Scottish Government:

Information Gathering Exercise on the process for low value personal injury claims resulting from road traffic accidents

Response from the Motor Accident Solicitors Society

January 2024

Introduction

The Motor Accident Solicitors Society (MASS) is a Society of solicitors acting for the victims of motor accidents, including those involving personal injury (PI). MASS has over 70 solicitor firm Members, representing approximately 2000 claims handlers. We estimate that member firms conduct in the region of 400,000 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.

We currently have 14 Scottish member firms that collectively handle a significant number of pursuer road traffic personal injury claims. Submissions were sought via the Information Gathering Exercise paper (hereinafter 'IGE paper') in relation to the current pre-action protocol framework; the possible introduction of a digital claims portal in Scotland and the introduction of fixed recoverable costs for lower value road traffic cases in Scotland.

Contact:
If you have any queries or would like further information, please contact at first instance – Brian Castle – Email – brian.castle@digbybrown.co.uk or Tel – 01382 205913

Current protocol in Scotland and discussion regarding a digital claims portal.

Collectively, we are of the view that the current framework for progressing lower value personal injury claims resulting from road traffic accidents in Scotland via the Compulsory Personal Injury Pre-Action Protocol (CPAP)introduced in 2016 is working well and does not require changing. Statistics collated via our own member firms show that the vast majority of road traffic personal injury claims settle within the compulsory protocol framework and short of litigation. In 2022 (Table 1 in Appendix) over 83.4% of road traffic cases settled by our Scottish member firms for a settlement sum of £25,000 or under were done so within the CPAP framework. Those figures compare very favourably with the settlement statistics in England and Wales where only just over one quarter (26%) of all claims submitted under the Claims Portal since its introduction in 2010 have settled within the Portal – see https://www.claimsportal.org.uk/about/executive-dashboard/

Where meritous claims cannot settle under the CPAP, litigation is the only effective avenue to settlement for the injured road traffic claimant. Litigation follows where-

a) the insurer has not complied with CPAP; or
b) where there is a dispute regarding
    a. liability for the accident;
    b. causation (i.e.regarding the existence or extent of any injury);
    c. quantum (i.e. the value of the claim.

In our members' experience, the CPAP framework around the specific timelines for admitting liability; for exchanging supportive evidence with a detailed Statement of Valuation of Claim in liability admitted cases and the requirements to produce a reasoned response within a stocktaking period where parties are apart in their respective valuations is largely working well in getting cases to resolution pre-litigation.

Likewise, our members consider that generally the CPAP provisions on disclosure of documentation works well, with the observation that, particularly in the context of causation disputes in cases where defender insurers are ultimately presenting a low velocity impact defence or where there is a question as to the veracity of the claim overall, a minority of insurers could do better in terms of early disclosure of relevant documentation such as car repair documentation; claim forms or call recordings; and insurer-held evidence on past claims history they consider relevant.

Our members instead are sometimes met with unevidenced denials of liability and without any disclosure of documentation and invited to litigate under the explanation that no further correspondence will be entered into. We attach at **Section 2 in the Appendix** a couple of sample letters from insurers. Letters in similar terms have been received by all MASS Scotland members. In the examples given, the injured claimants were left with no alternative but to resort to litigation and those cases were successful.

The disclosure of documentation supporting either party's position (regarding liability, causation or quantum) would in many cases facilitate further informed discussion between parties and would likely result in more cases concluding short of litigation. We consider that

is something the SCJC Personal Injury Committee could possibly look at with a view to revising the disclosure requirements between parties within CPAP.

Notwithstanding the failure of some insurers to disclose documentation supporting a denial, the CPAP process has proven to be an efficient and effective process in ensuring the payment of fair compensation to victims of road traffic accidents in Scotland.

Contrary to the suggestion in the IGE paper, the rationale that justified the introduction of a digital claims portal back in 2010 in England is not in fact valid to Scottish procedure in 2024. Pre-2010 the default method of claims correspondence with an insurer in both jurisdictions would have been via letters sent by post. Since then, and certainly since the pandemic, correspondence between solicitors and insurers in Scotland proceeds electronically. The vast majority of road traffic insurers now prescribe a dedicated claims e-mail inbox to accept notification of claims and that developed practice is efficient and works well. Against this background, it is difficult to see how the introduction of a digital claims portal would produce the cost savings or increased efficiencies as is claimed in the IGE paper.

The reference to improved claimant experience and the suggestion that insurer stonewalling would end seems to be a fallacy and does not accord with the routine experiences of MASS practitioner members in England and Wales.

The inference of being able to easily extend an operational portal in England and Wales to include Scottish claims seems hopelessly misguided and unrealistic, given the differing legal systems and judicial precedents in place. A Scottish Portal would require to be set up of new. There would undoubtedly be significant set up, training and maintenance costs associated with users having IT systems compatible with any portal. One of the unintended consequences would likely be that many small High Street practitioner firms currently able to assist Scottish injured road traffic victims under CPAP would then effectively be excluded from the portal claims process as the initial and ongoing IT costs would not be viable. That is not compatible with the ideal of maintaining access to justice for injured road traffic victims and might disproportionately affect older claimants or those in remote areas of Scotland where traditionally local solicitors are more relied on by members of their community. Moreover, the experience of MASS practitioner members in England and Wales has been that obtaining access to a centrally operated portal frequently presents significant challenges in case progression where a central server is down or, for example, where a case handler unexpectedly becomes ill or is away for the office for an extended period (their secure access cannot immediately be assumed or reallocated via the practitioner firm).

In short and where the CPAP framework seems to be working well at present, there is no obvious benefit or justification for any change (and the resultant upheaval in terms of significant time and additional cost) involving the introduction of a digital claims portal in Scotland.

A central justification for the introduction of a claims portal contained within the IGE paper is said to be the emergence of “cash for crash” schemes within Scotland, with a digital claims portal said to make fraudulent claims more likely to fail. MASS Scotland practitioners are not aware of any increase in the prevalence of fraudulent claims in recent times. Moreover, we have no interest whatsoever in facilitating the presentation and progression of fraudulent claims as such cases ultimately cost our members in terms of unrecovered costs and outlays

in the very small proportion of occasions where they arise and are not discovered by our members' own rigorous checking processes. We would be genuinely interested in seeing from the insurance industry any data evidencing a rise in such activity in Scotland and would offer and welcome a meeting of all relevant stakeholders within the industry to see if there are any additional measures that could be collectively agreed upon to identify such cases at the earliest stage and to weed those out from the system. The introduction of a digital claims portal per se will of course do nothing whatsoever to tackle and root out such cases.

Finally, and as a wider consideration, any suggestion that the English road traffic reforms over the last few years should adopted as a blueprint for reform in Scotland is in our view both wholly misguided and dangerous. We have witnessed the wholesale denigration of access to justice for injured road traffic clients as a consequence of legal reforms in England and Wales. Those reforms have seen abandonment of the principle of full compensation (compared to persons suffering equivalent injuries in non-road traffic accidents) and the effective removal of legal representation for injured road traffic claimants where recoverable costs for representatives have been all but abolished. The current claims portal designed for use by litigants in person is seeing a steadily declining number of claims whilst the numbers of reported road injuries are increasing.

See, for example the MASS response to the recent UK Parliament Justice Committee review on Whiplash reform and the Official Injury Claim Service - Justice Committee (parliament.uk)

The only winners from the raft of reforms in England and Wales have been the insurance industry, benefitting from the access to justice deficit. The lessons are there to be learned from south of the border – change should never be contemplated on the basis of representations from the insurance industry alone around process and costs reform that are really just an attempt to protect their profits in a sector where they enjoy a captive market by virtue of road traffic insurance being compulsory.

It is vitally important to remain aware of the bargaining strength of parties in the road traffic claims process. The position taken in this paper is reflective of solicitors who represent individual accident victims. Individuals generally do not have the means or insight to offer representations to these proposals just as in relation to their individual claims. Injured parties only need to rely on legal advice when they have been involved in an accident and suffered losses. The experience of solicitors acting for accident victims in Scotland is that the insurance industry does little to assist accident victims, particularly in respect of the low value personal injury claims which are the suject of the IGE paper. The corporate machinery of the insurance industry is something which the law and the Scottish Government have a duty to protect individuals from. If insurers are allowed to dictate the terms of the law in Scotland in order to protect their own interests, then that must be considered an affront to justice. The position in England and Wales, where availability of legal representation has been almost entirely stripped from victims of lower value road traffic incidents must not be repeated in Scotland.

Fixed recoverable costs for litigated cases

As indicated above, the CPAP is working effectively in terms of resolving the vast majority of Scottish road traffic lower value personal injury claims. It needs to be borne in mind that the CPAP framework already operates with a fixed cost regime whereby a scale fee of costs payable to solicitor agents, is calculated with reference to the agreed settlement figure.

The costs payable under CPAP are in respect the reimbursement of reasonably incurred outlays (e.g. medical report fees) and solicitors' fees calculated as follows under para. 31 of CPAP –

(a) £546;
(b) 3.5% of the total amount of agreed damages up to £25,000;
(c) 25% of that part of the agreed damages up to £3,000;
(d) 15% of the excess of the agreed damages over £3,000 up to £6,000; (e) 7.5% of the excess of the agreed damages over £6,000 up to £12,000;
(f) 5% of the excess of the agreed damages over £12,000 up to £18,000;
(g) 2.5% of the excess of the agreed damages over £18,000; and

(h) a figure corresponding to the VAT payable on the sum of the foregoing.

Solicitors' fees are effectively paid on a fixed cost basis in proportion to the settlement sum for the majority of settled lower value road traffic cases at present.

By way of example, solcitors' fees payable in respect of settlement sums under CPAP are -

Settlement sum	Solicitors' Fees (excluding VAT and outlays)
£ 1,000.00	£ 831.00
£ 3,000.00	£ 1,401.00
£ 5,000.00	£ 1,771.00
£ 10,000.00	£ 2,396.00
£ 15,000.00	£ 2,871.00
£ 20,000.00	£ 3,246.00
£ 25,000.00	£ 3,546.00

Sheriff Principal Taylor in his review of expenses and funding of civil litigation in Scotland in September 2013 recognised that an essential way of encouraging compliance with any pre-action protocol is having an effective sanction for not so complying. We would submit that the sanction of facing the increase cost of judicial expenses following litigation in cases where an insurer has failed to appropriately settle a claim under the CPAP is both a necessary and effective means of ensuring insurer compliance with the CPAP framework that should not be removed. We would be concerned about adverse insurer behaviour such as lower offers or unreasonable delays where that sanction was removed. Likewise, the nature of judicial expenses as they currently operate encourage a review of positions taken pre-litigation and

provide an encouragement to settle cases early within the litigation process (with associated reduced costs) rather than running cases to proof and determination by the Court.

The Table reproduced at Annex A in the IGE paper purports to show increasing proportion of costs to damages over the years. It is said in the narrative footing Table A that the average pursuer costs per £1 in damages reached a new high of £2.01 in 2022 (although the actual figures do not appear to bear that out?). There are a number of observations to be made here.

Firstly, one must remember that in terms of those Annex A cases, each and every one of the 3,350 sample cases involve success for injured clients where it has ultimately been accepted by the insurer (or decided by the Court) that those persons are deserving of compensation. They are all cases where the pursuer has had to resort to litigation as there has not been an (adequate) offer to settle pre-litigation and via CPAP. Where the compensating insurer is facing rising costs via litigation year on year, an inevitable question must arise as to their own conduct and processes and why such meritous cases were not being settled via the CPAP framework or early in the litigation process.

Moreover, and from statistics from our own members (**Table 1 in Appendix**), the assertion made in the IGE paper with reference to Annex A that solicitor costs are on average now more than twice the damages paid to clients is simply not borne out. We would submit the statistics via MASS Scotland firms - from a much greater sample base and not reliant on data from a single insurer - are much more representative of the norm and should be preferred. We had asked how the Table A figures in the IGE paper were made up in advance of making this submission and were advised that the "Average Pursuer Costs" figure in the Annex A table included VAT. We have reproduced our own figures in the same format but would observe that the VAT element is not part of solicitor costs and is in effect inflating those figures shown by 20% currently.

In addition, we would submit that restricting the sample selected to only those cases settling under £5,000 - as has been done in Annex A - is inevitably going to skew the proportionality argument to suit the ends of the insurance industry. Any claim for personal injury requires to have a set minimum amount of work carried out by a solicitor and in the interests of permitting fair and proper access to justice, we would argue that it is both necessary and desirable for such costs to be properly payable in cases that subsequently resolve. We have included data for various bands of settlement up to £25,000 to give a more realistic picture of the overall costs and proportionality relative to principal damages paid.

Looking at overall settlements in the 2022 period, the principal settlement sum to fees ratio (excluding VAT) is 0.5 and not in excess of 2 as has been suggested in the IGE paper.

Finally, we would return again to Sheriff Principal Taylor's review where that had looked at the question of fixed costs in litigation and had rejected such an approach as being contrary to the principle of access to justice. Research commissioned by the Ministry of Justice in England also supports the view that introducing fixed costs in the litigation process will lead to a reduction in damages recovered for injured clients – see the 2012 report from Professor Fenn of Nottingham University https://data.parliament.uk/DepositedPapers/Files/DEP2012-1274/EvaluatingthelowvalueRoadTrafficAccidentprocess.pdf

In conclusion, it is submitted that injured claimants and their right to fair and proper compensation would be significantly disadvantaged by the introduction of a fixed cost regime.

Questions

Digital Claims Portal

Q.1 - Do you agree that introducing an online portal dealing with low value claims (similar to the one described above) will provide a more timely and cost-effective system? If not, please say why and set out alternative proposals

No. As indicated above, the current CPAP regime is working well and there seems to be scant justification or benefit in moving to a digital claims portal with the associated costs involved and the unintended consequences in doing so.

We have suggested that there are still scope for further improvements around the CPAP system (particularly in relation to timeous disclosure of documentation) that could further enhance efficiencies in terms of earlier resolution of cases.

Q.2 - If a claims portal were to be introduced, do you agree there should be an upper limit set for the value of the claim entering the portal? If so, what would you envisage being the most appropriate limit?

We consider the introduction of a claims portal is not justified and so the question is a moot one.

Our Scottish firm members know from professional experience that the monetary value of any claim is not of itself determinative of the amount of work that requires to be carried out in a case and the complexities involved. As practitioners we are not infrequently dealing with complex arguments around causation in lower value road traffic cases and where a defence based around low velocity impact is presented. In other words, we do not consider that an assertion all cases under, say, £2,000 or £5,000 (or whatever figure is selected) are suitable for processing via a digital claims portal given they are going to be non-complex cases is an argument that can properly stand up.

Q.3 - Do you have any experience of using the online claims portal currently in place in England and Wales? If so, what advantages have you seen in terms of reduced timescales for the claimant journey?

MASS members in England and Wales have been involved in the use of the portals since their introduction. MASS has and continues to be involved in making submissions in respect of its operations to relevant stakeholders and has a representative as director on Claims Portal (see above).

We sought input from MASS English practioner members, asking for brief comment on their general experience with the Claims Portal.

> *"There is no reduction in client journey on the English portal at least until it reaches litigation"*

"There is no room for error on the portal. No allowances for human/system error. If figures are incorrectly input (such as wrong button pressed) this could result in undersettlement which then costs solicitors money in adverse payments. Likewise should documents fail to upload, once the consideration period has lapsed the Claimant is unable to rely on them which is obviously prejudicial to the Claimant's claim. The only way to correct this is to remove from the portal and proceed under the CPR likely requiring litigation. This elongates the lifespan of the Claimant's claim. Solicitors are then still restricted to the fixed costs of the portal"

"The portal doesn't reduce the email/correspondence traffic as was intended. We have seen no reduction in insurer contact either via telephone or email and therefore there has been no benefit in this regard"

"There are times when the value may be low but there are still complexities and the Rules remain value on when such cases drop out due to complexity. Defendant's don't want cases to drop out the Portal and ths can be difficult to overcome"

"There are still insurers who don't engage in certain cases - even in the Portal. There are cases where you could see the benefit in a general discussion to resolve or negotiate an issue where there is stalemate but an insurer will avoid telephone calls; will hide behind the Portal and will refuse to communicate"

"The amount of work required in pursuing a claim within the portal is no less than a claim not proceeding outside the portal but the fixed recoverable costs are considerably less"

"It can become complicated when additional third parties become involved, for example forensic accountants instructed by insurers to consider a loss of earnings claim. They will request additional evidence which is then difficult to be relied upon if not submitted within the stage 2 negotiation period. These third parties are usually only instructed after the Stage 2 negotiation period has commenced"

"Should the matter proceed to litigation (stage 3) the Defendant can seek automatic dismissal of the claim by filing an Acknowledgment of Service which states that the Claimant has failed to comply with Practice Direction 8B. Even though this assertion may be incorrect, the Court will automatically dismiss the case and the matter will have to be re-issued under Part 7 CPR. This results in a delay in progression for the

Claimant and the loss of the issue fee for the solicitor as this would not be recoverable and add additional strain upon the Courts"

"In short, the introduction of the MOJ Portal was overall disadvantageous for claimants in comparison to the pre-MOJ Portal position"

Q.4 - Can you provide any comparative data that supports those views?

Q.5 - Have you experienced any issues or encountered additional cost or savings to your business?

As indicated above, there have been initial and ongoing IT costs to English practitioner firms, as well as recurring staff training and audit costs. Overheads have increased and the reduction in costs recoverable allied to that has seen a significant number of practitioner firms leave the sector or at least cease accepting instructions from clients in claims portal work.

Q.6 - Can you provide any comparative data that supports those views?

MASS has observed a significant reduction in practitioner firms in England and Wales carrying out road traffic claims work via the Claims Portal. Many firms have ceased to exist since the introduction of the Claims Portal and subsequent reforms, as evidenced by the reduction in firm membership of MASS in England & Wales over the period.

Q.7 - If you have not had direct experience of the claims portal do you foresee any issues or additional costs or savings to your business?
n/a

Q.8 - Is there any further information or data you would want the Scottish Government to consider?
No

Fixed Costs

Q.1 - If a Claims Portal was introduced, do you agree that fixed recoverable costs should be introduced for portal claims?

No. As indicated above, we have a framework via the CPAP that is working well at present. The CPAP already has a fixed scale fee payable (agreed via all stakeholders at the time of implementation) and calculated with reference to the agreed settlement figure rather than actual work carried out. That is, in effect, a fixed fee regime. We would observe that the CPAP scale fee has not been changed since its introduction in 2013, even to take account of inflation.

Q.2 - If a claims portal was not introduced, should fixed recoverable costs for low value personal injury claims still be put in place?

No. Where the vast majority of road traffic claims are settled via the CPAP and are subject to a fixed scale fee, we are really talking here about litigated cases. We strongly believe that there has to be an effective sanction in costs payable where an insurer doesn't get it right under the CPAP but subsequently settles (or is forced to settle via judicial determination) in the litigation process. The costs payable in litigation should be properly reflective of the additional work carried out by a solicitor on a client's behalf and where he has had no alternative but to litigate. To restrict or alter the costs payable would interfere in access to justice and would also remove or diminish the encouragement to act quickly, fairly and settle cases within the confines of the CPPS framework.

Q.3 - If fixed costs were introduced, do you foresee any impact on the claimant?

Inevitably, and at the very least, the introduction of fixed costs would involve a further reduction in client damages. We would refer again to Professor Fenn's study for the Ministry of Justice as referenced above. At worst, it could make the process non-viable and uneconomic for solicitor firms to assist injured clients and thus leave a significant deficit in access to justice for the client. That is being seen in England right now and must be the explanation for the reduction in claimant numbers seeking redress through the claims portal, despite evidence pointing to reported road traffic casualty numbers rising over the same period.

Q.4 - If fixed costs were introduced, what impact on your business model do you anticipate?

The reforms and direction of travel in England and Wales as outlined above have led to significant impact on businesses being able to operate in the sector of lower value road traffic personal injury claims work. Most have left the sector altogether in England leaving a representation deficit for injured clients. It is not difficult to envisage a similar impact to businesses in Scotland.

Q.5 - Are you able to identify any unintended consequences of fixing recoverable costs? If so, please state your reasons why and provide any data.

Professor Fenn's report as referenced above identifies the real risk of amelioration of client settlement awards within a fixed cost regime.

Please share any further information you feel should be considered.

As has been mentioned several times in the course of this submission, we are of the view the current system is working well and there is no justification for significant change to the Scottish claims process, nor legislative change to introduce a fixed fees regime. It is worth emphasising that CPAP as a compulsory protocol framework has been in place only for seven years or so (since 2016) and case law has steadily developed throughout that period demonstrating the willingness of the Scottish Courts to regulate (and penalise) protocol breaches and/or poor behaviours by way of expenses awards or modifications. The IGE paper refers to the recent introduction of QOCS to Scottish Procedure – again we would observe that although it is relatively early in the development of Scottish case law around QOCS, it seems clear that the Scottish Courts are willing, where circumstances justify the position, to disapply QOCS and make expenses awards against claimants. That being so, we would submit that the introduction of QOCS in Scotland does not, of itself provide a basis for looking at the introduction of fixed costs.

We do recognise that there is always room for improvement and we have suggested above a possible review of the current disclosure provisions under CPAP to assist earlier resolution of more cases. We have also suggested a collaborative approach around information sharing and looking at the establishment of a forum for dialogue (perhaps with regular meetings) between all stakeholders in the claims process around fraudulent cases. Such a forum could also discuss other pertinent issues arising under the operation of the CPAP protocol.

APPENDIX

Table 1 - 2022 case analysis from MASS Scotland member firms

Pre Litigation

Settlement Bracket	Case Volume	Ave. Client Damages	Ave. Judicial Fee (ex VAT)	Ave. Judicial Fee (inc VAT)	Fees / Damages Ratio (ex VAT)	Fees / Damages Ratio (inc VAT)
Under £5,000	7912	£2,647	£1,369	£1,643	0.5	0.6
£5,000 to £9,999	1035	£6,588	£2,087	£2,504	0.3	0.4
£10,000 to £24,999	350	£15,109	£3,114	£3,737	0.2	0.2
TOTAL Under £25k	9,297	£3,555	£1,515	£1,818	0.4	0.5

Post Litigation

Settlement Bracket	Case Volume	Ave. Client Damages	Ave. Judicial Fee (ex VAT)	Ave. Judicial Fee (inc VAT)	Fees / Damages Ratio (ex VAT)	Fees / Damages Ratio (inc VAT)
Under £5,000	1094	£2,864	£3,710	£4,451	1.3	1.6
£5,000 to £9,999	494	£6,502	£5,477	£6,573	0.8	1.0
£10,000 to £24,999	252	£15,816	£6,010	£7,212	0.4	0.5
TOTAL Under £25k	1,840	£5,614	£4,499	£5,399	0.8	1.0

All Cases

Settlement Bracket	Case Volume	Ave. Client Damages	Ave. Judicial Fee (ex VAT)	Ave. Judicial Fee (inc VAT)	Fees / Damages Ratio (ex VAT)	Fees / Damages Ratio (inc VAT)
Under £5,000	9006	£2,673	£1,653	£1,984	0.6	0.7
£5,000 to £9,999	1529	£6,560	£3,182	£3,819	0.5	0.6
£10,000 to £24,999	602	£15,405	£4,326	£5,192	0.3	0.3
TOTAL Under £25k	11,137	£3,895	£2,008	£2,409	0.5	0.6

APPENDIX – SECTION 2

Examples of insurance correspondence in successful cases

Date:
26 March 2020

Please quote our reference number on all correspondence

Our reference:
[redacted]

Incident date:
4 March 2020

Dear Sirs,

Your Reference: [redacted]
Your Client: [redacted]

We write further to the incident dated 4th March 2020.

Please be advised that we are not prepared to make any offer and/or admission in relation to your client's claim and that any and all previous offer and/or admission (if applicable) are withdrawn with immediate effect. This is because we do not accept that your client sustained any injury in this incident.

Accordingly, we take this opportunity to bring the following to your attention (please note that what follows does not represent an exhaustive list of our concerns, that our enquiries remain ongoing and that we reserve the right to rely on further information and evidence):

- Our Insured has described this as a very minor incident in which he was travelling at minimal speed to position himself into the parking bay
- Our Insured stated that there was no damage to your client's vehicle, your client agreed and told our Insured that it was fine and she didn't need to take any of our Insured's details
- Your client reported no injuries to her insurance company
- The injuries described by your client would appear to appear exaggerated in comparison to the minor nature of this incident
- Our Insured wasn't injured, he wasn't jolted and his seatbelt didn't tighten as a result of this minor incident

For the avoidance of doubt, no offer or payment will be made by us unless ordered by a Court.

Should legal proceedings be issued by your client at any point, we confirm that we nominate Berrymans Lace Mawer LLP, 13 Bath Street, Glasgow, G2 1HY who are instructed to accept service on behalf of John Coyle and U K Insurance Ltd. A copy of any proceedings must also be forwarded to our office quoting our reference number.

We put you on notice that we will bring this and all other relevant correspondence to the attention of the court should proceedings be issued.

Please find attached an information leaflet that confirms who we are and how your client's information may be used for the purposes of us handling their claim. Please provide your client with this leaflet and ask them to take the time to read it.

Please ensure a copy of this letter is sent to your client's legal expenses insurer.

[redacted]

Dear Sir/ Madam

Thank you for your Letter of claim, dated 19th May 2022.

We are genuinely surprised to receive an injury claim from your client at such a late stage, as typically such claims are pursued within the first few weeks of the accident itself. We are of the opinion that this claim has the hallmarks of one borne out of active marketing and may not have arisen but for this. Therefore, causation of injury is denied.

We do not intend making any offers in relation to your client's injury claim, nor do we wish to engage in any further correspondence relating to it.

If you decide to issue County Court Proceedings, we request that you name Skyfire Insurance Company Ltd on the Claim Form and Particulars of Claim in accordance with the European Communities (Rights against Insurers) Regulations 2002 ("the Regulations"). As indemnity is being granted to our client's insured driver in this matter, and as per the Regulations, your client is able to issue against Skyfire Insurance Company Ltd directly, providing our insured driver is also named in the Particulars of Claim.

Further, we ask you to note that **Horwich Farrelly (Scotland)** are instructed to accept service on our/our insured driver's behalf at the following address: -

Horwich Farrelly (Scotland), 2nd Floor, 39 St Vincent Place, Glasgow, G1 2ER

Should proceedings not be served on us then service will be deemed ineffective.

Please note that we do not take calls from Third Parties. Please send us your correspondence by post/email - [redacted] quoting [redacted]

If you have any queries please do not hesitate to contact us, quoting the claim reference number on all communications.

Yours faithfully

RECEIVED

Claims 15 June 2022
[redacted]

Opening Hours
Mon – Fri: 9am – 6pm

Claims Reference
[redacted]

Our Policyholder
[redacted]

Vehicle Registration
[redacted]

Date of Incident
[redacted]

Your Policyholder

Your Vehicle Registration

Your Reference
[redacted]

Insurers pass information to the Claims and Underwriting Exchange Register, run by Insurance Database Services Ltd (IDS Ltd) and the Motor Insurance Anti-Fraud and Theft Register, also run by Insurance Database Services Ltd (IDS Ltd). The aim is to help us to check information provided and also to prevent fraudulent claims. We will be passing information relating to this incident to the appropriate register(s). In dealing with a claim, we may search the registers.

If false or inaccurate information is provided and fraud is identified, details will be passed to fraud prevention agencies to prevent fraud and money laundering. Further details explaining how the information held by fraud prevention agencies may be used is available in the 1st Central policy wording.

Date: 23/10/2023
Your Ref: [redacted]

[redacted]

Dear Sirs

Our Client: [redacted]
Your Client(s): [redacted]
Accident Date: 13/05/2023

First Central have received your client's claim. Please note that, at this stage, we have only been instructed to send you this letter which includes our nomination details. **All further correspondence should be sent to our Insurer client and not to us.**

Their reference is: [redacted]
The handler or claims team is: Claims Validation Team
Their email address is: [redacted]

However, for the reasons set out below, our client will not be making any offers in relation to your client's injury claim(s) and they will not be engaging in any further correspondence relating to it.

Fault Position

Our insurer client admits that their insured driver was in breach of their duty of care when it comes to how the incident occurred but makes no admissions in relation to causation of your client's alleged injuries

Causation

Our clients are genuinely surprised to receive an injury claim from your client(s) at such a late stage with no prior notification or intimation. Their research and experience indicates that the vast majority of such claims arise from active claims management marketing. It is for this reason that our insurer client will not be making any offers in relation to your client's injury claim(s), nor will they engage in any further correspondence relating to it/them.

If you intend arranging for your client to be medically examined, we would insist that the expert has full access to your client's full up-to-date medical records, including where appropriate occupational health records.

Court Proceedings

If your client(s) does intend on pursuing the matter further, we suggest that they issue proceedings. First Central have nominated Horwich Farrelly Scotland LLP, 2nd Floor, 39 St Vincent Place, Glasgow, G1 2ER to accept service of any such proceedings. A separate letter will follow from us with our file reference and further details regarding service of proceedings. In the event that proceedings are issued we will provide you with our file handler's information.

Until such a time that proceedings are issued, will you please continue to correspond with [redacted] direct. We are not authorised to act unless and until proceedings are issued. As such, any correspondence received from now until that point, will be returned.

Should your client(s) have the benefit of an After the Event Legal Expenses Policy, then please ensure that the relevant insurers see a copy of this letter so that they may properly consider the risk they face and determine whether or not they will continue to provide cover. If they continue to cover then we will expect our client's legal costs to be met if their defence is successful, even where there may be a determination of fraud or dishonesty.

Please ensure that a copy of this letter is sent to your client(s) and that they are fully advised of all the risks they face.

Insurers, their agents and fraud prevention agencies obtain and share information with each other to prevent and detect fraudulent claims. This helps to protect them and their customers from such activity. If false or inaccurate information is provided and fraud is identified, First Central reserves the right to share your client's information with fraud prevention agencies and the Insurance Fraud Register (IFR) to prevent fraud and money laundering. This may affect your client's future applications for insurance products. For further information on the IFR and how your clients details are used please visit https://www.theifr.org.uk/en/.

Yours faithfully

22/12/2023

Dear Sirs

Our Claim Reference: [redacted]
Our Contact Number: 0330 134 8645 Ext. 7612725
Date of Incident: 26th October 2022
Your Client: [redacted]
Your Client's Reg: [redacted]
Your Reference: [redacted]

Thank you for your email of 22/12/2023.

Primary liability has been admitted and, regardless of liability, the call recording is not relevant to it. As such, Paragraph 14 of the Protocol is irrelevant to disclosure.

The recording pertains only to the alleged injuries, and we will not be disclosing information that would allow you or your client to tailor the medical evidence regarding the onset of the alleged symptoms.

Yours faithfully,