



Road to Reform: Reducing Motor Premiums by Reforming the Personal Injury Claims Process

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Executive Summary

The current motor insurance system is dysfunctional and has resulted in above-inflation premium rises for ordinary motorists.

The main reason for this is a disproportionate increase in minor bodily injury claims, most commonly for whiplash. Since 2009, the number of whiplash claims has risen by 32%, despite the number of accidents falling by 16%. In the same period personal injury claims soared to become more than half of all motor claims costs at Aviva; rising to 52% in 2011.

Aviva surveyed over 2,000 drivers to get their views on premiums and reform. The findings show an overwhelming belief among drivers that an excessive cash-compensation culture exists in the UK.

According to AA Premium Index, the average comprehensive motor premium is now £789. Our research indicates that whiplash accounts for approximately £118 of this premium.

The reforms proposed by Aviva will take £1.5 billion excess cost out of the current motor claims system, lowering premiums while improving customer service for those that have been injured in an accident.

Central to Aviva's proposals for reform is its call for a legal requirement on PI claimants to contact the 'at fault' insurer in the first instance rather than them be handled by intermediaries including claims management companies and PI lawyers. This would give the at fault insurer the first chance to accept responsibility and begin the compensation process immediately.

Aviva also supports the introduction of independent panels of medical experts to determine whiplash cases with a greater focus upon targeted rehabilitation, which 83% of consumers support.

Introduction

As one of the UK's largest motor insurers with 2.45 million drivers (as of end 2012) currently insured, Aviva is committed to providing insurance that is great value. This is why we want to reform the current personal injury claims system which is hitting drivers' pockets so unfairly.

The cost of car insurance has risen over the last 10 years, and premiums have been rising faster than the Retail Price Index¹. This has not been insurance company profiteering – in fact motor insurers have not been profitable since 1994 (Association of British Insurers (ABI))! It is not a coincidence that escalating premiums have happened in exactly the same decade that has seen the rise of no-win, no-fee personal injury lawyers and a corresponding dramatic rise in small claims related to minor personal injury (specifically whiplash claims). At Aviva, more than half of all our motor claims by cost are now for personal injury. This is a rise of 41% since 2005.

We believe that the current compensation system is not working in consumers' interests and is hindered by excessive costs from middlemen such as claims management companies who are not adding value to personal injury claimants but are adding cost to everyone's premiums.

This report outlines what we think is wrong with the current system and what needs to be done – and shows how reforming the system would bring down premiums for all motorists. The report also includes the current views of UK motorists themselves on compensation for minor personal injuries and what changes they would like to see.

Our proposed reforms are designed to ensure that those who are genuinely injured and need compensation will get it quickly and effectively, while other less serious injuries may be better treated with rehabilitation. We want to see a significant reduction in the costs of the current system which would benefit all UK motorists, who will begin to see reductions in their premiums.

We are determined to see change as soon as possible so that consumers will benefit. To this end, we have devoted significant time, energy and resource in response to various Government consultations, including the Competition Commission investigation, the Ministry of Justice's consultations on Whiplash and Fixed Recoverable Costs, all of which echo the key points we have laid out in this document. Aviva has campaigned to remove excess cost from the system for many years. It is our firm belief that our proposed ideas for reform, set out here, will improve the customer claims experience, removing £1.5 billion in excess costs from the current system, and most importantly, restore sanity to motor premiums that have risen by 80% since October 2008.

The UK's motorists deserve a better deal.

Dominic Clayden
UK and Ireland GI Claims Director
Aviva

“Aviva is committed to providing insurance that is great value. This is why we want to reform the current personal injury claims system which is hitting drivers' pockets so unfairly.”



What's wrong with the current personal injury claims process?

Aviva's Call for Action

The current motor insurance system is dysfunctional

and has resulted in above-inflation premium rises for ordinary motorists.

The main reason for this is a disproportionate increase in minor bodily injury claims. The most common claims are for whiplash. Since 2009, the number of whiplash claims has risen by 32%, despite the number of accidents falling by 16%.

(Source: ABI and Department for Transport).

For every **£1** Aviva pays out in compensation in claims below £10,000 it also pays **82p** in legal fees.

(Source: Aviva)

A number of factors have encouraged this growth:

- No win/no fee legislation
- Referral fees being permitted
- 'Interested parties' including Claims Management Companies (CMCs) and personal injury lawyers encouraging and incentivising people to make claims
- A financial burden faced by insurers when challenging suspicious claims as the cost of challenging them is more expensive than paying the claim itself
- Non-independent medical diagnosis

Aviva is campaigning to reduce the impact of these factors in order to achieve **three key goals** that will reduce premiums for the UK's motorists:



Fast and fair compensation is paid to those who are genuinely injured



A reduction in spurious and fraudulent claims



A more efficient system that treats customers fairly and removes excess costs for the benefit of premium paying customers including a reduction in legal fees and fixed costs

Underpinning these goals, **Aviva believes a legal requirement for motorists to deal directly with insurance companies would help to achieve most of these aims.**

Our statistics show whiplash claims add £118 to the average premium.

92% of Aviva's personal injury claims in 2012 were settled using a lawyer

Factors that have caused personal injury claims and costs to soar and added to premiums

Interested Parties

'Interested parties' add cost but little or no value to the motor claims process. Their focus is purely on cash compensation and not on helping the injured party recover from their injury.

The majority of low value personal injury claims are for whiplash which is currently diagnosed without any objective evidence, such as speed of impact, and once claimed, is almost impossible for an insurer to disprove. **Our statistics show whiplash claims add £118 to the average premium.**

Access to Justice?

Solicitors and Claims Management Companies (CMCs) sell their service as "access to justice" implying that a customer going directly to an insurer will be deliberately exploited or under compensated.

However, Aviva's 2012 claims data shows that in those cases where an injured party approached us directly, Aviva paid at least as much to these injured parties as we did to claimants who used a solicitor. The only difference is that solicitors charge costs for being involved. These costs often exceed the compensation they recover for their client. Motor insurers can deliver an end-to-end claims service, meaning the use of solicitors and CMC's for minor personal injury claims is both unnecessary and costly. The value that solicitors are able to offer motorists involved in minor traffic accidents is questionable, **yet 92% of Aviva's personal injury claims in 2012 were settled using a lawyer.**

Medical Verification

Currently, about 80% of Aviva's whiplash medical reports are provided by a GP selected by the claimant's solicitor. In many instances, this GP will be instructed via an Agency which has a 'deal' with the instructing solicitor. In many cases a referral fee of approximately £50 – £80 will be paid by the Agency to the Solicitor.

Anecdotally, Aviva is aware of one GP who claimed he has seen around **25,000** whiplash claimants in the last **15** years – more than **6** claimants every working day!

We do not dispute that GPs do a difficult job but in some of these cases the close relationship between solicitor, Medical Agency and GP means there is financial incentive for a GP to provide a diagnosis of a whiplash claim to ensure more instructions are received. This results in a lack of genuine challenge on the extent of the injuries and true independent diagnosis. The focus is on demonstrating that compensation is payable and not upon making a physical recovery.

Challenging Claims

The current legal process to challenge a claim is unnecessarily complex and expensive.

A lack of objective medical evidence makes contradicting a whiplash claim very difficult for insurers. It is a sad truth that under the current system, the legal costs involved in challenging a suspicious or fraudulent claim are likely to be much more expensive than just paying these claims!

Legal fees from claimant lawyers add significantly to the cost of claims. In claims that settled below £10,000, solicitors' costs account for 45% of the total cost of bodily injury claims payments made by Aviva. In our view these legal costs are unnecessary and the same result can be achieved if the claimant was to present their claim directly to the at fault insurer.

For every £1 Aviva pays out in compensation in claims below £10,000 it also pays 82p in legal fees. (Source: Aviva)

What consumers think about personal injury claims

(Source: All data from Opinion Matters survey of 2,437 adults who drive, December 2012)

Aviva researched the current views of a representative sample of over 2,000 UK motorists to find out what they think about personal injury (PI) claims in motor insurance, their understanding of the impact rising PI claims have had on motor insurance premiums and what, if anything, they think should be done about it.

Motorists surveyed identified a strong link between rising PI claims and rising premiums

95% indicated unnecessary claims were either a significant or very significant aspect in causing motor premiums to increase. This was followed by 94% pointing to the involvement of third parties and 93% highlighting an increase in whiplash claims.

There is an overwhelming belief among drivers that an excessive cash-compensation culture exists in the UK

For inconveniences such as minor whiplash, only 6% of drivers thought that no-one would seek compensation whilst the majority (55%) think that more than half would claim for such an injury.

Care, not cash

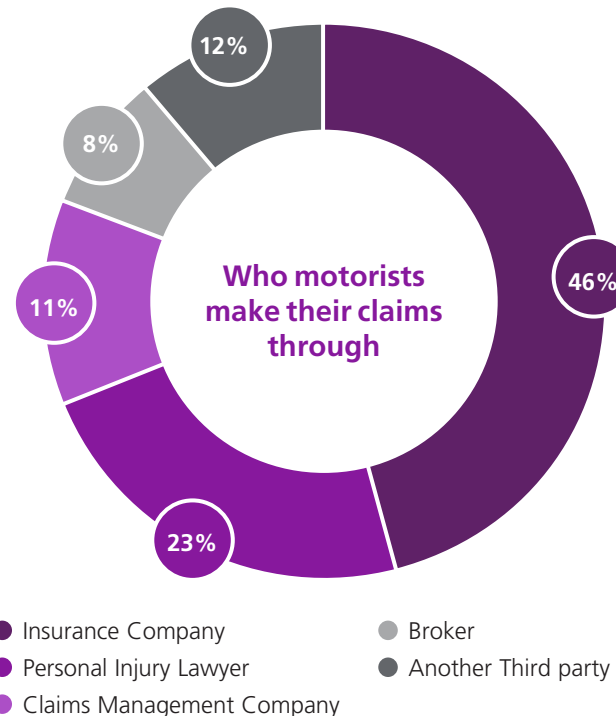
With this in mind, **85% of motorists have indicated that in the case of a minor motor accident where no-one was injured – such as a low speed shunt – there should be no cash compensation**, just the insurance cover for the cost of repairing the vehicle. Fifty-five per cent believe that insurers should only provide access to rehabilitation for their injuries, not cash compensation.

There is cynicism as to why motorists seek compensation

Almost 2 in 3 drivers (63%) think that people seek compensation to get money to spend on whatever they choose.

Fuelling the claims process

Three out of four drivers have previously received an unsolicited text or email from either a claims management company or a personal injury lawyer encouraging them to make a claim.



Personal Injury Claimants

Aviva surveyed 383 drivers who have made a personal injury claim in the past to understand their experience and views:

More than half (59%) of these drivers were encouraged or advised to make their claim.

Ninety two per cent of Aviva's claimants in 2012 involved a lawyer.

Most people had been influenced by multiple sources to make a claim, including: friends and family (58%), followed by their insurance company (37%), a work colleague (13%), a CMC or personal injury lawyer (13%), an advert for a no win, no fee lawyer (11%), a broker (9%) or another party (9%).

Reflecting the wide-range of influencers in deciding on whether to make a claim, fewer than half (46%) of respondents actually chose to make their claim through an insurance company, with 23% of people opting to go through a personal injury lawyer, 11% through a claims management company, 8% via a broker and 12% by another third party.

Common misconceptions

MYTH

Nearly half of drivers believe UK motor insurers make more than 25% profit per year.

FACT

The motor insurance industry has not turned an underwriting profit since 1994.

MYTH

51% of drivers believe using a lawyer will result in more compensation than through an insurer directly.

FACT

Aviva paid at least as much to claimants who dealt with us directly when compared to those with legal representation.

MYTH

40% of drivers who have made a PI claim felt that third party services would offer easier access to legal advice.

FACT

Third party legal advice is not necessary. Most insurers offer Legal Expenses Insurance as part of their policy. At Aviva, 75% of customers have this which covers up to £100,000 in legal costs to pursue a claim.

Most cash compensation is not spent treating injuries

People spent their cash compensation:



On **medical treatment or physiotherapy**

33%



To **pay off household debt**

29%



To **buy luxury items** such as **TV's**

12%



To go on **holiday**

9%

Other uses admitted to include **buying a car**, putting it into **savings** and **paying for university**.

(Source: Opinion matters - survey of 383 drivers who have made a personal injury claim in December 2012)

How personal injury claims have soared

(Source: Aviva)

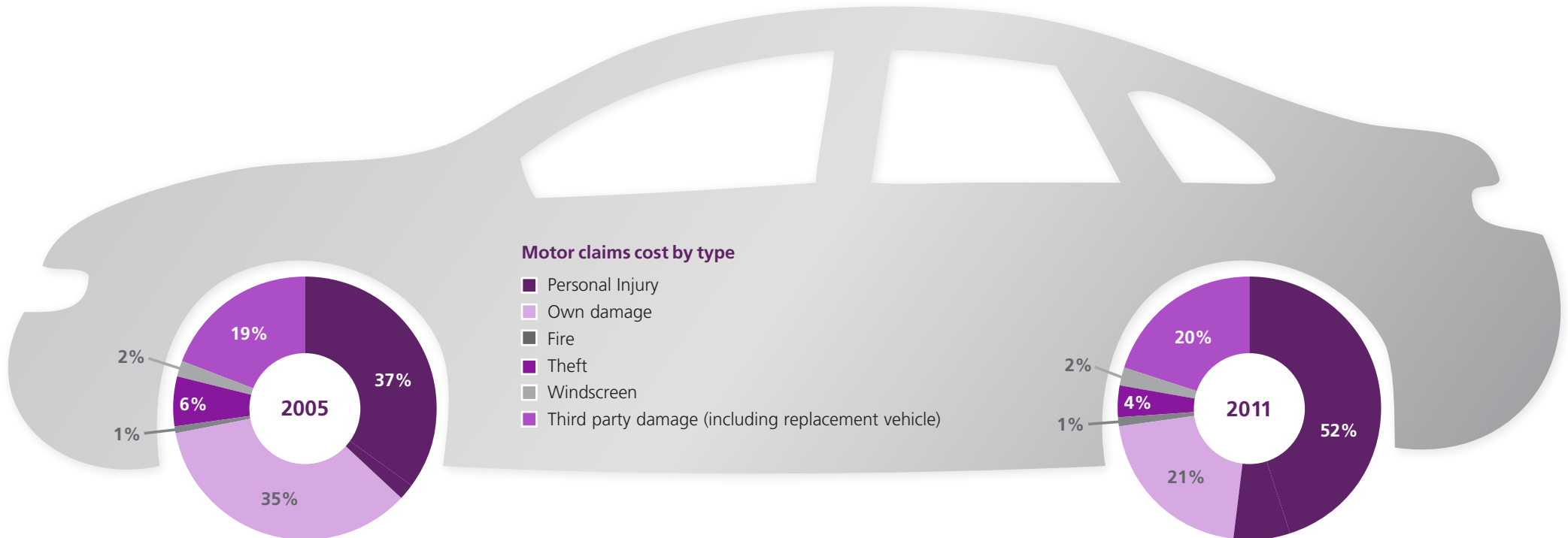
Between 2005 and 2011 the cost of personal injury claims soared to become more than half of all motor claims costs at Aviva; rising from **37%** of motor claims costs in 2005 to **52%** in 2011 – **an increase of 41%**. This is in the context of a fall in the number of accidents involving **personal injury on the road by 25%**

(Source: Department for Transport)

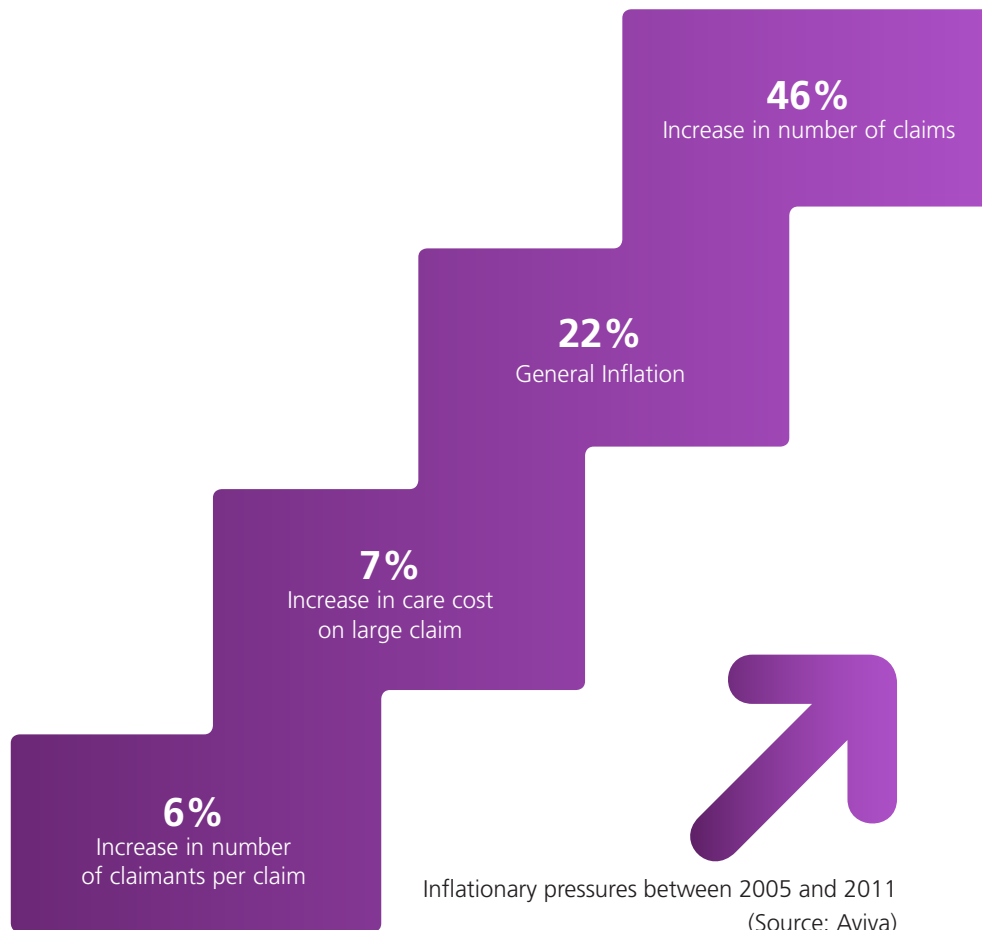
The greatest pressure contributing to the rise in motor claims costs is the **frequency of PI claims**. Between 2005 and 2011, the likelihood of a personal injury claim arising from a collision **rose by 20%**.

In the same time period, claims costs for own vehicle damage as a proportion of claims costs fell by a third from 35% to 21%. Third party damage, theft and windscreen claims costs all stayed at a similar proportion of claims costs.

Legal fees now account for 45% of the cost of minor personal injury claims, such as whiplash, at Aviva.



Factors causing personal injury claims costs to increase from 2005 to 2011



What is the real cost of whiplash claims?

In a review of Aviva's personal injury claims for 2011, Aviva found that compensation paid to settle whiplash claims represented 30% of its total personal injury claims spend. As the motor claims costs chart (p8) shows, in 2011 personal injury costs were 52% of all claims spend. This would mean around 15% of the total motor premium is being driven by whiplash.

The average motor premium in the UK according to the AA British Insurance Premium Index is £789; thus 15% - the amount going to pay towards whiplash claims - of this is £118.

The excessive cost of challenging a whiplash claim in court

The cost of fighting and losing a whiplash claim is double the cost of just paying it. For example, Aviva referred around 1,000 whiplash claims to solicitors in 2011 where there were fraud indicators. Aviva found that the average total cost of a "failed" whiplash case can be £11,500 against £5,500 for the same case if it were simply paid immediately.

Personal injury claims inflation means rising premiums for motorists

At Aviva personal injury claims inflation has averaged 14% each year since 2008, although as other claims, such as car damage, have slowed, the average annual rise in claims costs is 5% – still well above general inflation over the same period. We predict that premiums will continue to rise on average by this amount every year if nothing is done to tackle the spiraling cost of PI claims.

Therefore, if no action is taken to reform the dysfunctional system that benefits and incentivises too many interested third parties then Aviva predicts an average premium of £1,007 in 5 years' time and £1,285 in 10 years time.

The average motor insurance premium **rose by 80%** between October 2008 and January 2013, from **£437** to **£789**

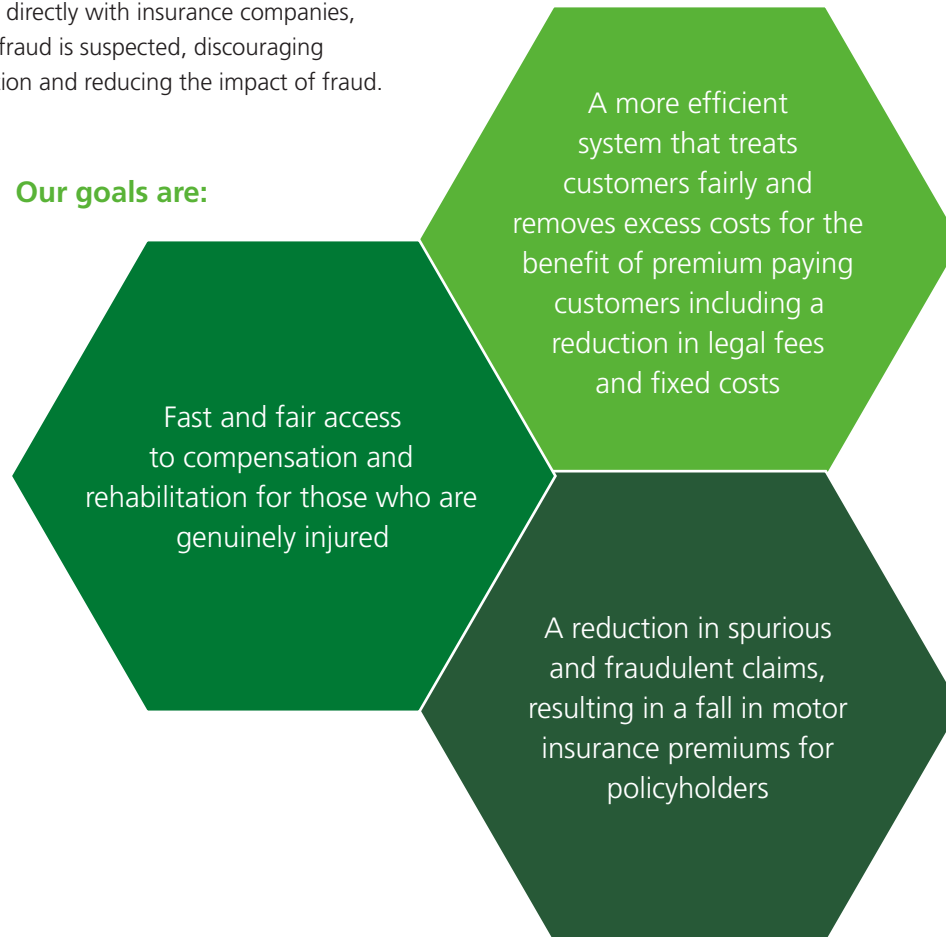
(Source: AA British Insurance Premium Index)

What should be changed?

Aviva's Template for Change

Aviva wants to reform the current personal injury compensation system to a model where claimants deal directly with insurance companies, and cases are challenged where fraud is suspected, discouraging unnecessary third party intervention and reducing the impact of fraud.

Our goals are:



We are campaigning for a **more efficient system** that removes the 'interested parties' that add little or no value and requires people to deal directly with their insurer or the insurer of the at-fault party. As our figures for average compensation settlements show, dealing directly with an insurer results in the same level of compensation for the claimant and has the advantage of being quicker – meaning their treatment and rehabilitation can start almost immediately. Our focus is on their recovery and settling their claim quickly and fairly.

Aviva believes that the insurer of the party who is at fault (and who ultimately pays for compensation and legal costs incurred in settling the claim) should have the first opportunity to admit liability and handle all aspects of the claim. This would allow the insurer to meet the needs of the not at fault party in a **more efficient** manner than the multiple third parties who can get involved in a claim and add cost with questionable value to the consumer.

To help reduce the spiralling number of whiplash claims, Aviva believes that minor personal injury claims (those seeking compensation up to £5,000) do not need legal representation.

Removing the need for a lawyer would significantly reduce the legal costs incurred by the insurer, which as we have shown is a significant reason behind escalating motor insurance premiums. The potential costs of challenging would also be much lower, **meaning suspicious claims would be more likely to be challenged**, and are therefore less likely to be made.

Aviva welcomes the Ministry of Justice consultation which proposes raising the Small Claims Track limit from £1,000 to £5,000 in motor personal injury claims – something which Aviva has long campaigned for and believes is long overdue.

Aviva also supports the introduction of independent panels of medical experts to determine whiplash cases.

Where there is a genuine and serious whiplash injury, Aviva supports a focus upon targeted rehabilitation. In more minor whiplash injuries we support self-help / treatment to help people get on with their life as soon as possible.



In Aviva's view, **"access to justice"** means a claimant gets access to compensation, not access to a claimant lawyer or CMC, the costs of which the defendant currently pays.

Aviva's Whiplash Treatment Pilot Scheme

Aviva commenced the scheme in 2011. It complies with the Rehabilitation Code of Conduct and now helps around 600 people per month recover from their injuries.

- ▶ Applies to all not at fault unrepresented claims under £10,000.
- ▶ An Aviva handler makes an assessment in conversation with claimant and offers rehabilitation.
- ▶ A full Immediate Needs Assessment Report is undertaken within 24 hours and the claimant has access to a web based instruction portal. For 30% of people this addresses their needs.
- ▶ Contact with the claimant is by a trained physiotherapist with a clinical background.
- ▶ A DVD containing practical information about whiplash neck/back pain is sent to the claimant.
- ▶ Regular contact with the claimant is maintained and recovery targets set.
- ▶ More serious injuries are referred for specialist treatment.

Aviva's Four-Point Plan to reduce motor premiums

Aviva would like to see the following model become the solution for minor injury claims:

1 The Small Claims Track Limit to be increased to £5,000 for all injury claims.

This would bring the majority of personal injury claims under the small claims limit as the average compensation claim is £2,500, removing costly legal fees from the process.

2 Fixed fees for Fast Track claims and hourly rates reduced.

Legal fees have risen to take into account that lawyers are often paid referral fees for contact details of drivers who had an accident. The ban of referral fees means lawyers will no longer pay these sums, so the rate at which they charge should fall to account for this.

3 Allow the insurer of the at fault party the first chance to handle the claim. This insurer would be able to:

- a. Admit liability for the accident
- b. Deal with claimant's repair and mobility needs, i.e like for like vehicle replacement
- c. Deal with claimant's injury, with particular focus on rehabilitation where appropriate

This would reduce claims costs and the time it takes claimants to receive rehabilitation and compensation for their injuries, cutting costly third parties out of the system.

4 Care not cash becomes the focus.

A focus on targeted rehabilitation means that injured parties get the treatment they need, often at less cost than cash compensation. Access to treatment is provided quickly and easily, meaning that injuries can be cared for immediately.

Benefits

- Good for consumers – the needs of the claimant are dealt with fast and fairly, and by taking cost out of the claims process, car insurance premiums reduce
- A focus on care not cash, using targeted rehabilitation not compensation

What consumers think should change

(Source: All data from Opinion Matters survey of 2,437 adults who drive, December 2012)

Drivers want to see compensation for minor whiplash injuries focused upon rehabilitation and evaluation by independent medical professionals

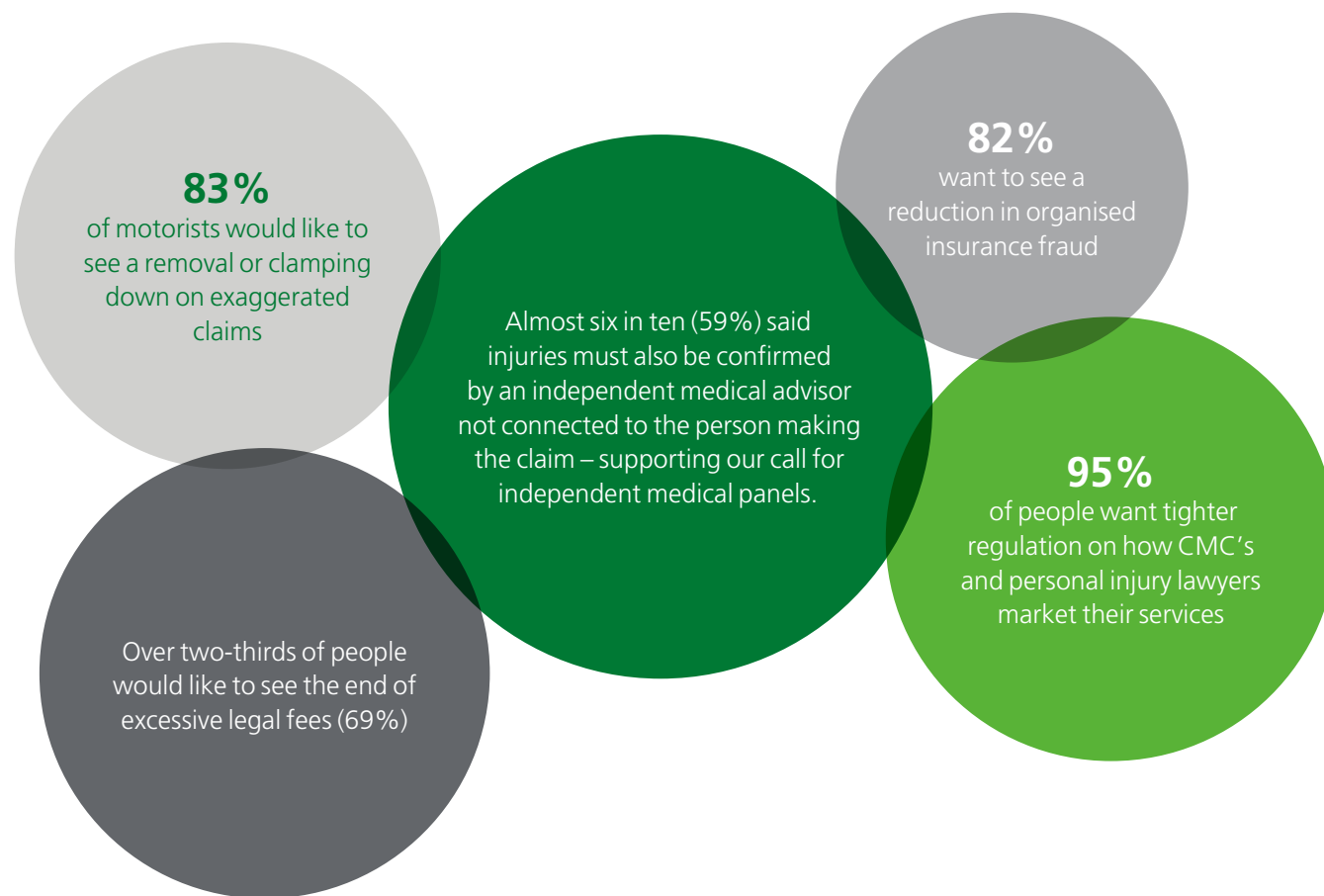
While 85% of people think no cash compensation is necessary in an accident where there were no injuries, when asked about their views on what should happen for minor injuries suffered after a motor accident, 55% of drivers said that having access to rehabilitation would be appropriate compensation.

Forty-one per cent think cash-compensation proportionate to pain and suffering (as evaluated by an independent medical professional) would be more suitable. Over a quarter of drivers (27%) say that no compensation would be necessary.

When considering other motorists seeking compensation for a minor whiplash injury after a car accident that was not their fault, people are even more supportive of rehabilitation focussed compensation. Just 1% think that people are entitled to as much compensation as possible. 60% feel access to rehabilitation is sufficient compensation, and 39% think cash compensation proportionate to pain and suffering should be given.

85% of people think no cash compensation is necessary in an accident where there were no injuries

What do drivers think should be done to change the current claims system?



What the financial benefits will be for drivers

The cost savings of handling claims direct

The amount of compensation and legal costs for the average minor personal injury claim at Aviva vary depending on whether they are handled via an external agency such as a Claims Management Company or PI lawyer, or are handled directly by Aviva:

(Source: Aviva)



*This is based on an analysis of personal injury settlements made by Aviva over the past year and is not an indication that all direct settlements are this value, or that Aviva actively seeks to improve or compare what a CMC would pay.

Aviva is able to offer claimants a complete end-to-end service, where all their needs following a road traffic accident are fulfilled – including repair of vehicle, replacement vehicle while damaged vehicle is being repaired, rehabilitation and compensation for their personal injury. This comprehensive service is not one which claimant solicitors can offer.

How it all adds up

Aviva estimates that the reforms it is recommending would take approximately **£1.5 billion of excess cost out of the UK motor claims pot**. This represents around 50% of the total costs for low value claims such as whiplash - a real and significant reduction that will benefit motorists.

As outlined in this report, whiplash now adds £118 on the average UK motor insurance premium. Thus reducing fraud and the excess costs involved in handling minor personal injury claims by 50% will mean **premiums for the average motorist would come down by around £60 a year**.

Aviva's proposed system focuses on restoring the injured party, not simply cash compensation, and would allow insurers to manage the claims process (what they are paid to do). We believe this would better help those motorists unfortunate enough to be involved in an accident who would receive an improved service.

Aviva believes this is a template for meaningful reform that will lead to sustainable and more affordable insurance premiums and a higher level of customer service. Aviva will continue to campaign for meaningful reform to take costs out of the current personal injury system and reduce premiums.

The UK's motorists deserve a better deal.

Notes on data used:

- Number of cars sourced from DoT vehicle licensing statistics 2011 – 28,476,300.
- Number of whiplash claimants – 550,000 ABI.

¹ RPI grew from 176.2 in 2002 to 242.7 in 2012, an increase of 37.5%; average comprehensive motor premium grew from £445 in April 2002 to £789 in January 2012, an increase of 77%.

