

Louise Ellman
Chair of the Transport Select Committee
House of Commons
London
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15 April 2013

Dear Mrs Ellman

Transport Select Committee – Inquiry into Whiplash Claims

1. The Institute and Faculty of Actuaries (IFoA) set-up the Third Party Working Party (TPWP) in 2009 to look into emerging claim trends in third party motor insurance in the UK. The TPWP has conducted three surveys to date based on aggregated data from the largest motor insurance companies writing business in the UK. The last completed study was based on Private Car Comprehensive data as at 31 December 2011 and included data from 17 different companies representing premium in 2011 of £8.5bn. Using earned premium for the 2011 accident year from the 2011 FSA returns, the study represents around 98% of FSA regulated UK insurers. A fourth study is currently being carried out, updating the analysis for more recent data. However, this has not been completed by the deadline for this submission.
2. In November 2010 the TPWP reported to the Transport Select Committee during its inquiry into the price of motor insurance. The TPWP has also reported to a number of other inquiries, including to the OFT on its Call for Evidence on Motor Insurance Pricing in 2011 and to the Ministry of Justice on its consultation on Claim Management Regulation (CP19/10) also in 2011.
3. While the working party has not directly analysed whiplash claims, the latest survey has looked at personal injury claims split by claim size. As whiplash claims are the dominant source of personal injury claims under £20,000 we believe the TPWP data can provide significant insight into the current level of whiplash claims and how this has grown recently. We have provided responses to specific questions below.

I: Whether the Government is correct in describing Great Britain as the "whiplash capital of the world".

4. Based on the work of the TPWP, we have comprehensive industry data from the UK up to 31 December 2011. However in terms of countries beyond the UK, we only have access to publicly available sources of data. The most ready source of overseas data is in respect of the USA. We have not been able to confirm the comparability of this data or otherwise, either in terms of the structure of motor insurance products, their use, or on the structure of the data. Nonetheless treating this data at face value provides an interesting comparison with UK data. Our conclusions below rely on an assumption that, given the high litigiousness which we see demonstrated in the USA as observed in other insurance products, we would have expected the USA to show more whiplash claiming than any other country all else being equal. For example, the USA has very much led the way with regard to claims on industrial diseases, pollution, medical malpractice and other issues arising from third party liability. Our comparison shows that the UK may, however, have even higher levels of whiplash than the USA.

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5. We have used the ratio of the number of third party personal injury claims made to the number of insured accidents (as measured by the number of third party property damage (“TPD”) claims which are made largely in respect of damage to third party vehicles) as a measure of the scale of whiplash (given that personal injury claim numbers are dominated by small whiplash type claims). Comparing these statistics across regions of the UK shows 2 key features; year on year increases and marked regional differentiation. In a previous submission to the Transport Select Committee, we demonstrated a correlation between the location of Claims Management Companies and areas with high incidence of third party personal injury claims. We can supply the Committee with detailed charts presenting the UK data, if required. The ratios for recent years are likely to be understated, particularly so for accidents arising in 2011, due to slower reporting of third party personal injury claims relative to the equivalent property damage claims. Noting this restriction, as at the end of 2011, the data showed an average propensity to claim for personal injury of 30% of third party accidents, with the highest claiming regions being the Granada region in the North West of England (42%) and the Tyne Tees region in the North East (37.5%). The lowest claiming regions are in Scotland in the northerly Grampian region (15%) and the southerly STV region (21%), including Glasgow and Edinburgh.
6. Average data from the USA has been sourced from ISS’s Private Passenger Fast Track Data report and is also taken at the same date as the UK data. This shows a national US average of 23% compared to the 30% in the UK. **Assuming comparability of UK and US statistics, it is likely that the UK is the whiplash capital of the world in as much as the UK shows more whiplash claiming per insured third party accident than the US.**
7. The comparison of the highest claiming US states with the highest-claiming UK regions is however even more stark. The 6 worst US states are shown below, with only Louisiana and Nevada showing levels of whiplash claiming at higher levels than the North East of England, but remaining nonetheless lower than the levels seen in the North West of England.

State	BI/TPD Ratio
Louisiana	38.8%
Nevada	37.7%
Rhode Island	37.3%
Oregon	35.9%
South Carolina	34.3%
Washington	32.0%

II. Whether it is correct to say that the costs of whiplash claims add £90 to the average premium and, if so, what proportion of this additional cost is due to "exaggerated, misrepresented or fabricated" claims?

8. The TPWP has analysed UK Motor insurance market claims data split by various claim sizes. Note that this cost includes multiple claimants as well as legal costs. As motor claims can take many years to settle (for example some of the largest claims could take up to 15 years to settle), the final cost of claims at any point of time is unknown. Our analysis estimated the final cost of claims by projecting the development of the claims into the future based on the historical claims development. As these projections concern events that have not yet occurred, they are inherently uncertain.
9. We believe that whiplash type claims, or less serious personal injury claims, dominate the size bands up to £20k and are not material for larger claim sizes. As such, based on claims under £20k, we estimated a total cost of “whiplash” claims per policy in respect of private motor comprehensive policies of £75 for accidents taking place in 2011. Note the impact of inflation as this figure was £66 in 2010 and £61 in 2009. It is worth noting that the equivalent figure for 2004 was only £30. **If inflation continues at the**

average rate seen across 2009 to 2011, the average cost of whiplash claims in 2013 might be expected to be £91 per policy.

10. We have no specific direct data on what proportion of these claims are “exaggerated, misrepresented or fabricated”. We have therefore sought to estimate what the cost of whiplash type claims might be if elements of “excess” claiming were to be removed. We have estimated the level of “excess” claiming in two ways: firstly with reference to the “low” levels of claiming seen in Scotland, where geographical and legal factors have arguably prevented the “excess” claiming seen in England and Wales (Scenario A); and secondly, by reference to what levels of claiming would have been seen in the UK as a whole, had 2007-2011 not seen burgeoning inflation (Scenario B).
11. Before going on to look at these estimates of “excess” claiming, it is worth nonetheless observing that simultaneously with the rise in whiplash claims there has been a reduction in motoring¹. This drop is likely associated with increases in petrol prices² and recessionary factors, but has meant that, with fewer cars on the road, there have been fewer accidents. This was of course over and above a long term trend of reductions in accidents which has largely been attributed to improvements in road safety³. As such, any inflation seen in personal injury claims has been partially offset by the benign economic effect. There is of course a risk that a return to normal levels of motoring, absent any measures to tackle the rise in whiplash claims, could mean that the excess inflation seen to date redoubles in the future. A scenario around this risk is considered under the answer to the next issue (“Whether the proposals put forward by the Government, in relation to medical evidence of whiplash and incentives to challenge fraudulent or exaggerated claims, are likely to reduce motor insurance premiums and, if so, to what extent.”)

Scenario A: Geographical comparison based on Scotland (low estimate).

12. The stark differences in the geography of bodily injury have already been set out above. Some of these differences may come from the differing nature of accidents in rural and urban areas and the different balances of rural and urban exposure across the various regions. Setting this factor to one side, our national data as a whole has seen a 30% uplift in the proportion of insured accidents since 2007. This compares with Scotland (as represented by Grampian and STV) which saw an uplift of 18%.
13. If we believe that this divergence over the period 2007 to 2011 benchmarks the extent of potential “excess” claiming in England and Wales, we would expect a saving of 9%, or circa £8 per policy. This figure allows for the higher base of personal injury claims in England and Wales than in Scotland and, thereby, implicitly for differing distributions of urban/rural exposures, but only to the extent seen in 2007. Note also that this assessment is built solely on assessments of the numbers of claims made and does not allow for any differences in average claims amounts: a priori, we should expect such differences to exist, if only because higher claim frequencies might be expected to correlate with higher numbers of claimants on each claim. As such the estimate is likely to be a low one.

Scenario B: Claiming levels if whiplash inflation from 2007 – 2011 was more ‘normal’

14. As previously mentioned, the overall number of insured accidents has fallen from 2007 to 2011. We estimate that the accident rate has fallen by on average 6% per year over this period. However the frequency of whiplash claims has shown the opposite trend with an average increase of 5.6% per year.

¹ <https://www.gov.uk/government/organisations/department-for-transport/series/road-traffic-statistics>

² <https://www.gov.uk/government/organisations/department-of-energy-climate-change/series/road-fuel-and-other-petroleum-product-prices>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9280/rrcgb2011-complete.pdf

15. Similarly the average cost of each of those whiplash claims has increased by on average 8% per year. This is significantly higher than the average cost inflation experienced from 2004 to 2007, which was around 1.8% per year. The actual inflation rates are shown in the table below.

Year	TPD Frequency Inflation Actual	Whiplash Frequency Inflation Actual	Whiplash Average Cost Inflation Actual
2007			
2008	-6.6%	5.1%	8.9%
2009	-0.2%	9.7%	10.8%
2010	-5.5%	3.1%	4.6%
2011	-11.2%	4.7%	8.0%
Average	-6.0%	5.6%	8.0%

16. We have assessed the impact of following alternative frequency and average cost inflation rates on the current cost of whiplash claims:

Scenario B1 - Whiplash frequency followed that of underlying accidents (TPD) from 2008 to 2011, but whiplash severity is unchanged.

Scenario B2 - Whiplash severity inflation was 1.8% from 2008 to 2011, in line with earlier inflation rates, but whiplash frequency is unchanged.

Scenario B3 - Whiplash frequency followed that of underlying accidents and whiplash severity was at the lower rate of 1.8% from 2008 to 2011.

17. The impact of these alternative inflation scenarios is shown in the table below.

Year	Whiplash Cost per Policy Actual	B1: Whiplash Frequency follows TPD	B2: Whiplash Severity is 1.8%	B3: Whiplash Frequency follows TPD and Severity Inflation is 1.8%
2007	44.1	44.1	44.1	44.1
2008	50.5	44.9	47.2	41.9
2009	61.4	49.6	52.7	42.6
2010	66.2	49.0	55.3	41.0
2011	74.8	47.0	58.9	37.0

18. Scenarios B1, B2 and B3 result in a reduction in whiplash claim cost of 37%, 21% and 51% respectively. These translate to savings of £34, £19 and £46 respectively per policy based on our estimate of whiplash claims in 2013 of £91.

19. **We expect the average cost of whiplash type claims to be circa £90 per policy for accidents arising in 2013, assuming that inflation continues at the rate seen across the 2009 and 2011 years. Although we do not have any direct measures of “exaggerated, misrepresented or fabricated” claims, we have assessed these based on norming to either lower whiplash regions (Scotland), or to a time when whiplash was less common (prior to 2007). The results of this norming indicate that between 10% and 60% of whiplash claims may be “exaggerated, misrepresented or fabricated”.**

Based on our estimates of the costs of whiplash claims in 2013, this “excess” cost could be £10 - £50 per policy.

III. Whether the proposals put forward by the Government, in relation to medical evidence of whiplash and incentives to challenge fraudulent or exaggerated claims, are likely to reduce motor insurance premiums and, if so, to what extent.

20. We have not sought to assess the initiatives specifically and, indeed, do not currently have the data that would allow us to do this. Our response to this question is based on the assumption that all of the “excess” claims identified in question 2 are removed by the proposals.
21. While any initiatives that stem, or reverse, whiplash inflation would help mitigate claims inflations, how this translates into reductions in motor premiums is unclear. We estimate that whiplash claims account for around 20-30% of the total cost of motor claims. The claims inflation on the remaining 70-80% of cost will also have an impact on potential premium changes. And this is particularly the case for large bodily injury claims – claims which are unrelated to whiplash claims. The TPWP has also studied these larger claims and reported on its findings.
22. Large bodily injury claims (>£100k) have experienced material annual inflation over the past number of years. The table below shows the estimated frequency, average cost and cost per policy for large claims (> £100k). While the change from year-to-year is very volatile owing to the low occurrence and the potentially exceptionally large size of these claims, the average cost per policy inflation is 7.7% for large claims. Large claims account for around 20% of the total claims cost.

Accident Period	Frequency (claims per million vehicle years)	Average Cost (£000s)	Cost Per Policy (£)	Year-on-Year Change in Frequency (% pa)	Year-on-Year Change in Average Cost (% pa)	Year-on-Year Change in Cost per Policy (% pa)
2004	98	273,881	26.9			
2005	92	296,369	27.2	-6.5	8.2	1.2
2006	83	316,941	26.4	-9.1	6.9	-2.9
2007	84	359,190	30.1	0.6	13.3	14.0
2008	79	396,668	31.3	-5.9	10.4	4.0
2009	85	494,179	41.9	7.5	24.6	33.9
2010	71	443,142	31.6	-15.9	-10.3	-24.6
2011	78	581,015	45.3	9.2	31.1	43.1
Average				-3.3	11.3	7.7

23. The inflation observed for bodily injury claims (both small and large) over recent periods has been offset somewhat by falling costs for motor property damage claims (TPD) resulting from the reduction in the number of accidents previously mentioned. For example, there was an 11% reduction in the frequency insured third party accidents in 2011 compared to 2010.
24. The scope of the TPWP study did not include non third party perils. As such to gain an understanding of overall trends in motor insurance, we have had to use general market knowledge to set assumptions as to

the relative significance of the various private motor comprehensive perils as set out below. Similarly allocating them with illustrative indicative inflation levels for the various perils, overall motor inflation is likely to be sitting at circa 5.5% currently. Were the recent decreases in accident trends to reverse (by say 5% over a year) making the accident rate flat, this level of inflation would increase to 11%.

Peril	No initiatives		
	% of Cost	Current Illustrative Inflation	Current Illustrative Inflation +5% Increase in Accidents
Whiplash	26.1%	10.4%	15.9%
Small bodily injury excluding whiplash	13.9%	10.4%	15.9%
Large bodily injury	20.0%	7.0%	12.4%
AP	15.0%	0.0%	5.0%
TPPD	20.0%	0.0%	5.0%
Other	5.0%	0.0%	5.0%
All		5.5%	10.8%

25. To get an idea of the likely impact of reductions in the costs of whiplash, we have used the four scenarios A and B1 to B3 outlined in our response to question II above. These show that, in the absence of any increase in the numbers of accidents, these would lead to claims inflation of between 3% and -9%. With a 5% increase in the numbers of accidents, the equivalent range would be 8% and -4.5%.

Peril	Adjustment of Whiplash to Scenario A		Adjustment of Whiplash to Scenario B1		Adjustment of Whiplash to Scenario B2		Adjustment of Whiplash to scenario B3	
	Current Illustrative Inflation	Current Illustrative Inflation +5% Increase in Accidents	Current Illustrative Inflation	Current Illustrative Inflation +5% Increase in Accidents	Current Illustrative Inflation	Current Illustrative Inflation +5% Increase in Accidents	Current Illustrative Inflation	Current Illustrative Inflation +5% Increase in Accidents
Whiplash	0.2%	5.2%	-30.7%	-27.2%	-13.0%	-8.7%	-45.4%	-42.6%
Small bodily injury excluding whiplash	10.4%	15.9%	10.4%	15.9%	10.4%	15.9%	10.4%	15.9%
Large bodily injury	7.0%	12.4%	7.0%	12.4%	7.0%	12.4%	7.0%	12.4%
AP	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%
TPPD	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%
Other	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%	0.0%	5.0%
All	2.9%	8.0%	-5.2%	-0.4%	-0.6%	4.4%	-9.0%	-4.4%

26. **As such, if the measures reversed out all the elements of whiplash claiming that we identified as “excess”, premiums could be impacted favourably to the extent of 3% - 15%** (as per the scenarios). Using the benchmark of the average cost of whiplash claims of £90 per policy, this would amount to **a saving in the range £10 - £50 per policy. This saving, whilst significant in itself, would necessarily be countered by other forms of inflation which would themselves be in the illustrative range of 3% - 7% pa.** Whilst the impact of the measures would be a one-off benefit (and potentially stem future whiplash inflation), it would not remove those other sources of inflation.

Market Considerations

27. We have previously mentioned that the cost of whiplash claims has increased from £30 for accidents in 2004 to £75 for accidents in 2011. However, the average premium in the market (based on Towers Watson analysis of 2011 FSA returns) did not reflect these increases. In fact, the premium rates fell on average each year from 2004 to 2008, with 2009 showing only a small increase. Premiums increased in 2010 by 5% and in 2011 by 13% as the profitability of the market deteriorated.
28. In addition, it should be noted that as per FSA returns from 2011, the Motor market is not profitable in underwriting terms, with a combined ratio (a ratio of above 100% means the market is paying out more in claims and expenses than it receives in premiums) of 106% (again based on Towers Watson analysis of 2011 FSA returns). Ernst & Young has estimated that the 2012 combined ratio will improve further to 102% based on an analysis of company annual results. Assuming that the market would need to return to a combined ratio of 95% for sustainable profitability, premium inflation would need to outstrip claims inflation by 7%.
29. Despite the current levels of profitability in the UK Motor market, premium rates have been falling since the second half of 2011 with Private Car Comprehensive premiums 12.7% lower at the end of 2012 compared to the end of 2011 (as measured by the Confused.com / Towers Watson Car Insurance Price index).
30. **As such the impact of the measures, whilst material and favourable, may not necessarily lead to any material reduction in premiums. The actual impact will however depend on the competitive behaviours of insurers and the level of inflation on other types of claims.**
31. It should be noted that our analysis considers only national changes in premium and is not focused on particular segments. It is possible, and indeed likely, that **those segments exhibiting higher levels of excess claims will see proportionate premium benefits if measures are successful.**
32. If you wish to discuss any of the issues raised in this response, please contact Philip Doggart, Policy Manager at the IFoA (Philip.Doggart@actuaries.org.uk; or 0131 240 1319).

Yours sincerely



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