction in HMCTS costs from processing fewer claims. Overall the impact on HMCTS is assumed to be neutral.

Benefits

Benefits for defendants (insurers)

77. Defendants (insurers) would gain from fewer unmeritorious claims being made and settled. This would result in reduced overall compensation paid, reduced defendant legal costs and reduced claimant legal costs (which are met by defendants when defendants settle a claim). The reduction in claim volumes and settlements would be determined by how the reforms affect claimants' inclination to pursue unmeritorious claims, and by how they affect defendants' (insurers') ability to avoid settling unmeritorious claims. The gains from reduced compensation payments constitute transfer payments.
78. Defendants (insurers) would gain from a reduced overall amount of compensation paid due less unmeritorious exaggeration of claims and final settlements. The actual reduction would be determined by how the reforms affect claimant inclination to exaggerate claims unnecessarily and how they affect defendant (insurer) ability to ensure final settlements are not unmeritoriously exaggerated. The gains from reduced compensation payments constitute transfer payments. Compensation payments constitute transfer payments.
79. Defendants (insurers) would benefit if there was an increased delay in settling cases, for example if expert reports took longer to produce. This may include cash flow benefits as well as investment income benefits from paying settlements later.
80. Defendants (insurers) would gain if expert profit margins were lower in future. If the medical panels were to set the price of medical reports and ensure that expert reports meet quality standards, it is possible that some experts would undertake more work whilst securing less of a profit margin. Any reduction in expert profit levels would constitute a transfer cost to experts, to the benefit of those who pay for expert reports. This would include defendants (insurers) in cases settled by defendants (insurers). It is unclear whether this impact would arise.

Benefits for claimants

81. To the extent that claimants who are not successful pay for expert reports they would also gain from any reduction in expert profit levels. As explained, this would constitute a transfer cost to experts, to the benefit of those who pay for expert reports. Where unsuccessful claimants are funded by no win no fee arrangements it is possible that they themselves would not meet the costs of their reports but that their no win no fee provider would – in which case these providers would gain from any reduction in expert profit levels. It is unclear whether this impact would arise.

Benefits for experts

82. Increased costs to experts relate, at least in part, to increased levels of business for experts, i.e. to more work, and/or to higher quality work, being required on average per report. The assumed reduction in claim volumes may, however, lead to a reduction in the levels of business for experts. The overall level of business for experts would also be affected if all claims in future were accompanied by an expert report but if only some claims currently include an expert report. The overall impact on levels of business for experts is ambiguous.

Benefits for HM Courts and Tribunals Service (HMCTS)

83. If fewer claims were pursued then there might be a reduction in court case volumes, especially in the number of court proceedings issued. If so there would be a reduction in overall HMCTS operating costs. HMCTS operates on a cost recovery basis in the longer term, and any reduction in operating costs is assumed to be comparable to the reduction in HMCTS income. Overall the impact on HMCTS is assumed to be neutral. If there is a reduction in HMCTS operating costs relating to these cases it is assumed that these HMCTS resources would be allocated to other cases, reducing court case durations and waiting times.

Wider benefits to insurance holders

84. It is possible that any overall reduction in costs for insurers might feed through to lower insurance premiums. This would be a secondary impact of the reforms.

Risks

85. The ability to medically diagnose whiplash claims may not be affected by the reforms, due to the medical nature of whiplash injuries. Instead the reforms are assumed to affect the inclination to make unmeritorious claims and to make exaggerated claims. The reforms are also assumed to improve the ability of defendants (insurers) to challenge claims which appear to be unmeritorious or exaggerated. Uncertainties apply to these key assumptions.

Reducing the number and costs of whiplash claims: A Government response to consultation on arrangements concerning whiplash injuries in England and Wales

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Annex A – Reducing the number and cost of whiplash claims: Consultation Questions

The ‘Reducing the number and costs of whiplash claims’ consultation document asked the following questions:

1. Do you agree that, in future, medical reports for whiplash injury claims should be supplied by independent medical panels, using a standard report form, and should be available equally to claimants, insurers, and (for contested claims) the courts?
2. If no, how would you address the problems listed at paragraphs 35 to 39 of part two of this consultation document?
3. Which model should be used for the independent medical panels – Accreditation, national call-off contract or some other variant?
4. Do you consider that an element of peer review should be built into every assessment, or only for a sample of assessments for audit purposes?
5. How should costs be dealt with and apportioned?
6. Should the Small Claims track threshold be increased to £5,000 for RTA related whiplash claims, be increased to £5,000 for all RTA PI claims or not changed?
7. Will there be an impact on the RTA Protocol and could this be mitigated?
8. What more should the Government consider doing to reduce the cost of exaggerated and/or fraudulent whiplash claims?
9. Do you agree with the equality impact assessment published alongside this document? If not, please explain why.
10. Please provide evidence of any ways in which the procedure under current arrangements affects people with different protected equality characteristics.
11. Do you consider that the introduction of independent medical panels to assess whiplash injuries will affect people with protected equality characteristics? If so, please give details.
12. Do you consider that an increase in the small claims limit for Whiplash/RTA personal injury claims from £1000 to £5000 will affect people with protected equality characteristics? If so, please give details.

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Annex B – List of respondents

The respondents who gave details included individual members of the judiciary, individual solicitors and barristers, academics, members of the public and the following organisations.

1 Gray's Inn Sq. Barristers' Chambers
7 Solicitors LLP
12 King's Bench Walk Chambers
2020 Legal Limited T/A Camps Solicitors
Access to Justice Action Group
Accident Exchange Group PLC
Ageas Insurance
Albinson Napier & Co.
Allianz UK
Amelans Solicitors
AMTrust Europe Limited
Andrew & Andrew Solicitors
Association of British Insurers
Association of Medical Reporters Organisations
Association of Personal Injury Lawyers
Association of Regulated Claims Management Companies
AQ Archers Solicitors
Aqualibra claims
ATOS Healthcare
Aviva
AXA Insurance
Backhouse Jones
Beetenson & Gibbon Solicitors
Berrymans Lace Mawer LLP
BGL Group
Bond Solon Training & Cardiff University Law School
Bradford & District Senior Power
Brevitas
British Association of Rehabilitation Companies
British Insurance Brokers Association

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Broadspire TPA (A Crawford Company)
Browne Jacobson LLP
British Vehicle Retail Leasing Association
Camford Sutton Associates
Camps Solicitors
Capita Limited
Carbrooke Accident Management Ltd
Carpenters Law
Cartridges Solicitors
ChangeBanks
Chartered Institute of Legal Executives
Chartered Society of Physiotherapy
Cinderhill Physiotherapy
Civil Justice Council
Colemans cts Solicitors
Complete Compensation Claims Limited
Consumer Justice Alliance
Co-operative Insurance
Cordner Lewis Solicitors
Council of Her Majesty's Circuit Judges
Coyne Learmonth LLP
Curtis Law Solicitors
DAC Beechcroft Group
Derbyshire Community Health Services – NHS Trust
Direct Line Group
Doctors Chambers Limited
Doctors.net.uk
E Rex Makin & Co
Enterprise Rent-a-Car
Esure
Express Solicitors
Faculty of Pain Medicine Royal College of Anaesthetists
FBC Manby Bowdler Solicitors
Fleet Management
Fletchers Solicitors
Forum of Insurance Lawyers

Garvins Solicitors
Glaisyers Solicitors LLP
Gorman Hamilton Solicitors
Graham Coffey & Co Solicitors
Groupama Insurances
Handley Law Limited
Hansells Solicitors
Hattons Solicitors
Hesling Henriques Solicitors
Hextalls Limited
Higgs & Sons Solicitors
Hilary Meredith Solicitors Limited
Hill Dickenson LLP
Hinchliffes Solicitors
Horwich Cohen Coghlan Solicitors
Horwich Farrelly Solicitors
Inspire Risk Management Limited
Insurance Services Office
Inter-Resolve Limited
Irwin Mitchell Solicitors
JH Legal Services
Jones Gough LLP
Keoghs LLP
Kirby Sheppard LLP
Kremers Solicitors
Lamb and Co Solicitors
LCC Limited
Legal Reports & Services
Leigh Day Solicitors
Levins Solicitors
Liability (Oxford) Ltd
Liverpool Law Society
Liverpool Victoria
Lloyds Market Association
Lopian Wagner Solicitors
Lupton Fawcett Lee & Priestley

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Lyons Davidson Solicitors
Mark Thompson Law
Markerstudy Group
Melbourne Whiplash Centre
Metro Health and Wellbeing Limited
Minster Law Solicitors
Mobile Doctors
Mohindra Maini LLP
Morgan Cole Solicitors LLP
Motor Accident Solicitors Society
Motor Insurance Bureau
Moving Minds
MSL Legal Expenses Limited
National Association of Bodyshops
Nesbit Law Group plc
New Law Solicitors
NFU Mutual
National Health Service
Odyssean Enterprises Limited
Oriel Chambers
P R Scully & Co Solicitors
Pannone LLP
Parabis Group
Parmar & Co Solicitors
Parry & Company Solicitors
Pattinson & Brewer Solicitors
Personal Injury Bar Association
Personal Injury Practice Limited
Phoenix AV Solutions Limited
Physiotherapy Practice
PhysioWorld Limited.
PR Scully & Co Solicitors
Premex Group
Prime Legal Costs Limited
Professional Solutions
Prolegal

Punch Robson
QBE European Operations
Quality Solicitors Oliver & Co
Rapid Accident Management Legal Services Limited
Resource in Insurance Group
Road Peace
Ross Aldridge Solicitors LLP
Royal College of General Practitioners
RSA Group
Russell & Russell Solicitors
Russell Worth Limited
Saracens Solicitors
Scott Rees & Co Solicitors
Seaway Insurance Consultants (GI) Ltd
SGI Legal LLP
Sheldon Davies Solicitors
Simpson Millar LLP
Simpsons Solicitors
Spencers Solicitors
St Clements Surgery
Stephensons Solicitors LLP
Sunderland City Council
Thatcham Research
The Alternative Company (UK) Ltd
The Association of Her Majesty's District Judges
The Association of Personal Injury Reporting Experts
The Clarke Partnership
The Co-operative Group Limited
The Law Society
The Treatment Network Limited
Thomas & Meighen Solicitors
Thomas Eggar LLP
Thompsons Solicitors
Thornycroft Solicitors
TJL Solicitors
Transportation Claims Limited (part of FirstGroup plc)

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UK Independent Medical

UNISON

Union of Shop Distributive Allied Workers

Vantage Law Solicitors

Walker Smith Way Solicitors

Weightmans Solicitors LLP

Wolferstans Solicitors

Xpede Medical Limited

Zurich Insurance

Annex C – Summary of responses to consultation

1. A total of 292 responses to the consultation paper were received. The responses covered a wide range of stakeholders from all across the personal injury sector.
2. 147 responses were received from claimant solicitor firms, who returned approximately 50% of all responses. Medical stakeholders provided the next highest return with 14% of the responses, followed by insurers with 8%. A full breakdown of stakeholders who responded is as follows:

| | | |
|---------------------------------|---|-----|
| Academic | – | 2 |
| ADR | – | 2 |
| Claimant Solicitors | – | 147 |
| Claimant representative bodies | – | 3 |
| Claimant/Victims groups | – | 4 |
| CMCs/collectives | – | 2 |
| Other Representative bodies | – | 6 |
| Defendant Solicitors | – | 10 |
| Defendant other | – | 6 |
| Defendant representative bodies | – | 3 |
| Insurance industry | – | 25 |
| Judiciary | – | 4 |
| Legal Training Providers | – | 2 |
| Local Authority | – | 1 |
| Medical professionals | – | 40 |
| Medical representative bodies | – | 3 |
| Members of the Public | – | 8 |
| No details given | – | 14 |
| Other | – | 8 |
| Trade Unions | – | 2 |

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3. Not all the respondents chose to answer all the questions and some respondents opted to submit their response in the form of an extended letter or article without necessarily directly answering some or all of the questions. In those cases where the references are clearly to particular questions in the consultation paper, those references have been treated for the purposes of analysis as answers to those questions.

Better Medical Evidence

4. Analysis of consultation responses shows that 58% of respondents from across all sectors involved in personal injury claims supported the Governments proposals for independent medical panels. These included 69% of medical stakeholders. The majority of those who disagreed with the proposal for independent medical panels considered that the existing responsibilities and requirements on medical experts under Part 35 of Civil Procedure Rules (CPR) were adequate and no further changes were needed.
5. Of the options set by the Government for independent medical panels, the specific model preferred most was for a system based around accreditation of experts as a significant step in improving standards of examinations and medical reporting of whiplash injury claims. This was favoured by 38% of respondents. Fewer respondents (5%) were in favour of the national call off contract option. A further 16% of respondents suggested some other variation, including a combination of the other two options. 22% preferred no change and 20% expressed no opinion.
6. 54% proposed that any accreditation scheme should include some element of peer review or audit, 28% were against and 18% gave no answer. Medical stakeholders – for example, the Royal College of GPs, Chartered Society of Physiotherapists and the Association of Medical Reporting Associations – were generally supportive of these proposals.
7. Of those expressing a view on finance, respondents generally felt that any independent medical scheme should be self funding and transparent. There was general support for the start up costs of a scheme to be borne by either a levy on claimant lawyers and insurers (some proposed Government input). Running costs should then be covered by fees for accreditation fees paid by medical experts, along with a portion of the medical report fee to cover any shortfall. On the report fee itself, the majority felt that insurer defendants ought to be responsible for paying for this. There was also some support for report fees to be incorporated into the CPR, to provide certainty as to cost.

Better Incentives to Challenge Fraudulent or Exaggerated Claims

8. There was a mixed response to the proposal regarding the raising the Small Claims threshold for road traffic accident related personal injury claims from £1,000 to £5,000. Although a clear majority 189 (65%) was opposed, this was distorted by a preponderance of responses from claimant lawyers (including 15 identical responses from the same firm of lawyers).
9. Those opposing the increase were strongly of the opinion that it would have a negative impact on access to justice with 104 respondents (35%) making direct reference to this point. A further 49 (17%) stated that unrepresented litigants in the Small Claims track would be at a disadvantage as most defendant insurers would continue to use

their own solicitors to contest a claim. The issue of claims management companies moving back into the personal injury sector was raised by 37 respondents (13%). 140 (48%) of respondent warned that there would be a significant impact on the RTA pre-action protocol and portal scheme.

10. Defendant insurers and their representatives were broadly in favour of an increase, with 57 (19%) of respondents in favour of some form of increase to the small claims limit. Those in support stated that an increase was long overdue, it would reduce costs for defendants and the RTA portal could be amended to accommodate litigants in person.

Further Action

11. There were a number of ideas and suggestions for addressing the problems in whiplash claims raised by stakeholders in response to question eight on what more the Government could do to address the issues highlighted in the consultation. The Government does not feature any of them as part of this response but may wish to discuss some of those proposals in the future.

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Annex D – House of Commons Transport Committee – Cost of motor insurance: whiplash – Conclusions and recommendations

Number of whiplash claims

1. It is apparent from the information now provided by the Government that the number of whiplash claims has fallen since 2010–11 and is now lower than at any time since at least 2007–08.
2. We recommend that the Government analyse pre-2008 statistics on claims arising from road traffic accidents in order to show how the number of whiplash claims has changed since the turn of the century. We are also concerned by the emerging trend for claims for other forms of injury to increase as whiplash claims decline. We recommend that the Government provide a breakdown of these claims for other injuries since 2008–09 and an explanation of any trends.
3. We recommend that, in its reply to this report, the Government should give its view on how to improve the collection of data about road accidents, particularly in relation to how they could improve the detection of fraudulent personal injury claims as well as help highways authorities target spending on improving road safety.

Prevalence of fraudulent whiplash claims

4. The Government's claim that the UK is the "whiplash capital of the world" cannot be conclusively proved or disproved from the international evidence which is available. It is surprising that the Government has brought forward measures to reduce the number of fraudulent or exaggerated whiplash claims without giving even an estimate of the comparative scale of the problem.
5. There is no authoritative data publicly available about the prevalence of fraudulent or exaggerated claims for whiplash injuries and no consensus about what constitutes fraud. There is considerable scope for the insurance industry to provide clearer data about the number of whiplash (and other personal injury) claims which it is confident are genuine and those which give cause for concern, ranging from the out-and-out fraudulent to those where symptoms may have been exaggerated. Industry-wide agreement about how to classify claims and the collection of data by the ABI would strengthen the case for the Government to act. We recommend that the Government press the ABI to provide better data about fraudulent or exaggerated personal injury claims, so that there is a stronger evidence base for policy decisions.
6. We accept that some of the increase in the number of whiplash claims will have been due, in the main, to fraud or exaggeration, even if it is not possible to give even a rough estimate of the scale of the problem.

Prime Minister's summit on motor insurance

7. We were disappointed to hear from witnesses from the legal profession that they had not been invited to the Prime Minister's summit and nor are we aware of any substantive contact with DfT ministers. This is particularly surprising given that legal reforms were clearly under discussion.

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Medical reports

8. We support the proposal that there should be an accreditation scheme for medical practitioners (who need not all be doctors) who provide medical reports in relation to whiplash claims. We also agree that these reports should be available equally to all parties. However, it is essential that the practitioners instructed to prepare such reports are provided with information about the accident and the claimant's medical records. Reports prepared without this information are likely to be of very limited value.
9. 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. In the latter case, the Government should explain why a new form is needed.
10. In our view, a random audit of at least a proportion of medical reports prepared each year is essential. We also question whether existing regulatory bodies such as the General Medical Council could have a role in auditing reports and receiving and dealing with complaints about the quality of reports under these new arrangements. We recommend that the Government consider this issue.
11. We recommend that the Government explain the rationale for the three-year limitation period and bring forward recommendations for reducing it.
12. We recommend that the Government consult on ways of requiring whiplash claimants to provide more information in support of their claim, such as proof that they saw a medical practitioner shortly after the accident or evidence of the impact of the injury on everyday life. There should be a presumption against accepting claims where such information is not provided.

Use the small claims track?

13. There are good arguments for and against switching whiplash claims of between £1,000 and £5,000 to the small claims track, but on balance we do not support this proposal at the present time. We believe that access to justice is likely to be impaired, particularly for people who do not feel confident to represent themselves in what will seem to some to be a complex and intimidating process. Insurers will use legal professionals to contest claims, which will add to this problem.
14. It would be financially difficult for many solicitors to assist litigants fighting personal injury claims using the small claims procedure, given the limited fees available. However, we are concerned that some claims management firms might find a way to enter the process, fuelling another boom in their activities.
15. We are also concerned that use of the small claims track could prove counterproductive in efforts to discourage fraudulent and exaggerated claims.
16. We recommend that the Government analyse the impact of the electronic portal on claims management and costs before reconsidering whether to increase the threshold for whiplash claims to be dealt with using the small claims track.
17. We also recommend that the MoJ 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. The MoJ should

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.

Acceptability of fraud and exaggeration

18. We recommend that the Government provide further details of what its work to tackle perceptions that exaggerated claims are acceptable involves.
19. We recommend that the Ministry of Justice give its view on the issues involved in limiting the right to compensation where it can be shown that a claim is grossly exaggerated.

Data sharing

20. Insurers and lawyers have a strong interest in preventing fraud so it is disappointing to hear legal witnesses say that progress in data sharing has been slow. We recommend that the Government encourage both parties to establish collaborative arrangements aimed at identifying and deterring potentially fraudulent claims.
21. We would be grateful for an update on progress with the project to enable insurers to gain real-time access to the DVLA database.

Conclusion

22. Whiplash injuries can arise from motor accidents and can have debilitating consequences for those who suffer them. It is appropriate that people injured in motor accidents through no fault of their own should be able to claim compensation from the party which caused the injury.
23. Although it may make economic sense for an individual insurance firm to settle a claim without medical evidence or to pay out even if fraud or exaggeration is suspected, the industry as a whole is damaged, and motorists pick up the bill in the form of higher premiums. Insurers must immediately put their house in order and end practices which encourage fraud and exaggeration. If not, the Government should take steps to protect motorists.
24. We recommend that the Government explain how it will monitor whether or not motor insurers honour their commitment to ensure that any cost reductions resulting from proposed legal reforms are passed through to consumers in the form of lower premiums.
25. We recommend that the Government take a more strategic approach to tackling the cost of motor insurance premiums, bringing together action by the MoJ, Department for Health and DfT, as well as any future implementation of Competition Commission recommendations, under a single ministerial lead.
26. It is regrettable that the motor insurance sector ignored our recommendation that consumers are entitled to know more about the financial and other links between their insurer and the many companies typically involved with each claim. Transparency breeds trust and confidence in the market. Unfortunately, the motor insurance sector remains as opaque as ever. This needs to change.

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Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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