



**Insurance Fraud TaskForce:
Interim Report:
Questions for Consideration**

Response from the Motor Accident Solicitors Society

May 2015

Introduction

This response is prepared on behalf of the Motor Accident Solicitors Society (MASS) and submitted by the Chairman, Susan Brown.

MASS is a Society of solicitors acting for the victims of motor accidents, including those involving personal injury (PI). MASS has 130 solicitor firm Members, representing over 2000 claims handlers. We estimate that member firms conduct upwards of 500,000 PI motor accident claims annually on behalf of the victims of those accidents. The Society's membership is spread throughout the United Kingdom.

The objective of the Society is to promote the best interests of the motor accident victim. This is central, and core to our activity. We seek to promote only those policy and other objectives which are consistent with the best interests of the accident victim. We seek to set aside any self interest in promoting these arguments, recognising that we are in a position of trust, and best placed to observe the best interests of motor accident PI victims first hand. We are a not for profit organisation, which requires specialism in motor accident claimant work as a pre-requisite for membership. We also have a Code of Conduct which member firms are required to abide by, which is directed to the best interests of the motor accident victim.

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Executive Summary

MASS accepts that insurance fraud has increased and supports wholeheartedly an industry-wide approach to combat fraud. It is very important to ensure that the scale of the problem is accurately assessed to ensure that solutions are carried out in a proportionate way. There are several different types of fraud and each need to be addressed separately, appropriately and proportionately: opportunistic fraud, exaggerated claims, application fraud and criminality and organised gangs.

Whilst recognising the important issue of undetected fraud, there are implicit dangers in estimating the scale of undetected fraud, an exercise which by definition is extremely difficult to undertake with any accuracy. This exercise should be considered carefully with full transparency about how the estimate was made, ensuring that the data sources are independent and clearly as accurate as possible. Over-estimating undetected fraud can have huge implications for public policy and may be self-perpetuating, encouraging the 'have a go culture' because "everyone else is at it".

The scale of insurance fraud and the statistical evidence behind the estimates should be broken down into specific categories of insurance, so that problems can be identified and appropriate actions taken in a proportionate and measured way.

International comparisons of the scale of fraud are difficult because of very different demographics and legal jurisdictions. The focus should be on ascertaining the true nature and scale of fraud in the UK before resource and energy is spent on complex international comparisons.

Fraud does have a wider impact on consumers and society in many ways: public messages around combating fraud can highlight that fraud is unacceptable and will be punished, but it may also dissuade claimants from making a genuine claim; it can fuel the 'have a go' culture; it increases insurance premiums for everyone; and far from being a 'victimless crime', it can encourage otherwise law abiding citizens to commit an offence.

A core element of any counter-fraud strategy must be better co-operation across the whole industry. One key element of this is the sharing of data, particularly at an early stage in the claims process. Important initiatives, such as the development of the CUE database, are a positive first step and we hope that as trust and co-operation develops, further information and data is shared, particularly access to other 'databases' including the insurance fraud register and the new DVLA database 'MyLicence'. Any data-sharing must fully respect Data Protection laws and the privacy of an individual's personal information and the information held on databases must be as accurate as possible and careful consideration be given to who has access to the data stored.

Better co-operation across the industry also means that all stakeholders should be actively engaged in the formation of policy at a Government or industry-wide level with wider membership of discussion groups, initiatives and committees. Drawing upon the experience and knowledge that exists across the entire sector will help to ensure that reforms are practicable, workable and implemented more effectively.

MASS has supported many of the Government's reforms and they should contribute to the overall aim of tackling fraud. However, they must be implemented fully, be given time to work and fully assessed before further reforms or amendments are considered. Whilst recognising Government's desire for action, reforms must be carefully considered, tested where possible and implemented in such a way as to minimise the risk of any unintended consequences.

MASS has long campaigned on three important legislative reforms that we believe would have a real impact on reducing personal injury fraud: the banning of the practice of third-

party capture, a legislative ban on the making of pre-medical offers and an extension of the ban on unsolicited telephone calls and SMS texts across the industry, beyond only claims management companies. On unsolicited communications or 'cold-calling', the industry's various regulators must work more collaboratively, be consistent and be fully resourced in order to achieve this.

Existing organisations and initiatives, such as the IFB, IFED, the Insurance Fraud Register and the Cheatline, have been successfully targeted towards overtly criminal fraudulent claims (eg. organised 'crash for cash' gangs) and has resulted in some significant convictions that we strongly applaud. We feel that it is now time to direct investment and energy at a more consumer-focused education programme, addressing the problems of opportunistic fraud and exaggerated claims. Recognising that it takes time to change behaviours and attitudes, MASS believes that it would be appropriate to increase penalties and sanctions and communicate a 'zero tolerance' approach towards fraud.

Mapping the problem – scale and impact of insurance fraud

Question 1: What data sources should the Taskforce use when considering the scale of insurance fraud?

MASS understands that there are a number of data sources within the industry that the Taskforce could consider. It is therefore perhaps a good starting point for the Taskforce to assess what these sources are and which are the most comprehensive and reliable in terms of the data that is being collated, by whom, on what basis and for what purpose. The difficulty of course is that not all fraud is detected, and whilst we understand the insurance industry's concerns about the scale of undetected fraud, we are concerned that it may not be constructive to give estimates of the amount of undetected fraud without being very clear how the figures are arrived at. Whilst acknowledging that this may not be straightforward, MASS believes that whichever data is used, its independence and accuracy is an important aspect on which the Taskforce should consider.

Question 2: How does the scale of insurance fraud in the UK compare with other developed countries?

MASS is unsure of the relevance at this stage of comparing the UK with other developed countries as there are invariably different demographics and legal jurisdictions which may or may not influence the type and scale of fraud that may be carried out.

At this stage we believe that it would be more beneficial to ascertain the true nature and scale of fraud within the United Kingdom, before looking to make any comparisons with other developed countries.

Question 3: In addition to the financial cost of fraud, what is the wider impact on consumers and society?

MASS believes there are a number of implications of fraud, in addition to the cost, which affects consumers and society as a whole.

Perception of making a claim – MASS is concerned at the overall message that can be portrayed by fraud being on the Government and media agenda. Whilst it can produce a positive message, that fraudsters are being caught and punished, it could equally portray a negative message that many claims, but especially those involving whiplash, are automatically seen as being fraudulent, which can and no doubt does, deter the genuine victim from making a genuine claim.

Fuels the 'have a go' culture – Some aspects of insurance fraud may be perceived as being 'easy' and therefore the power of 'discussions down the pub' should not be underestimated. If succeeding in making a fraudulent claim or exaggerating a part of a genuine claim, then this may often be casually remarked amongst friends and therefore has potential to fuel the 'have a go' opportunists. Furthermore, this may also fuel the so called 'compensation culture' which whilst being proven to be unfounded, by implication, can bring the industry into disrepute and allows fraudsters to adversely impact on genuine accident victims, which is unacceptable.

Increase in insurance premiums – According to the ABI, insurers' having to pay out for fraudulent claims causes some of the percentage increase of motor insurance premiums.

Seen as a victimless crime – Some in Society may believe that making a 'small' fraudulent claim or 'slightly' exaggerating a genuine claim, harms no one and with consumers seeing

no real and lasting reduction in their insurance premiums, it is therefore perhaps felt acceptable to exaggerate a claim or 'cheat' an insurer.

Question 4: What particular evidence should the Taskforce take into account when determining the nature of insurance fraud?

MASS believes that it would be more beneficial if statistics and evidence of insurance fraud is broken down into specific categories, so that each can be studied (and ultimately tackled) as a separate entity. MASS is not totally convinced that tackling fraud as one wholesale problem is the most effective way. If for example, statistics for the various sectors of insurance, like Motor / Household / Slips & Trips / Travel / Workplace, can be separated, the scale of the problem for each sector can be identified and assessed more accurately and the appropriate actions taken in a proportionate and measured way.

MASS believes it is also important to ensure that we are all very careful not to label innocent victims as 'fraudsters' just because of a misunderstanding, poor memory or administrative errors when responding to specific questions. If fraud is 'alleged' then the claimant must be given the opportunity to respond and or disprove the allegation.

Question 5: What trends in insurance fraud should the Taskforce be aware of?

MASS accepts that insurance fraud has increased and supports wholeheartedly an industry approach to combat fraud. However, MASS feels that it is very important to ensure that the scale of the problem is accurately assessed. For example, it would be important to know exactly how the ABI calculates losses of £2.1 billion of 'undetected' fraud. By its very nature of being 'undetected', we suggest that the Taskforce would need to understand on what basis such a figure is calculated and what percentage is guessed / estimated, rather than based on fact. In conjunction with our response to question 4 above, this will ensure that any subsequent and appropriate action to combat fraud is carried out in a proportionate way and avoiding a 'sledge hammer to crack a nut', approach based on unsubstantiated statistics.

When considering statistics and overall patterns and trends, MASS feels that it is important that the Taskforce understands the reasoning behind some of the trends that may appear. For example, it should be considered why some fraudulent claims are taken to the courts in the first place. For many years, MASS has argued that if an insurer or their defendant lawyer suspects fraud during the claim, there is no reason why they should not make this clear to the claimant lawyer straightaway. Suspecting fraud and not declaring it until the claim appears in court, only increases unnecessary costs that can be easily avoided.

Furthermore, it is important that fraud is not used as a blunt 'deterrent' by insurers to 'scare' genuine consumers from making a claim. For example, use of a postcode, surname or other feature that may be regarded as a 'high risk' category. Evidence must be supportive of fraud and that evidence must be presented at an early stage so it can be tested, eliminated or acted upon.

Whilst appreciating that the Taskforce may already be aware of this, MASS feels it is appropriate to reiterate the varying types of fraud that have already been identified but would benefit from be addressed separately, appropriately and proportionately.

Opportunistic Fraud – MASS believes that for a number of years there is the perception amongst some sectors of society that insurance fraud is easy. As some insurers have admitted, it is often cheaper and easier for fraudulent claims to simply be 'paid off'. The effect of such a policy has been underestimated as this has no doubt had some influence on the 'have a go' culture that seems to have developed. Coupled with the industry as a whole

being incoherent and divided, (and often at odds with each other) it has been very easy for this trend to be exploited.

Exaggerated Claims – MASS would urge a degree of caution when considering this trend and the importance of recognising the difference between blatant exaggeration (and therefore fraud) and that of misunderstanding and accidental misinterpretation or exaggeration. The very nature of making a claim of any level, is often very stressful and daunting, at a time when the victim is invariably coping with an injury and the trauma of the event. Consequently, the facts of every case must be considered very carefully if any degree of exaggeration is alleged and that those involved are not automatically perceived as being 'guilty'.

Application Fraud – Due to the highly competitive nature of insurance, MASS would question whether this element has really been considered in the past by the insurance industry. For too long the insurance companies have been focused on their individual market share and profit margins not necessarily considered the implications of such 'cut throat' policies. MASS believes that the insurance industry must bear some degree of responsibility of not necessarily being as rigorous as they could have been at the application stage, especially during the more recent years of encouraging obtaining insurance on-line, which undoubtedly would provide a degree of savings, but potentially opening the door to increased fraud.

Criminality and Organised Gangs – MASS recognises and acknowledges the considerable money and resources that the insurance industry has recently invested in the IFB and IFED which has rightly concentrated on the more organised gangs and criminal element that has often been detected through initial fraud investigations. We applaud the work that the IFB in particular has done and continues to do.

We do however feel that this element should continue to be dealt with as a separate entity and the industry as a whole should be involved where appropriate, necessary and beneficial. Whilst the Taskforce will no doubt wish to be fully informed of the work of the IFB and the other organisations, we feel that it is the other areas of fraud (as mentioned above) that would benefit more from the Taskforces attention.

Current counter-fraud initiatives – insurance industry initiatives

Question 6: How could existing industry initiatives be used more effectively?

For over four years, MASS has been campaigning and working for the industry as a whole to work more collaboratively to combat fraud. For too long, there has been a distinct 'them and us' approach, with often important information concerning potential fraudulent behaviour being withheld from the claimant lawyer. Consequently, MASS would wish to see the industry working much closer together with data shared more widely with the claimant community and at an earlier stage. Through our efforts and the support of the industry, the ABI have now agreed to share a small, but important amount of information from their Claims Underwriting Exchange (CUE) database, which will come into force on 1 June 2015. MASS believes that this should be just the first step and that in future a lot more information should be imparted to work towards the ultimate aim of preventing fraudulent claims from entering the claims process.

To that aim, MASS would also encourage more widespread access to other 'databases' including the insurance fraud register and the new DVLA database 'MyLicence'. It is not clear to MASS why 'MyLicence' is not open to the claimant community and feel that this is an opportunity missed.

Question 7: Is there anything that could be done to build on existing industry initiatives?

MASS believes it is vital for the industry to continue to work together and for all stakeholders to be included in any Government or industry discussion groups, initiatives or committees that are to address fraud. MASS believes that collaboration is key, alongside sending out the strong message to the wider public that we are working together and that fraud will be detected and will not be tolerated.

As mentioned above, MASS would like to see further development to the 'askCUE' initiative and for access where appropriate and relevant, to be provided to any other databases and registers that hold data on fraud or potential / suspected fraudsters.

MASS would also advocate a closer understanding of how respective stakeholders approach fraud or suspected fraudulent behaviour. For example, MASS believes that there is perhaps a lack of understanding amongst many within the insurance industry on how claimant lawyers play a significant role in 'weeding' out potential fraudulent claims at the outset. The earlier any information on potential fraud is passed to the claimant solicitor, the quicker this can be investigated and acted upon, which may result in the claim not proceeding. This is a proactive way forward in preventing fraudulent claims entering into the system in the first place.

MASS also believes that it would be constructive for organisations such as MASS, APIL and possibly the Law Society to work with insurers and insurance industry bodies such as the ABI and the MIB to send out consistent messages on fraud, for example in the tabloid press, to the effect that we are united in the fight against fraud.

Current counter-fraud initiatives – government reforms

Question 8: To what extent will the government's civil litigation and costs reforms address insurance fraud? Should these reforms be expanded?

MASS welcomes the Government's and Transport Select Committee's involvement in tackling fraud. It is important that the industry works together with the Government to ascertain accurately the full scale of insurance fraud, the necessary definition of it and how it can be measured accurately. This should then be followed by a clear, coherent and agreed plan of how best to address the problem in each respective sector, without a 'knee-jerk' or rushed re-action.

Whilst MASS agrees that some of the many reforms that have been, and are to be, implemented may assist with the overall aim of tackling fraud, we feel very strongly that all reforms must first be implemented fully and then given sufficient time to bed in. Once established, there needs to be full and appropriate impact assessments providing clear accurate statistics and evidence on whether these reforms are working before any further reforms or amendments are considered. Consequently we do have concerns that some of the more recent reforms have been rushed in, have not been consulted on fully and given adequate time for practical testing and are therefore ill prepared with unintended consequences not considered.

If any additional reforms are to be considered then it is absolutely vital that the whole industry are involved in discussions and negotiations to ensure that the genuine accident victim is not disenfranchised and their access to justice is protected. It is important that reforms to prevent fraud by the small minority of society do not adversely affect the larger majority of law abiding citizens.

Question 9: Are there any other legislative reforms or regulatory changes required to reduce third-party personal injury fraud?

MASS believes that it is important when looking at legislative reforms that the industry as a whole is reviewed and not just one or two sectors. For many years we have been very concerned with the practices of some insurance companies who proactively contact the claimant direct (often after they are aware that a claimant solicitor is involved). Practices such as third party capture, making pre-medical offers (offering to settle the claim without there first being a medical examination and report) and the selling of client details, all, we believe, heightens the message that obtaining compensation is easy and is often 'encouraged' by insurers and others in order to obtain a quick settlement. Not only do we believe this fuels the potential for fraud, but we strongly believe that this is wrong and compromises the already vulnerable accident victim, leaving them feeling pressured into settling their claim, when they do not understand how the process works, what their rights are, or the potential value of their claim.

Consequently MASS would like to see the practice of third party capture in particular, banned. Whilst recent Government reforms 'strongly discouraged' the practice of pre-medical offers, through Para 3.2(4) of the RTA Pre Action Protocol which provides that "offers are made only after a fixed cost medical report has been obtained and disclosed"..., we believe it should be unlawful for insurers to make unsolicited contact with unrepresented claimants with a view to settling their claim.

One further practice is cold calling. Whilst there has been legislation preventing claims management companies from cold calling, this does not prevent insurers from doing it and we believe that the ban should apply to all in the industry and not just one sector.

Furthermore, it is important that this practice is policed and adequate funds and resources provided to the relevant regulators to ensure that appropriate action, penalties and sanctions are applied.

MASS agrees with the last Government's position that the limit for personal injury claims within the small claims limit should remain at £1000. There are many arguments to support our position, but with respect to tackling fraud, we believe that any rise in the limit will be likely to increase the instance of fraud, not reduce it. The current system ensures that claimant lawyers, who have sophisticated systems and experienced staff who are able to identify many blatant and some more subtle forms of fraud, are involved in the process at an early stage. If lawyers are not involved, then those who may replace them, (eg claims management companies) if any, will either not have the expertise to identify fraud, or will have no inclination to do so.

Taskforce areas of interest – encouragement of fraudulent claims

Question 10: What practices by those involved in the claims process (including insurers, lawyers, CMCs and other intermediaries) should the Taskforce target?

MASS would strongly encourage the Taskforce to look closely into the following practices.

Third party capture – Once they have been given contact details for a claimant some insurers' make it common practice to contact the claimant direct to try and settle the claim, often through offering a 'lower' level of compensation on the basis that a 'cheque will be received quickly'. This practice is effectively encouraging people to claim as in some instances the contact may be prior to the accident victim deciding whether to pursue a claim. If a claim has already been submitted, then MASS believes that trying to then settle direct with the claimant is unethical and puts undue pressure on the victim.

Advertising – Whilst again there have been recent rule changes to tighten up the rules for what can be advertised, (eg banning of enticements) MASS believes that there is still disparity between all those involved in the claims process. Advertising can be extremely powerful and persuasive and if it is ‘perceived’ through the messages portrayed by adverts, that it is easy to make a claim and ‘windfalls’ can be had, then that is potentially encouraging fraudulent behavior.

Cold calling and nuisance texts/calls – This remains a widespread problem and MASS would urge the Taskforce to consult with all relevant authorities to ascertain the true scale of the problem. A coherent and detailed review must be undertaken with additional funds and resources required to crack down on this unacceptable practice. In addition, MASS would recommend that the Taskforce look into the selling of clients data to companies who then carry out the cold calling.

Question 11: What forms of communications encourage fraudulent claims?

MASS believes that the importance of ‘perception’ should not be underestimated. No matter what the actual and intended meaning of the respective communication with regard to obtaining insurance or making a claim, for example, it is how that message is perceived by the consumer which is important.

Consequently MASS feels it is the areas of advertising, enticements (of any kind) and bombardment of phone calls and texts (by various parties) in particular that should be investigated to see if stricter rules and importantly sanctions are needed. If it is perceived that it is easy to make a claim and that money can be paid out quickly (often with adequate investigations – ie medical report) then this is likely to encourage those who may not have a genuine claim, to make one, or exaggerate a claim that they may have.

Question 12: Are any changes needed to the regulation of those involved in the claims process?

MASS feels that perhaps a more collaborative approach with the various Regulators within the industry is required, specifically with regard to fraud. Regulators need to be better resourced to handle not only poor practice (ie cold calling) but also to be better informed with regard to fraudulent behaviour so that they can police it better, respond to tip-offs and sanction those behaving badly. Furthermore, it is important that there is a level playing field so that all involved within the process operate equally and responsibly and are regulated fairly and proportionately.

Question 13: How might coordinated regulatory action against the encouragement of fraudulent claims across different jurisdictions be achieved?

In the fight against fraud MASS has always advocated a coordinated and collaborative approach and we would support the Taskforce in bringing together all those within the claims industry, including the respective regulators to not only work together but also look at the areas where there is disparity.

Bad practice occurs in all areas by a small minority of companies and individuals which then adversely impacts on the whole industry and the perception that is subsequently portrayed to the consumer. Despite the considerable wave of new reforms and regulations there are still some practices carried out that are banned, but occur through different avenues and guises. For example, the ban of referral fees has not prevented commission payments remaining

(paid and received by all involved, not just solicitors); since the introduction of LASPO¹ and the stricter control over soft tissue injuries, abuse in how and what claims are made remain (ie multiple submissions of claims onto the Portal).

Whilst reforms may have been put in place to try and reduce fraudulent behavior, the intended outcome will not be achieved if adequate resources and the response of regulators is not in place to police and sanction those abusing the system.

Taskforce areas of interest – drivers of policyholder behaviour

Question 14: How could engagement with consumers and consumer education be improved to reduce insurance fraud?

Whilst there has been considerable improvement in the detection of fraud and a huge amount of work and money invested to organisations and initiatives like the IFB, IFED, Insurance Fraud Register and the Cheatline, we would question the extent this has impacted on to the consumers. Rightly or wrongly, it may be perceived that the work of the IFB for example, and their high profile convictions of ‘crash for cash’ fraudsters is only directed towards the criminal element of society. Consequently some in society may feel that it is ‘acceptable’ to make a fraudulent or slightly exaggerated claim or react purely opportunistically, as this would only be for a small amount of money and therefore not likely to be regarded as a criminal action, compared to the level that ‘crash for cash’ fraudsters operate.

Consequently MASS believes that it is now time for significant investment in a coordinated and sustained consumer education programme to highlight not only that any type or level of insurance fraud is a criminal activity, but importantly that the industry are now working together and detection is a high possibility. Looking at past campaigns surrounding the use of seat belts and drink driving, both are now unacceptable behaviours for the majority of drivers. If society are made fully aware that fraud is also unacceptable through a strong and sustained campaign backed up by good regulation and penalties, it is a positive and proactive way to change behaviours and importantly the perception surrounding insurance fraud.

Question 15: How might communications be used to discourage dishonest claims and should these communications emphasise the effect of fraud on honest policyholders?

As previously mentioned, MASS would urge a more detailed analysis of fraudulent behavior and identification (with statistics) of the extent of fraud in the various areas. Once such a breakdown has been obtained, specific targeting, appropriate and proportionate action can be taken towards the relevant areas.

For example, with fraud involving motor claims, MASS would suggest the following could be considered:

Improve education – The significance of fraud and the basics of making a claim could be highlighted during the learning process and to young drivers as part of a schools / colleges education programme, with more information provided in the Highway Code.

¹ Legal Aid, Sentencing and Punishment of Offenders Act 2012

'askCUE' – Following the introduction of this initiative, there should be a high profile public campaign advertising that insurers and solicitors will now be exchanging information when a claim is made.

Point of Contact – For solicitors / claims handlers and insurers to emphasise to their clients / customers that data sharing is now happening – ie askCUE and insurers' and the DVLA sharing data on points / convictions.

However, in order for any communication to be successful and go some way to achieving the desired aim, it is important that the same message is used by the industry as a whole, and is sustained and consistent.

Question 16: How common is the perception that insurance fraud is a victimless crime?

MASS would suggest that this perception is widespread, but does not have any evidence or statistics to support our view. However, we suggest that a public awareness campaign by the Government could be considered to educate the public of the consequences of fraud.

Question 17: Do the actions of any party involved in the underwriting or claims process encourage the perception that insurance fraud is justifiable?

Please see our answer to question 10

Question 18: What more could be done to make insurance fraud socially unacceptable?

Changing behaviours and attitudes in society can take considerable time and investment, but as campaigns surrounding the wearing of seat belts, drink driving, uninsured driving and the use of mobile phones have shown, it is possible. However, it is important to recognise that such changes are not necessarily short term fixes and therefore a continued programme of education coupled with strong regulation and penalties can change perceptions and behaviours. In addition to the suggestions made above, MASS would also advocate an increase in penalties and stronger messages surrounding the more opportunistic fraud and 'have a go' attitude. Perhaps portraying a message of 'zero tolerance' and that any form of fraud is increasing the cost of insurance premiums.

Taskforce areas of interest – fraud deterrents in the claims process

Question 19: Is there evidence that the legal system in the UK contributes to a higher level of insurance claims fraud than in other countries?

As previously mentioned, MASS is sceptical of the relevance of comparison with other countries and feel it is more appropriate to consider how well regarded and respected the English justice system is throughout the world. By supporting and enabling the genuine accident victim and consumer access to professional and independent legal advice, the British public have the opportunity to obtain rehabilitation, redress and compensation for an accident or incident that was no fault of their own and to be returned as near as possible to their life prior to the event with little or no financial loss. MASS believes in this fundamental right and that great care must be taken to ensure that this is not eroded.

Consequently, rather than attempting to compare fraud with other countries who operate different procedures and different laws, we feel that it would be more constructive and beneficial to ascertain a standard definition(s) of fraud, with clear and accurate statistics which will then help the industry to measure the true scale of fraud within the UK and from that starting point, set out a clear plan as to how the industry as a whole can combat it.

Question 20: How effective are current legal deterrents at preventing insurance claims fraud?

Whilst our current process has many positive aspects with checks and balances that sift out the most obvious fraudulent behaviour, as with any system there is always room for improvement.

Regulation and policing is extremely important to ensure that those involved in the handling of claims are operating in accordance to their respective professional rules of conduct and if not, appropriate action must be taken. Clearly there is room for improvement in all areas of regulation and if fraud is to be tackled effectively, then this is a very important starting point to ensure that those involved in the 'system' are operating legally and effectively.

MASS has concerns that insurers and their solicitors on occasion defend claims on the basis of poor or inaccurate evidence that raises fraud concerns, seeking to catch claimants out in inconsistencies, rather than putting their cards on the table at an early stage so that the truth can be ascertained. This practice benefits no-one and only results in courts being unnecessarily involved, adding cost. Instead, there should be more communication between parties at an earlier stage to enable proactive investigation of the true facts before taking further any legitimate dispute.

Question 21: Is there any evidence that insurance fraud is not treated with sufficient seriousness within the criminal justice system?

With the introduction of the IFB and the excellent results that they and IFED have achieved so far with some significant convictions, on the outset it would appear that fraud is being treated with sufficient seriousness. But if fraud is to be reduced significantly then clearly more money and resources are needed in order to have a sufficient impact in the long term. As we are fully aware, criminal / professional fraudsters are extremely clever and innovative and will always find new ways in which to operate.

However, MASS would reiterate our previous point with regard to perception of what is and is not regarded as criminal activity, concerning fraud. Whilst proportionality is extremely important, MASS would suggest further investigation as to whether the current levels of penalties and sanctions are sufficient enough to deter the more 'smaller' or opportunistic levels of fraud. Heavier penalties and the knowledge that detection is highly likely, is likely to be a big enough deterrent for many who may be prepared to 'have a go'.

Question 22: What more can insurers do to challenge potential fraudsters and increase deterrents in the claims process without damaging the customer experience?

MASS would like to see further action by insurers and further discussions with the authorities (as an industry) on the following:

- Tackle application fraud, as there is evidence to suggest that if a person is prepared to commit application fraud, there is a strong likelihood that they will go on to commit further fraud and or crime.
- Stop settling spurious claims because it is cheaper to do so. This sends out the wrong message and in effect is encouraging some levels of fraud. If there is clear evidence based suspicion of fraud, then insurers should defend such cases.
- Stop settling injury claims without a medical report.
- Third party capture should be banned.
- Work with the industry to tackle the 'perception' that it is easy to get payouts from insurers'.
- Work more closely with claimant solicitors and for the askCUE initiative to be developed further.
- Be prevented from selling data to cold calling companies.

Taskforce areas of interest – role of fraud data

Question 23: Is fraud data being adequately used, and if not, why not?

MASS believes that the starting point must be to ensure that the data currently being used is accurate and reliable and then divided into categories so that a better picture can be seen as to the true scale of fraud and where it is more prevalent. Once such patterns have been identified, appropriate action on how best to use that data and then prevent the fraud taking place can be pursued.

Question 24: What impediments are there that hinder fraud data-sharing?

Over the past four years, significant progress has been made within the industry on sharing data and information on fraud. This has primarily been about building bridges and trust which has been eroded over many years. With improved regulation of all parties for the minority element of poor behaviour, MASS believes and hopes that further progress and trust can be achieved for more industry collaboration on combating fraud.

Question 25: What are the most effective ways to extend fraud data-sharing with the view of tackling insurance fraud?

MASS would like to see an extension to 'askCUE' so that more information can be shared on claims / claimants, especially if there are suspicions already held. The earlier claimant solicitors are informed, the more opportunity they have to investigate and if found to be valid, prevent claims from progressing through the system.

Trust between parties is essential if fraud is to be tackled effectively. Improved communication is an important part of building trust as is defendants not using the excuse of fraud as a defence, if there is none.

Clearly this will take time, but the progress that has been made with askCUE is a clear indication that it can be achieved, and must be built on if fraud is to be prevented.

Question 26: Are there any groups outside of the insurance industry with whom fraud data should be more actively shared?

MASS would suggest other sectors in the supply chain eg insurance brokers, repairers, engineers, etc are also involved in discussions and data sharing. This leads to a more joined-up and effective approach to fighting fraud.

Question 27: What are the greatest risks to privacy in fraud data-sharing and what should be done to mitigate these?

The industry as a whole must be aware of and respect Data Protection and the privacy of an individual's personal information. This is one of the reasons why MASS is so concerned about the accuracy of databases and who has access to the data stored. If information from such databases as CUE is to be used, then assurances must be given, and activity strictly regulated, as to the use of that data and its accuracy at any one time. Furthermore, there must be a process in place so that the claimant / individual is always given the chance to respond to any data provided about them and for that to be challenged if it is believed to be inaccurate.

Whilst MASS is committed to combating fraud, this must not come at any cost. Our members' primary and professional duty is to their client and therefore any process to combat fraud must not become some form of 'witch hunt' on the basis that the majority are deemed guilty unless proven innocent.

Taskforce areas of interest

Question 28: Other than the four areas of interest identified, are there other important issues which the Taskforce should consider?

MASS recognises the enormous task that the Taskforce has undertaken with the four main areas of interest already identified. However, as we have identified during this response we do have concerns about the data currently being relied upon and would urge the Taskforce to consider not only its accuracy (ie £2.1 billion of undetected fraud) but to look at breaking down fraud into categories with, if possible, a definition of fraud that may then help when ascertaining the true scale of fraud in the UK.

Combating fraud is clearly a huge task, and one that will only have any chance of success if the whole industry are included and work together in an open and constructive manner to not only weed out those in our respective professions who are breaking the rules, but can also help seek out the fraudsters at whatever level.