

An Alternative Claims Framework for Road Traffic Accidents - A Briefing Paper

Summary

The focus of the reforms is to reduce frivolous and/or fraudulent claims and the behaviours that encourage these claims, not the genuine claims; remove frictional costs by simplifying the claims process and moving towards an online digital service, and, overall, to reduce claim costs.

The Alternative Claims Framework (ACF) will achieve all these aims and obviate the need for unnecessary legislation that will erode peoples' rights. The framework moreover pulls together a number of separate government initiatives such as the Brady Report, the Insurance Fraud Taskforce and the Nuisance Calls Action Plan.

The objectives in proposing the ACF are straightforward, namely to:

- Simplify the claims process, particularly for the consumer, and remove frictional costs
- Future proof the reforms and thereby provide certainty to all stakeholders
- Reduce the volume of RTA PI claims pursued and associated claim costs
- Robustly regulate the sector, particularly CMCs, and eradicate fraud and cold calling
- Protect access to justice for people injured through no fault of their own

Key Messages

- The Access to Justice Act 1999 raised public awareness of their right to pursue a claim, and as a result the number of low value RTA PI claims registered with the CRU rose from 519,000 per annum in 2006 to 828,000 in 2011. Since 2011 the number of low value RTA PI claims has reduced by 7% to 771,000 per annum
- As a result of various reforms, most notably LASPO, the annual claims costs associated with low value RTA PI claims have fallen by 17% since 2006 (£0.4 billion/pa). For the same period, the cost of the average motor insurance premium has increased by 71%
- The proposals will deny potentially hundreds of thousands of innocent victims access to legal advice, for the sake of a £40 saving in the average motor insurance premiums which insurers themselves have admitted is unlikely to occur
- It is impossible to identify any savings to be made from the proposed reforms due to the myriad of factors that underpin the insurance pricing model and the government cannot enforce any reduction. It is not in the interests of the insurers' shareholders to pass any savings on. The anticipated pass-through rate of 85% is unrealistic and the reforms are likely to boost insurer profits by up to £0.7 billion with no material saving for the public
- The impact of the introduction of a small claims limit to £2,000 is currently being assessed but is likely to result in up to 25% of all RTA PI claims falling within the small claims track, thereby significantly reducing the costs associated with these claims. The saving in claims costs will be notably increased taking into account the other proposed measures
- The reforms will have a catastrophic economic impact, with a significant adverse impact on the Treasury. Capital Economics states the impact to be that 66,000 jobs, including 38,000 legal jobs, are at risk

Proposal	Note
Small Claims Limit	The Small Claims Limit for all PI claims to be increased to £2,000 in line with inflation since the limit was last revised in 1991. To provide a stable market and certainty the limit should be adjusted in line with inflation every three years
Fixed Costs & General Damages	To future proof the revised claims process, the fixed costs and general damages also increase every 3 years in line with inflation
Ban pre-medical offers	The government support this recommendation
Embed and enhance askCUEPI and MedCo	Undertake an impact assessment to determine what enhancements are required
Adopt the recommendations in the Brady Report to more robustly tackle CMC regulation	Expedite the introduction of the recommendations and introduce an immediate ban on CMC cold calling
Adopt the recommendations of the Insurance Fraud Taskforce Report to address fraud issues	Expedite the introduction of the recommendations, other than recommendation 10 for which alternative options should be considered
Pedestrian, cyclist and motor bike claims should be excluded from the reforms	The reforms are targeted at low value RTA PI claims sustained in a motor vehicle. The nature of the injuries sustained in a pedestrian, cyclist or motor bike accident are very different to a typical whiplash type injury; more complex in nature and not prevalent to fraud
Tariffs for whiplash claims, if introduced, should be set independently by the Judicial College	Whilst there are concerns about the introduction of tariffs, should they be introduced for straight-forward and low value whiplash claims only, the Judicial College has independently set the appropriate boundaries within which to assess the value of an injury since 1992. The Judicial College is the body best placed to set the new fixed tariff levels and at levels commensurate with the current guidelines

An industry led body with a neutral chair should be established to oversee the reforms and be responsible for future governance of the reforms.