



The Law Society

**Reducing the number and costs of whiplash claims
A consultation on arrangements concerning
whiplash injuries in England and Wales**

Response by the Law Society

March 2013

Foreword by the Chief Executive

Once again victims who, through no fault of their, have been injured in an accident, are faced with proposals to reduce access to justice and their ability to pay for legal advice and representation. These latest proposals are likely to have been caused by the propaganda which is generated by insurers on the pretext that insurance premiums will be reduced and that this will in turn assist the country's economic recovery.

The Government's objective is to reduce fraudulent and exaggerated whiplash accident claims and thereby to reduce legal costs which the insurance industry are constantly seeking in order to increase shareholder profits. However, there is no evidence to show that there is a disproportionate level of fraudulent or exaggerated claims.

Please do not misunderstand me – fraudulent claims are abhorrent and, whilst it would be impossible to eradicate them entirely, more must be done to resolve the problem. The Society has offered to help on several occasions and I personally have discussed this with the Insurance Fraud Bureau but, regrettably, nothing positive has been forthcoming from any insurance organisation indicating that working together would assist. Instead it would appear that the insurance industry has chosen to lobby the Government into adopting a policy that will see many thousands of genuine accident victims left without the benefit of expert legal advice to assist them in their claims.

The Society accepts that whilst the number of accidents may have fallen, the level of claims has risen. This is likely to indicate that more people involved in accidents are making claims and does not prove that many of the claims are fraudulent or exaggerated. The reasons are likely to be far less sinister than insurers have led the Government to believe. The most likely reason is the profusion of advertising campaigns by claims management companies which have developed since 2005 when the Law Society lifted its ban on the payment of referral fees. The Law Society changed its policy in 2009 and called for referral fees for all legal services to be prohibited. The Society therefore fully supports the Government's decision to ban them for personal injury claims. However, the ban will only be effective if it is regulated and policed properly.

One effect of the ban will be that insurers will no longer be able to “sell on” details of claims and many members of the Association of British Insurers (ABI) will therefore suffer a significant drop in income and, consequently, shareholder profits. This is another reason why the insurance industry is pushing for a reduction in legal costs.

Helen Grant MP, Parliamentary Under Secretary of State says “We *must, of course, preserve access to justice for the genuinely injured, but that does not mean allowing exaggerated, misrepresented or fabricated claims to go unchallenged.*” The Law Society fully agrees with that statement but the remedy against fraudulent claims is not as proposed by the Government.

The vast majority of whiplash claims are genuine. Exaggeration of claims might be an issue, but this needs to be addressed by the medical experts and if there is complicity by some medical and legal professionals then this needs to be eradicated by their respective regulators. Raising the small claims limit for whiplash injuries as proposed, or indeed any other type of injury claim, merely penalises all of those genuine accident victims and will deny them the means to pay for legal advice and/or representation which is essential in these matters. This will create an uneven playing field as those victims who represent themselves will be confronted by insurers and their lawyers who specialise in contesting personal injury claims. That does not “*preserve access to justice*” as stated by the Minister – it destroys it.

Desmond Hudson
Chief Executive
The Law Society.

1 INTRODUCTION

Whiplash Claims

The consultation sets out a number of issues coupled with what purports to be evidence to substantiate widespread fraud and exaggeration of claims coupled with data from insurers indicating that “whiplash” payments account for 20% of a typical car insurance premium. Despite the widespread reforms which the Government is introducing in civil justice in order to reduce costs, it *“believes that further action to reduce the number of and costs of claims is needed”*.

This creates an anomaly in reasoning in that on the one hand the aim is to reduce the number and cost of fraudulent and exaggerated claims and yet on the other it is to reduce the number and costs of claims, whether fraudulent or not.

The consultation executive summary claims that the rate of whiplash injuries in the UK is significantly higher than in other countries. This statement is based on comparative data from 2004. To rely on such out of date data to support a proposal to reduce legal costs for the insurance industry is irrational and/or unsafe. More up to date empirical independent research needs to be undertaken to support the Government's proposals.

The Insurance Market

The comparative study referred to above *“shows that the equivalent rate (for whiplash claims) in Germany to be 47% and Spain 32% whilst in France the rate was just 3%.”* However, even if these statistics from a 2004 study are relevant today they cannot be used in isolation to other statistics which relate to the European insurance industry.

In January 2013 Insurance Europe produced its Statistics Report No. 46 - “European Insurance in Figures”. The British Insurers' European Committee, which represents the UK in Insurance Europe, consists of the ABI, the Underwriting Association of London and Lloyd's. The report contains the following facts:-

- In 2011 motor premiums in the EU totalled **129 billion** Euros (a **4% growth** over 2010)
- Motor premiums rose by **3.6%** in Germany, **3.5%** in France and **14.1%** in the UK in 2011 compared to 2010
- Motor claims paid out in the EU in 2011 totalled **100 billion** Euros (a **decline of 2%** over 2010)
- In 2011 **UK insurers** reported a **decline of 6%** in claims paid out, compared to 2010. German Insurers reported an increase of 2% and in France claims paid out remained stable.
- In 2011 Germany's share of European Insurers total motor claims expenditure was 20%. By comparison France was 13% and the UK was 14%.

These published facts, which the ABI have not disputed, paint a very different picture of the UK insurance industry than the one it has portrayed publicly. The Law Society therefore believes that **any** data provided or assurances given by insurers must be treated as potentially unreliable and/or inaccurate.

The Government should not, therefore, solely rely upon information and data provided by insurers in support of policy making decisions without additional, up to date, independent

and reliable evidence in support.

Fraud and the cost to the consumer

The Law Society has frequently indicated to the Government and the Association of British Insurers (ABI) that it does not, under any circumstances, support fraud or exaggeration of claims. It has also offered to work in conjunction with the ABI and the Insurance Fraud Bureau in an effort to reduce the problem but to no avail.

Instead members of the ABI choose to lobby the Government by quoting road traffic accident claims as the root cause of ever increasing insurance premiums. Insurers have conveniently ignored the fact that their own practices are most likely to be the root causes of exorbitant insurance premiums.

In May 2012 the Office of Fair Trading (OFT) provisionally decided to refer the private motor insurance market to the Competition Commission after it found evidence that insurers compete in a dysfunctional way that may push up premiums for drivers by £225 million a year. The OFT's market study provisionally found that the insurers of drivers responsible for an accident ('at-fault' drivers) appear to have little control over the way repairs and replacement vehicles are provided to the 'not-at-fault' driver. The OFT report stated:-

*“the following practices appear to inflate the cost of replacement vehicles provided to not-at-fault drivers, making it on average **£560** more expensive each time:*

- *After road traffic accidents, many insurers of not-at-fault drivers, brokers and repairers, refer those drivers to credit hire organisations that tend to charge higher daily hire rates, in exchange for a referral fee of between £250 and £400 per car hire.*
- *Not-at-fault drivers appear to receive replacement vehicles for longer periods than necessary, leading to inflated bills for the at-fault driver's insurer to cover.*

The report also stated:-

*“that the following practices appear to be inflating the cost of repairs to not at-fault drivers' vehicles, by **£155** on average each time:*

- *Certain insurers receive referral fees and rebates from repairers, paint suppliers and parts suppliers. It appears that the cost of paying these referral fees and rebates to insurers increases the repair bills being passed to the at-fault driver's insurer.*
- *Certain insurers have agreements with their approved repairers to charge higher labour rates when repairing the vehicle of the not-at-fault driver which they insure, leading to higher bills being passed to the at-fault driver's insurer.*

These conclusions paint a damning picture of insurers and the OFT itself concluded that.... *“This is an inefficient way for the sector to operate, raising the total costs for providing private motor insurance which drivers end up paying.*

So, based on the OFT findings, for every 100,000 accidents insurers are paying, on average, **£71.5 million** in inflated and avoidable costs. This is a staggering statistic which insurers have chosen to ignore bearing in mind that, even on a conservative estimate, there are more than 400,000 road traffic collisions each year being reported through the

RTA claims portal. These additional and unnecessary costs are passed onto the consumer but instead of tackling their own “in house” problems, insurers have, instead, chosen to attack the victims of whiplash.

Accident Statistics

One puzzling fact is that published statistics show that the number of people injured in road accidents in total has decreased lately, although cyclist and motor cyclist casualties have risen. However, these published figures bear no relation to the number of personal injury claims which are currently being made through the RTA portal or the statistics quoted by insurers. The Law Society suspects that the reason for this is the fact that published statistics are taken from official sources such as the police and the compensation recovery unit (CRU) of the Department of Work and Pensions. The former will obviously only include those accidents involving injury which have been reported to the police, as required by law. The latter will only show those claims which have been reported to the CRU prior to settlement.

The Law Society suspects that many claims which are settled directly by insurers by way of third party capture are not reported to the CRU. This must be the case as many claims are settled within days of an accident and without sufficient time to have obtained the requisite certificate of benefits which, by law, is required before any payment can be made to a claimant.

If many claims involving personal injury are not being reported to the police then this, in itself, could be evidence of fraud.

We have previously raised our concerns with the Government about the potential loss of recoverable benefits and emergency treatment costs that can result from third party capture of claims by insurers.

The Small Claims Limit

The small claims procedure is an essential part of the civil justice system which enables consumers to pursue low value claims without the risk of a large bill for legal costs if they lose. However, it is not, and should not become, a forum for disputes which have a higher degree of complexity, such as personal injury claims, and which therefore require the input of advice from solicitors and, in most cases, legal representation.

A substantial increase to the current limit will deny many thousands the right to seek the advice of and representation by a solicitor. Those that do will be faced with having to pay all their own legal costs which will severely reduce their damages award. Many will choose to represent themselves and face highly skilled insurance negotiators whose only interests are to protect shareholders profits and, consequently, will do their utmost to under settle the claims.

The ABI fully supported the recommendations of Lord Justice Jackson in his Review of Civil Litigation Costs – Final report (Dec 2009) and the government also gave its support and has commenced implementation of a number of the recommendations, although not fully as an interlocking package and, in certain cases, with some amendments.

In Chapter 18 (Upper Limit for Personal Injury Cases on the Small Claims Track Assessment and Conclusions) Lord Justice Jackson states the following:-

3.2 In my view, the top priority at the moment should be (a) to fix all costs on the fast track and (b) to establish an efficient and fair process for handling personal injury claims (which constitute a major part of fast track work). I therefore propose that in the first phase of reforms which will follow publication of this report (if my recommendations are accepted), there should be no change to the PI small claims limit.

3.3 If a satisfactory scheme of fixed costs is established for fast track personal injury cases (both contested and uncontested) and if the process reforms bed in satisfactorily, then all that will be required in due course will be an increase in the PI small claims limit to reflect inflation since 1999. A series of small rises in the limit would be confusing for practitioners and judges alike. I therefore propose that the present limit stays at £1,000 until such time as inflation warrants an increase to £1,500.

3.4 If a satisfactory scheme of fixed costs is not established or if the process reforms prove unsatisfactory, then the question of raising the PI small claims limit will have to be revisited at the end of 2010. I would be willing to undertake that task, if so requested.

3.5 For the reasons set out above, I do not currently make any recommendation for raising the PI small claims limit.”

It should be noted that Lord Justice Jackson did not conclude that there was any problem with fraudulent or exaggerated whiplash claims.

The acceptance of the “Jackson Recommendations” as an interlocking package by both insurers and the Government, and the reality of the situation in that both are now seeking to increase the small claims personal injury limit, is therefore very puzzling.

2 THE LAW SOCIETY'S RESPONSE

Question 1

Do you agree that, in future, medical reports for whiplash injury claims should be supplied by independent medical panels, using a standard report form, and should be available equally to claimants, insurers, and (for contested claims) the courts?

Reply

The Law Society neither agrees nor disagrees at this stage (but see answer to question 5 below) and much more consideration needs to be given to the proposal by the Government.

There is no evidence that independent medical panels would be viable, accessible, and affordable or would lead to any improvements to the system. They would merely add another level of bureaucracy and cost. If the additional cost will not be met from public funds then they will have to be added as a direct, and potentially additional, cost to those using the system, including insurers. Consequently the potential cost of the proposal needs to be investigated thoroughly and consulted upon before any decision is made.

If medical panels are to be introduced then safeguards are needed to ensure that panel members have appropriate qualifications and experience and that cases are assessed on their individual merits and that there is no incentive to reduce the number of claims.

One important factor to be taken into account is whether or not the proposal will in fact solve the problem. The Executive Summary of the consultation at paragraph 6 summarises the difficulties with diagnosing whiplash as follows:-

“As a soft tissue injury, whiplash injuries may be difficult to diagnose, with evidence often based on the claimant’s description of an accident and the pain or discomfort. Potentially, the injury might have healed either by the time the doctor is asked to diagnose or a claim is brought.”

Without further and more detailed consideration and research by the Government, the Law Society does not see how medical panels will resolve the problems of diagnosing whiplash.

However, a standard report form together with standard instructions and guidance to all medical professionals is likely to achieve improvement in the current standard and reliability of medical evidence in existing whiplash claims.

Question 2

If no, how would you address the problems listed at paragraphs 35 to 39 of part two of this consultation document?

Reply

See answers to question 1 above and question 8 below.

The introduction of standard reporting, instructions and guidance to the medical profession together with mandatory training will address the problems. However, the main problem of identifying/diagnosing a genuine whiplash claim must be a matter for the medical profession. Better training for, and objective diagnostic tests by, medical professionals will therefore be the most crucial factor in reducing fraudulent and exaggerated claims.

The judiciary has previously expressed some concern about the precision of whiplash medical evidence. In 2009 the Association of District Judges stated: - *“At present the District Judges in Liverpool are aware of a certain lack of precision in the prognoses given by experts, particularly when the examination is very soon after the accident. Often a GP or orthopaedic surgeon examining a claimant at one to two months post accident will describe soft tissue injuries (‘a classic whiplash’) and opine that the claimant should recover ‘within 12 months’. Experience has shown that a number of claimants recover well inside this period – yet the Court is expected to deal with it as a 12 month recovery.”*¹

Question 3

Which model should be used for the independent medical panels – Accreditation, national call-off contract or some other variant?

Reply

Neither an accreditation scheme nor national call-off contract, or indeed any other type of scheme, will resolve the issue. Any scheme will still, no doubt, consist of the same medical professionals who already undertake this work. They will still be faced with the same issue as to whether or not a whiplash claim is genuine or not. Their membership of a panel will not alter their professional ability and obligations

Question 4

Do you consider that an element of peer review should be built into every assessment, or only for a sample of assessments for audit purposes?

Reply

Any form of peer review and/or assessment will add to the cost but we see no alternative as some form of audit needs to be put in place to ensure standards of reporting. Any form of auditing needs to be cross referenced to the success or otherwise of a claim but only in so far as causation and quantum are concerned.

Question 5

How should costs be dealt with and apportioned?

Reply

Any arrangements for running medical panels must ensure the transparency and independence of the panels. There needs to be, as we have stated, objective

¹ Review of Civil Litigation Costs – Final report (Dec 2009) - Part 4, Chapter 21, Section 3.12, Page 211

requirements to ensure that panels members are properly qualified and independent and are protected from pressure by the insurers. These requirements need to be set out in statute. Statute should also set out the mechanisms for appointing and paying for the panel. The panel and its working should be overseen by a Board which includes equal representation from claimant and insurer bodies, the medical professions and lay people.

The Law Society considers that, under the existing system, it is for the insurers to investigate the claims made by claimants. This system is intended to assist them in doing this job in a way that is independent and commands respect. The costs should fall on the insurance industry in the same way that the costs of the FOS and FSA do. We do not believe that it is appropriate to charge claimants to use the service unless their claims are clearly fraudulent or obviously exaggerated.

The Society recognises that this procedure is expensive. However, it is essential for it to be designed properly if it is to carry confidence. In our view, it will be very important for there to be a full cost-benefit analysis before proceeding with this option to establish whether it will, in fact, save the industry money.

Question 6

Should the Small Claims track threshold be increased to £5,000 for RTA related whiplash claims, be increased to £5,000 for all RTA PI claims or not changed?

Reply

The small claims procedure is an essential part of the civil justice system which enables consumers to pursue low value claims without the risk of a large bill for legal costs if they lose. However, it is not, and should not become, a forum for disputes which have a higher degree of complexity, such as personal injury claims, and which therefore require the input of advice from solicitors and, in most cases, legal representation.

Increasing the small claims limit means that successful claimants will not have their legal costs paid by the other side. If a claim is contested then those costs are likely to represent a significant proportion of the damages and, in some cases exceed them.

Personal injury cases generally are complex. They require evidence and a knowledge of law and process. The correct interpretation of medical evidence, especially the prognosis, and thereafter assessing quantum is a complex task beyond the capability of most accident victims.

We believe that, potentially, there may be a number of effects involved in increasing the small claims limit:

1. Accident victims may simply not bring a claim because of the complexities of bringing a claim and a lack of understanding of the legal process. This is clearly what the insurance industry would like but it does not sit well with the aims set out by the Minister referred to above. There will be a sense of injustice. It is not just whiplash compensation which falls under £5,000 but a number of others, including:

- Head injuries
- Psychiatric damage
- Eye injuries
- Injuries to internal organs
- Orthopaedic injuries

- Facial injuries.

Claimants will need to have proper advice to establish how serious those injuries are and what the prognosis may be. It will not always be obvious at the start of the investigation how serious these are and what an appropriate level of compensation is. Claimants need advice or they may well suffer significant loss. We do not believe that it is right that people who have suffered these injuries should be discouraged from claiming their just compensation.

2. Insurers will have an incentive to contest cases in the hope that the claimant will be frightened by being faced by a lawyer and a well-financed insurer and back down. Claimants in such circumstances will not simply be those whose claims are well founded: they will be individuals who are not expert in law and procedure, who will be intimidated by the thought of facing a lawyer in court and will decide not to pursue the claim. They will be frightened out of their just entitlement. In a just society, this is not acceptable.
3. Claimants will try to bring cases themselves. They will not be familiar with the complexities of the procedure and the evidential and other requirements and the cases they bring are unlikely to be well-prepared. It is well-known that self-represented litigants are expensive to deal with both for the legally represented side and for the court. The majority of such claims are likely to be genuine, but some will be fraudulent and it will be costly for insurers to identify the latter. Indeed, if the portal were extended to allow self-represented litigants to use it, there is a real incentive for increased fraudulent claims. We are aware that insurers consider that solicitors are not always successful at preventing fraudulent claims but solicitors are regulated and are under strong duties not to pursue claims which they know to be fraudulent. With unrepresented litigants, there is no such safeguard. Encouraging regulated professionals to bring claims may, in fact, be the less costly option.
4. Claims management firms will bring claims on the basis of damages-based agreements. We believe this will have the following dangers:
 - a. There are no training or other requirements for claims managers and there can be absolutely no guarantee that the claims brought will be competently or appropriately handled – there is no training in ethics and most of the organizations are simply businesses designed to make money with no view to the public interest or professional duties to the court. The incentives to bring fraudulent claims are considerable and there is a strong likelihood that many claims will be incompetently brought.
 - b. The regulatory regime governing them is inadequate to provide appropriate protection for claimants or insurers. The industry is not large enough to finance regulation at anything like the equivalent level that applies to solicitors. The fact that the regulator revokes licences on an almost industrial scale suggests that entry requirements are inadequate. Moreover, even the fact that the Legal Ombudsman can consider complaints of poor service will not assist the claimant that is badly advised if the claims handler has gone into liquidation, nor the insurer that has to face a barrage of badly written or fraudulent claims.
 - c. Claimants are likely to be seduced by misleading advertising into believing that they will receive more than in fact will be forthcoming and may well find themselves receiving only a tiny portion of the damages to which they are entitled.
5. Well-financed Alternative Business Structures may bring claims on a similar basis. While the regulatory regime governing them may well be significantly greater, this will

not reduce the number of claims and it may well be that such firms themselves will not be adept at identifying the fraudulent or exaggerated claim.

The Law Society cannot say with certainty that any or all of these will happen but, in our view, the uncertain consequences need to be considered carefully before any decision is taken. The fact is that financial compensation, quite rightly, follows after accidents and, while that happens, there are incentives for the unscrupulous to take advantage of that. We doubt that raising the small claims limit will affect that.

We consider that the recommendations of Lord Justice Jackson (see above) should be followed and that there should be no increase in the small claims limit for any personal injury claims until the forthcoming “process reforms” have “bedded in”. Once that has occurred and a full post-implementation review of the costs and funding reforms has been undertaken (after, say 12 months) then, and only then, should further consideration be given to increasing the existing small claims limit of £1,000 for personal injury claims. This would be the most rationale decision based on the recommendation of Lord Justice Jackson who undertook significant research and consultation before reaching his conclusions.

Furthermore, there should not be a two tier system of dispute resolution for personal injury claims which depends upon the type of injury suffered. We believe that this would cause significant problems where a claim for whiplash is one of a series of claims for personal injury. Moreover, whilst in some cases it may be difficult to identify the extent and effect of a whiplash injury, it is not impossible. This can be done by better training and auditing of medical practitioners and their reports. Where there is any dispute about the symptoms of injury (i.e. diagnosis and prognosis) the judiciary are more than capable of resolving the issue. That is how justice is achieved and it should not be administered on the basis of concern as to the ramifications for insurance companies’ shareholders’ profits.

Our view is, therefore, that the current small claims £1000 limit for non-whiplash personal injury small claims should therefore remain unchanged. However, we do accept that there has been an element of inflation since the question was last looked at.

If, despite the views expressed herein, the Government decides to raise the limit for whiplash claims, then the Society would not oppose an increase to £2,000 on the basis of inflation and the 10% damages increase that will come into effect in April 2013.

We also believe that it may be appropriate for the limit to cease to be subject to political considerations and that it might be appropriate for it to be index-linked and increased according to inflation, annually.

Question 7

Will there be an impact on the RTA Protocol and could this be mitigated?

Reply

The answer to the first part of this question is clearly yes. We do not see how the RTA portal scheme will be operable unless it is opened to self-represented litigants or those who are representing them. Those litigants are going to find using the portal daunting and it is the insurers who will have to cope with inadequately completed claims.

Based upon data provided by insurers, which we cannot accept without independent ratification, the significant majority of RTA claims will involve whiplash of some form or another and a significant proportion of those claims will have a value of less than £2000.

There has been extensive consultation and significant work undertaken on extending the existing financial limit of the RTA Portal to £10,000. The claims which remain in the portal are dealt with efficiently by solicitors and, where necessary, by the courts. The reason why so many claims fall out of the portal is the inability of insurers to deal with the claim in the necessary time limit. This was the concern of many non-insurance stakeholders throughout the Portal process negotiations in 2008/2009. However, insurers agreed the process and gave assurances that they would be able to comply with the time limits. Their inability to do so is therefore no reason to penalise genuine accident victims by removing their right to recover any legal costs for legal advice and representation.

There is nothing in our view which could be done to mitigate the impact that many thousands of self-represented litigants will have on the portal if that is how they will be required to notify their claims.

Question 8

What more should the Government consider doing to reduce the cost of exaggerated and/or fraudulent whiplash claims?

Reply

Two priority areas are increased criminal penalties for fraud and mandatory training for legal and medical professionals to enable them to identify cases of fraud and exaggeration more easily. However, these are likely to be a more long term solution. Furthermore, mandatory training for professionals would require the appropriate regulators to become more engaged with the problem.

Closer liaison between the legal profession and the insurance industry in identifying potentially fraudulent claimants would eradicate many problems in the short term. It is understood that both the ABI and the IFB maintain data which is used to identify possible fraudulent claims but such data is used for their own purpose and is not accessible to, or shared with others. The Law Society has suggested to both organisations that sharing of some data with the legal profession would assist solicitors in identifying the possibility that a client may be making a fraudulent claim. These suggestions have been rejected. The Law Society therefore urges the Government to exert its influence and force the ABI and IFB to work with us in providing solicitors with secure access to relevant data which is readily available and can be used in reducing fraudulent and exaggerated claims.

Another important matter to consider is that if potential claimants are steered towards unregulated entities and away from solicitors then those entities are less likely to decline to represent claimants who they suspect of fraud or exaggeration.

A point to note which has similar potential is the practice of third party capture. This describes a situation where insurers contact the third party driver or passenger direct on receiving notification from their own insured of an accident. Many claims are settled within a few days, sometimes even hours, of an accident without any medical evidence to substantiate an injury, and, in some cases, without the third party having any intention of making a claim. This practice is, to the greater extent, unregulated by the Financial Services Authority (FSA) and the potential for fraud, exaggeration and spurious claims are limitless in the absence of medical evidence. The practice of third party capture should

therefore be reviewed with a view to full regulation, a mandatory requirement for medical evidence and a requirement that third parties must be fully aware of their legal rights and potential value of a claim before agreeing a settlement which is binding.

A mandatory requirement for written proof that any RTA personal injury has been reported to the police before being accepted by insurers as a potential claim would, we suspect, eradicate a significant proportion of fraudulent claims.