

Easing a pain in the neck – perhaps

So, after more than a decade of growing to an annual value approaching £10bn, the claims management industry will at last be brought down to earth by the recent announcement of the banning of personal injury referrals fees. Or will it?

Clearly this seems pretty unlikely considering the sums of money involved and the extent of vested interests. What started as a perfectly reasonable attempt to open up the legal system to the little man, through the 1999 Access to Justice Act, turned into a Frankenstein's monster of ambulance chasers and shyster lawyers. But it didn't stop there. The insidious personal injury claims referral fees seemed to pervade the whole of society – hospitals and police authorities got in on the act, with some earning in excess of half a million pounds a year in referrals.

The archetypal personal injury claim is of course whiplash injuries to the neck in relatively low impact collisions. The number of whiplash claims has doubled over the past two years to an average of 1200 new claims per day, at an annual cost to insurers of £2bn. Suggestions that the design of modern cars has contributed to the increase have been largely dismissed. The UK now has double the incidence of whiplash injuries than the rest of Europe (although the lowest fatal accident rate) where people are generally driving similar cars and having more accidents. It seems that our necks have become weaker than European necks, with necks in the northwest of England somehow weaker than the rest of the UK.

The Association of British Insurers (ABI) is rightly concerned about the cost to its members and the impact on insurance customers in the UK who have faced increases in motor premiums of up to 40% in the past year. However, it is disappointing that some of the biggest offenders in the referrals game are large insurance companies. The shares of one of the market leaders took a bit of a tumble after the announcement of the referrals ban due to its dependency on referral income from its customers in no-fault or low-fault claims.

So what will the impact of the referrals ban be – will it really curtail the market and turn back the tide of personal injury claims? Well, the smart money says not. The two most obvious ways around the legislation are based on proactivity of marketing and structure of companies. Until now, the marketing by lawyers of personal injury compensation services has been relatively passive – waiting for claims management companies to knock on the door with their referrals; in future solicitors will more actively engage with companies, establishing a 'pull' of opportunities rather than a 'push' of referrals. The structural change would be for claims management companies to employ their own in-house lawyers – the company handles the entire claim from first contact with the customer to outcome of the court case, with no referral between companies.

The net outcome will be that the smallest claims management companies will go to the wall but the larger companies will survive and probably get bigger. Insurance companies will lose their referral income and while the removal of fees should take cost out of the claims system the net effect may ironically be that some premiums actually increase.

Throughout this debate, it's easy to lose sight of the distinction between Claims Management Companies and *Accident Management Companies* (AMCs). The latter are often tarred with the same brush as the former but have a distinctly different *raison d'être*. While they no doubt have, like the insurance companies, made a few bob out of personal injury referral fees and also added to claims cost through the provision of like-for-like temporary hire cars rather than small courtesy cars, their main focus is on the timely and effective repair of vehicles. They act on behalf of the customer and manage the interaction with the vehicle repairer, insurer and others involved in resolving the aftermath of an accident as quickly as possible. Traditionally their customers have been commercial vehicle fleets due to the economies of scale of supporting a number of drivers and the commercial imperative of getting business vehicles back on the road.

For the past decade many insurance companies have recognised the edge that AMCs have in terms of speedy resolution of accident repairs. There's a subtle difference between the customer focus of the insurance company that wants to provide good service to the customer, being helpful and friendly at all times and the supplier focus of the AMC who deals with repairers and others toughly (but hopefully fairly) and as a by-product actually delivers better customer service. With the shift in focus as a result of the changes in referrals, this would be a good time for insurance company claims functions to step back and objectively assess their capabilities and modus operandi and consider whether it may be time to try to emulate the better AMCs to squeeze a bit more cost and potential profit out of the claims process.

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