



House of Commons
Justice Committee

Whiplash reform and the Official Injury Claim Service

Ninth Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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Justice Committee

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Committee staff

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Contacts

All correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8196; the Committee's email address is justicecom@parliament.uk.

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Summary

In recent years, the Government has implemented major reforms in respect of personal injury compensation for whiplash with the objective of reducing the number and cost of claims. As part of this, since 2021 an online portal, known as the Official Injury Claim (OIC) service, has been in operation to support individuals who have suffered minor injuries arising from a road traffic accident to claim compensation, without the need for legal help. Despite this, around 90% of portal users are currently legally represented. This interim report calls on the Ministry of Justice (MoJ) and the portal's operator, the Motor Insurers' Bureau (MIB), to conduct research to better understand this, and whether steps to improve awareness of the OIC portal and user-confidence in the system would encourage more litigants in person. It also highlights concern that professional users have had difficulties in integrating their systems with the portal, and calls on the MoJ to set out what steps it is taking in conjunction with the MIB to address these concerns.

There is a growing number of unresolved cases in the portal, which now stands at 349,000, and for those cases which do reach settlement, the average time taken to do so is 251 days, and is predicted to increase further. We recommend the MoJ investigate the reasons for the growing number of unresolved cases and the deterioration in the timeliness of reaching settlement, and publishes its findings by the end of the year. The Government had estimated that its reforms would lead to a reduction in motor insurance premiums by approximately £35 per policy. However, it is difficult to determine at this point whether these savings have been realised because of upward cost pressures arising from, for example, cost of living increases and the effects of the pandemic. Accordingly, we recommend that the Government is as transparent as possible in undertaking its statutory assessment of the effects of the reforms on policyholders, including by publication of the submissions made by insurers.

The Committee will return to these issues as well as other aspects of the whiplash reform programme in 2024, once the Supreme Court has given its verdict in the case of *Hassam v Rabot* which concerns the treatment of mixed injury cases, where whiplash injuries are sustained alongside non-whiplash injuries.

Whiplash reform and the Official Injury Claim service

Introduction and our inquiry

1. In recent years, the Government has implemented major reforms to the area of personal injury compensation for whiplash, underpinned by the Civil Liability Act 2018.¹ Its reform programme included the introduction of a legal definition of whiplash injury, an increase in the upper threshold for the small claims track from £1,000 to £5,000 (meaning legal costs for claims valued below the new limit are no longer recoverable from the compensating insurer except in limited cases), a ban on the settlement of claims without the provision of medical evidence, and the introduction of a new tariff of fixed compensation for whiplash injuries. These measures were designed to reduce what was seen by the Government as the disproportionately high number and cost of whiplash claims in England and Wales. In 2016, it estimated that whiplash claims were costing approximately £2 billion a year—an average of £90 per motor insurance policy. The Government estimated that the measures introduced under the Whiplash Reform Programme would remove £1.2 billion from the cost of providing motor insurance, with the insurance industry passing on any savings to motorists (estimated at £35 per motor insurance policy).

2. As part of the reform programme, the Ministry of Justice (MoJ) commissioned the Motor Insurers' Bureau (MIB) to develop an online portal, Official Injury Claim (OIC), for managing low-value road traffic accident (RTA) claims, which launched in May 2021. We launched our inquiry in February 2023 in response to concerns about the initial operation of the portal and implementation of the whiplash reform programme more generally. We invited written evidence on the following terms of reference:

- What effect the measures introduced within the whiplash reform programme have had on the number of minor personal injury (PI) claims to date;
- To what extent these measures met the Government's objective of reducing the cost of whiplash claims to the economy; and to what extent are any savings being passed on to motorists through lower insurance premiums;
- The effects of raising the small claims track from £1,000 to £5,000; the ban on settling whiplash claims without medical evidence; and the fixed tariff of compensation for whiplash injuries that last up to 2 years;
- Why most claimants continue to use legal representation when using the online portal (90% since its launch);
- Whether the OIC portal is accessible and easy-to-use for claimants and/or their legal representatives;
- Whether claims brought using the OIC are being settled in a timely manner, if timeliness could be improved upon; and if so, how;

¹ The Act defines whiplash as a sprain, strain, tear, rupture or lesser damage of a muscle, tendon or ligament in the neck, back or shoulder, or an injury of soft tissue associated with a muscle, tendon or ligament in the neck, back or shoulder.

- Whether the OIC ensures access to justice for everyone who may seek to make a claim;
- How widely known about the OIC is and how potential claimants are made aware of its existence;
- How effective the OIC portal is in settling mixed injury claims (see paragraph 3 below), which cannot be settled using the fixed tariff awards; and
- Any other issues in relation to the implementation of the whiplash reform programme and operation of the OIC to date.

3. The Whiplash Injury Regulations 2021 set out a structured tariff of damages for whiplash injuries.² These regulations came into force on 31 May 2021, and apply only to accidents occurring on or after that date. The OIC service can be used for a range of different RTA-related injury claims under £5,000, rising to a total of £10,000 for all losses related to the accident. Compensation for injury is known as damages for pain, suffering and loss of amenity (PSLA), and are referred to as ‘general damages’. PSLA damages are available for:

- Whiplash-only injuries: whiplash injuries to neck, back or shoulders are valued using a whiplash-only tariff. This is a pre-set amount of damages awarded dependent on the type and length of injury suffered.
- Mixed injuries: this is where whiplash injuries are sustained alongside other non-whiplash type injuries, such as broken or fractured bones. In these circumstances, the whiplash injury is assessed in line with the tariff application, and the additional injuries need to be valued separately.
- Non-whiplash injuries: any non-whiplash injuries need to be assessed separately and the pre-set tariff will not apply.

Current Supreme Court case

4. The methodology for calculating damages for mixed injuries, which represent around two-thirds of claims, was the subject of a test case in 2022, which led to the Court of Appeal’s judgment on 20 January 2023 in the case of *Yoann Samuel Rabot v Charlotte Victoria Hassam and Matthew David Briggs v Boluwatife Laditan (Hassam and Briggs)*.³ The question considered by the Court was:

[H]ow is the court to assess damages for pain, suffering and loss of amenity (“PSLA”) where the claimant suffers a whiplash injury which comes within the scope of the 2018 Act and attracts a tariff award stipulated by the Whiplash Injury Regulations 2021 (“the Regulations”), but also suffers additional injury which falls outside the scope of the 2018 Act and does not attract a tariff award?

² The Whiplash Injury Regulations 2021 [No.642](#)

³ [Neutral Citation Number: \[2023\] EWCA Civ 19](#)

5. In March 2023, the Supreme Court received a permission to appeal application in the case of *Hassam v Rabot*, and in June the Court granted leave to appeal. The hearing is likely to take place in early 2024.

6. The effect of the current Supreme Court case is that the sub judice resolution of the House of Commons is engaged.⁴ The resolution codifies the established principle that both Houses abstain from discussing the merits of cases that are subject to live court proceedings. The purpose of the resolution is to ensure the rights of parties in legal proceedings are not prejudiced by discussion of their case in Parliament, and to maintain the principle of comity—that Parliament should not trespass on the court’s jurisdiction. The 1999 Joint Committee on Parliamentary Privilege explained it in the following terms:

It is important that a debate, a committee hearing, or any other parliamentary proceeding should not prejudice a fair trial, especially a criminal trial. But it is not only a question of prejudicing a fair trial. Parliament is in a particularly authoritative position and its proceedings attract much publicity. The proper relationship between Parliament and the courts requires that the courts should be left to get on with their work. No matter how great the pressure at times from interest groups or constituents, Parliament should not permit itself to appear as an alternative forum for canvassing the rights and wrongs of issues being considered by the judicial arm of the state on evidence yet to be presented and tested.

7. **Given that some of the witnesses the Committee would have intended to call to give oral evidence are parties to the case of *Hassam v Rabot* to be heard by the Supreme Court in early 2024, and the centrality of the treatment of mixed injury claims in assessing the overall implementation of the whiplash reform programme, the Committee has decided to pause its inquiry until the Supreme Court has ruled on the case. In the interim, we nevertheless wish to raise some concerns in relation to the operation of the OIC service to date, which were highlighted in the written evidence we received, and which we have set out in the remainder of this Report. We have also published the written evidence to the inquiry. We note that these are Parliamentary Proceedings, and that just as we are pausing our inquiry in respect to the Supreme Court, parties to the case should bear in mind that Article IX of the Bill of Rights 1689 applies to the Committee’s proceedings and so not make reference to this evidence in the ongoing case.**

The Official Injury Claim portal

8. The Official Injury Claim (OIC) portal is a free and independent online service operated by the Motor Insurers’ Bureau (MIB) on behalf of the MoJ. It has been designed to support individuals who have suffered minor injuries arising from an RTA to claim compensation, without the need for legal help. Examples of minor injuries include soft tissue injuries (whiplash), bruising and minor fractures. The portal allows claimants to raise and settle their own personal injury (PI) claims without the need to take court action. A maximum injury value of £5,000 may be claimed for using OIC, and the total value of the claim must not exceed £10,000 (when including additional expenses such as loss of earnings).

4 House of Commons Standing Orders (Public Business), [Appendix](#)

9. Claims data produced by the MoJ up until 30 June 2023 showed that, since its launch in May 2021, 568,214 claims had been submitted via the portal. Of these, 56,064 (10%) claims were brought by unrepresented claimants, whilst 514,150 (90%) of claimants had legal representation. 130,048 claims have been settled since the launch of the service. In addition, there is a cohort of claims which have settled but not yet fully progressed through the portal. These are referred to as ‘open’ settlements, where users have not yet completed the portal journey by confirming the claim is complete. There are currently 16,578 open settlements in the system.⁵

10. 72,141 claims have exited the portal for a reason other than settlement since its launch.⁶ Claims can exit the portal for a number of reasons, including being removed (when they have been taken out of the service by the compensator) due to the compensator believing the overall claim is more than £10,000, because the PI claim is over £5,000, because of complex issues of fact or law, because a formal allegation of fraud has been made, because there remains a dispute relating to causation, or because an agreement has been reached outside of the service. Other reasons for claims exiting the portal include claims being withdrawn, liability being rejected, or claims going to court.

11. The latest OIC claims data for the period 1 April to 30 June 2023 provided a breakdown of claims submitted. A total of 66,741 claims were submitted via the portal, of which, 59,154 (88.6%) claims had legal representation, whilst 7,587 (11.4%) were unrepresented claims. Of the represented claims, 75.7% were brought by a UK law firm, 24% by Alternative Business Structures (regulated legal services businesses owned by non-lawyers) and 0.3% by claims management companies and ‘other’. 26,997 claims were settled during this period.⁷

12. The table below shows the number of claims submitted, the number of claims settled, and the average number of days taken to reach settlement, per reporting period, since the launch of the OIC service:

Period	No of claims submitted via OIC	No of claim settlements recorded (can refer to claims submitted in previous periods)	Percentage of claims which involve ‘mixed injuries’	Average number of days from claim to settlement
31 May-31 August 2021	45,718	436	61%	45.2
1 September-3 November 2021	68,359	3,468	65%	83
1 December 2021–31 March 2022	95,266	13,843	64%	139
1 April-30 June 2022	70,718	16,994	66.7%	175
1 July-30 September 2022	71,191	19,921	67.3%	208
1 October-31 December 2022	73,385	22,630	67.8%	227

5 OIC Claims Data: [1 April-30 June 2023](#)

6 OIC Claims Data: [1 April-30 June 2023](#)

7 OIC Claims Data: [1 April-30 June 2023](#)

Period	No of claims submitted via OIC	No of claim settlements recorded (can refer to claims submitted in previous periods)	Percentage of claims which involve 'mixed injuries'	Average number of days from claim to settlement
1 January-31 March 2023	76,590	26,578	66.3%	238
1 April-30 June 2023	66,741	26,997	67.1%	251

Source: Data extracted from OIC Claims Data quarterly reporting period statistics: 31 May 2021–30 June 2023

Use of the OIC portal by litigants in person

13. In its written evidence the MoJ said “OIC is an accessible and easy to use system for everyone—with or without a lawyer—which reflects the Government’s commitment to access to justice for all”.⁸ Prior to the whiplash reforms, less than 1% of claimants did not have legal representation. The Government’s impact assessment for the Civil Liability Act 2018, based on consultation with the industry, estimated that this could increase to 30% post-implementation. However, as noted above, the overwhelming majority of claimants using the OIC portal continue to do so with professional representation—approximately 90%. Indeed, Carpenters Group, providers of insurance and legal services in the UK, told us the true litigant in person (LiP) figure was likely to be actually closer to 3% because the MoJ’s figures included claimants who were assisted in using the OIC portal by the at-fault insurer, and therefore were not truly acting as a LiP.⁹ This view was also supported in the written evidence we received from DWF Law LLP.¹⁰

14. Several submissions highlighted the low proportion of unrepresented claimants using the OIC portal to date as reflecting both the complexity of the process for claimants attempting to navigate it by themselves and a lack of awareness of the new process.¹¹ Thompsons Solicitors, the largest trade union and personal injury law firm in the UK, stated:

Access is being denied to tens of thousands of injured people with legitimate claims due to an understandable lack of knowledge, experience, technical ability or time to enable them to bring a claim themselves without representation. The fact that more than 90% of OIC claimants are represented demonstrates that the new system, which was supposed to be used by unrepresented claimants, has failed.¹²

15. The Association of Consumer Support Organisations (ACSO), whose members support consumers making personal injury claims, told us:

8 Ministry of Justice ([WHI0008](#))

9 Carpenters Group ([WHI0019](#))

10 DWF Law LLP ([WHI0031](#))

11 See for example, The Law Society of England and Wales ([WHI0006](#)); DAC Beachcroft Claims Ltd ([WHI0007](#)); Zurich Insurance Company UK ([WHI0009](#)); Allianz ([WHI0012](#)); NFU Mutual Insurance Society Limited ([WHI0015](#)); Personal Injury Bar Association (PIBA) ([WHI0016](#)); Association of His Majesty’s District Judges ([WHI0017](#)); UNISON ([WHI0018](#)); Express Solicitors ([WHI0024](#)); DWF Law LLP ([WHI0031](#)); Dr David Pearce (Independent Medical Expert at Park Square Experts Limited) ([WHI0028](#))

12 Thompsons Solicitors ([WHI0026](#))

The proportion of LiPs appears to have stabilised at just below 10%, although many of these may be being assisted in the background by the compensating insurer, potentially exposing them to partial advice. Given the OIC was designed to be used by LiPs and to remove the need for lawyers, this is a policy failure.¹³

Elsewhere, the Motor Accident Solicitors Society (MASS) told us:

Since day one it was argued that RTA claims are simple and straightforward, and that lawyers were simply an unnecessary cost in most cases. The reality is that even low-value claims often involve a degree of complex legal arguments and medical uncertainties. We believe that a significant reason why 90+% of claimants continue to use legal representation is at least partly down to the complexity of the system.¹⁴

16. To support claimants using the OIC, a ‘help hub’ has been created on the MoJ website which includes a 64-page guide entitled ‘Guide to making a claim’. In its written submission, the Law Society of England and Wales told us:

By their nature, personal injury claims and the complexity in attempting to value them has led to most claimants having to seek representation. The 64-page guidance document that accompanied the roll out of the portal shows the level of knowledge that is needed to make a claim. Coupled with that fact that an unrepresented party is suffering a (likely painful) injury while attempting to seek redress, makes it unsurprising that expertise is being sought, even if it means a claimant being out of pocket as a result of that.¹⁵

17. In addition to the guide, the MoJ has provided a staffed helpline which can provide users of the portal with help on using the system and progressing claims. Between 1 April and 30 June 2023, the Portal Support Centre received 5,467 calls. Of these, 819 were from professional users and 4,648 were from unrepresented claimants.¹⁶ In its written submission, the Association of Personal Injury Lawyers (APIL) estimated that between May 2021 and the end of 2022 for every ten unrepresented claimants, more than six calls were being made for support. The Association told us “A service which is supposed to be easy to use should surely not generate so many calls for help”.¹⁷

18. In addition to the complexity of the claims process, many of the submissions we received suggested that the low public profile of OIC could be a reason for the small proportion of unrepresented claimants using the portal.¹⁸ For example, Zurich Insurance Company UK told us:

13 The Association of Consumer Support Organisations (ACSO) ([WHI0011](#))

14 Motor Accident Solicitors Society ([WHI0023](#))

15 The Law Society of England and Wales ([WHI0006](#))

16 OIC Claims Data: [1 April-30 June 2023](#)

17 Association of Personal Injury Lawyers (APIL) ([WHI0010](#))

18 See for example, DWF Law LLP ([WHI0031](#)); The Association of Consumer Support Organisations (ACSO) ([WHI0011](#)); Motor Accident Solicitors Society ([WHI0023](#))

The general lack of public awareness remains a key factor. Promotional and educational campaigning of the process has been minimal since the reforms went live on 31st May 2021 and could be improved and issued at frequent intervals to raise awareness and improve public understanding.¹⁹

19. In addition to this, some submissions suggested that information about OIC could be improved if results via internet searches were made more visible.²⁰ Zurich also told us:

Simple Google searches relating to making a whiplash claim routinely result in various legal firms' offerings appearing in the top listings with users having to scroll down the listings before the Official Injury Claim details are visible. Improving visibility of the OIC on online search engines could prove beneficial.²¹

20. Allianz, one of the UK's largest general insurers, said that, due to a lack of publicity, people were unaware of the OIC's existence. It also expressed concern about the existence of a number of fake websites which appeared when using a search engine to look for the portal. Allianz said such websites could lead claimants to unnecessarily access misleading services and that this might erode trust in the online portal itself.²² Research conducted by the Motor Insurers' Bureau found that 59% of users found their way to the OIC service through their insurance company, 12% did so through Internet search, 10% via a solicitor/law firm, 6% through a claims management company, and 13% through other routes.²³

21. The MoJ told us:

We know that several stakeholders feel that there should have been a national awareness campaign to advertise the launch of OIC. However, the Government made a deliberate decision not to spend public money on a short-lived marketing campaign that would have been irrelevant to much of the public; OIC is not a service an individual will need to use regularly.²⁴

In their written evidence, the MoJ also told us that "increasing the number or proportion of unrepresented claimants has never been an aim of the reforms or of the OIC". The Department added:

The proportion of claimants who are unrepresented is not on its own a measure of access to justice or the usability of the OIC, but outcomes are. OIC data shows that unrepresented claimants are settling their claims for similar amounts to represented claimants, and more quickly.²⁵

22. The OIC portal has been designed to support people who have suffered injuries from road traffic accidents to make a claim for compensation without the need for legal help. Initial estimates had suggested 30% of users would not have legal representation, yet this is currently the case for less than 10% of users, and even this figure is disputed

19 Zurich Insurance Company UK ([WHI0009](#))

20 See for example, Association of Personal Injury Lawyers (APIL) ([WHI0010](#)); FOIL, The Forum of Insurance Lawyers ([WHI0021](#)); Sabre Insurance Company Limited ([WHI0002](#))

21 Zurich Insurance Company UK ([WHI0009](#))

22 Allianz ([WHI0012](#))

23 Motor Insurers' Bureau ([WHI0014](#))

24 Ministry of Justice ([WHI0008](#))

25 Ministry of Justice ([WHI0008](#))

by some who suggest it is likely to be lower still. This is largely because of a lack both of awareness around the existence of the OIC and of confidence in navigating a potentially complex system.

23. Whilst we accept that the majority of OIC users will continue to use legal representation, it is not clear to what extent a lack of awareness of the portal is responsible for the low number of unrepresented claims. Accordingly, we recommend that the MoJ and Motor Insurers' Bureau conduct research to better understand this, and whether steps to improve awareness of the OIC portal and user-confidence in the system would encourage more litigants in person.

Technical issues for professional users

24. Several of the submissions we received expressed concern about the lack of system integration between the OIC portal, and existing case management systems used by legal professionals.²⁶ For example, the Association of Personal Injury Lawyers (APIL) raised concern about the technical problems its members experienced when supporting claimants with the OIC process:

It was the Government's assumption that the portal would be used mainly by unrepresented claimants but, as the committee notes in its call for evidence, most claims are made by professional users. This lack of foresight meant that not enough work took place to ensure the OIC portal would integrate smoothly with the case management systems of different law firms. Without this integration, information about a claim must be entered separately into two systems. This increases the workload, which is neither efficient nor cost effective.²⁷

25. The Association told us its members "had experienced technological problems at every stage of the claims process".²⁸ These included claims forms being rejected due to claimants' National Insurance numbers having a space wrongly entered, the uploading of documents failing randomly, messages being sent but not received, settlement offers not being received by claimants, and offer amounts being received which were different from what was intended by the insurer. APIL cautioned that unless the technical problems experienced by their members and other users were fixed, the average time it took for claims to be settled would become longer, especially as new claims entered the portal. The written evidence from Winn Solicitors Ltd concurred:

The OIC Portal is a system built for 9% of its users, that does not cater for large professional organisations and seemingly refuses to adapt to its now apparent user base. It does not interact with case management systems which results in duplication, double recording, or keying of information by users and time spent finding information on multiple screens or systems.²⁹

26 See for example, The Association of Consumer Support Organisations (ACSO) ([WHI0011](#)); FOIL, The Forum of Insurance Lawyers ([WHI0021](#)); Motor Accident Solicitors Society ([WHI0023](#)); DAC Beachcroft Claims Ltd ([WHI0007](#));

27 Association of Personal Injury Lawyers (APIL) ([WHI0010](#))

28 Ibid.

29 Winn Solicitors Ltd ([WHI0013](#))

26. Winn Solicitors Ltd noted that since the launch of OIC, “claims handling had become a demonstrably worse and less efficient experience for the professional user base”.³⁰ They contrasted the performance of the portal with the pre-existing Claims Portal, which had been built for professional users and which efficiently handled cases, allowing interaction between case management systems. The Claims Portal allows professional users to set up an application to application (A2A) connection to the Portal, which means that users can work on claims in the Portal directly from their internal case management systems. Most volume users, both on the claimant and the compensator side, connect to the Portal via A2A, and over 80% of Portal use is via A2A. Claims Portal Limited told us:

The main distinction between the Claims Portal and the OIC portal is that the Claims Portal was designed to be used by professional users whereas the OIC was designed to be used by unrepresented claimants. That presents challenges for the development of A2A (application to application) functionality and has resulted in many of the business users accustomed to running claims, at the processing level, smoothly and easily via A2A in the Claims Portal, having to handle some or all stages of the claim manually on the OIC web portal rather than via A2A. Users also face the challenge of having to develop and maintain a connection to two portals for low value RTA claims.³¹

27. In its written evidence, Unison told us the OIC technology did not assist “when the matter is anything other than straightforward”.³² They provided examples of where a case had to move to the Claims Portal, or if a LiP dropped out to seek legal assistance (which they indicated happened in a large number of cases), then the case was re-allocated within the OIC portal forcing the claimant to essentially begin again, and re-log all of the information previously provided.

28. Robert James Solicitors provided an example of a LiP who decided they were not satisfied with the offer they received and wanted to issue court proceedings. Being intimidated by this process, the LiP decided to instruct solicitors to support them. Robert James Solicitors said:

There is no way for a LiP to transfer their OIC claim to their solicitor. A legal representative would have to resubmit the claim on the OIC Portal, leading to further delays of at least 50 days and significantly delays settlement of the claim. There is nothing to stop compensators from denying liability once the claim is re-submitted to them by the claimant’s legal representatives. The solution to this would be to include a button on the OIC Portal to transfer the claim from a LIP OIC Portal to their legal representative.³³

29. In its written evidence, the MoJ acknowledged that some high-volume professional users had experienced technical problems with the application programming interface (API) connection. It said, “there is always going to be some technical issues when a digital system is launched, for example CPL (Claims Portal Ltd) encountered significant issues when launched in 2010 which have been rectified over time”.³⁴ The MoJ added that it had

30 Winn Solicitors Ltd ([WHI0013](#))

31 Claims Portal Limited ([WHI0004](#))

32 UNISON ([WHI0018](#))

33 Robert James Solicitors ([WHI0032](#))

34 Ministry of Justice ([WHI0008](#))

full confidence in the mechanisms that the Motor Insurers' Bureau (MIB) had in place to identify, investigate and resolve technical issues. The MIB told us that following the launch of the OIC portal in 2021, a series of customer and stakeholder feedback initiatives had ensured the service's performance could be tracked and that it continued to seek regular feedback from users.³⁵

30. In their written submission, the Law Society of England and Wales said:

The OIC will inevitably be viewed as a model on which to base future digital justice reforms. The main takeaway from its rollout is that the end user should always be included in the development of a portal or online process from the very earliest stage, including in the development of legislative reform, not just technological reform.³⁶

31. The Society added that a more holistic approach should be taken with civil justice reforms, to ensure that various technologies worked in conjunction with existing platforms. They expressed the view that portals, such as the OIC, should be integrated into court processes so that “efficiencies can be maximised as much as possible, and updates made seamlessly”. One example they noted was application programming interfaces (APIs) that had not been built into the OIC from the beginning. They provided the example that:

Claims that are unable to be resolved in the OIC and require transfer to either the existing MoJ Claims Portal, or the courts, have needed rekeying of data entry, which not only has risks relating to duplication, but also is highly inefficient.³⁷

32. The OIC portal was designed with unrepresented claimants and users in mind, whereas as we have already noted the vast majority of the portal's actual users are legal professionals. We are concerned to hear that a number of professional users of the OIC service continue to experience problems with the portal failing to adequately interface and integrate with other systems. We are also concerned to hear about the problems some professional users face when having to copy information between systems, leading to inefficiencies and potential delays in claims being settled and injured people receiving their compensation.

33. We appreciate that it takes time for new systems to 'bed in' and we are encouraged that the MIB continues to request and collate feedback from both direct and professional users of the OIC and that it is committed to finding resolutions to problems as they arise. However, it is vital that any technological problems which professional users of the OIC face that affect efficiency, accuracy or timeliness are resolved as a matter of urgency. In its response to this Report, the MoJ should set out what steps it is taking in conjunction with the MIB to address these concerns, and when it expects them to be resolved.

Unresolved cases and timeliness

34. As noted above, the latest quarterly monitoring data for OIC up to 30 June 2023 showed that 568,214 claims had been submitted since its launch, and only 146,626 had reached settlement to date—just over a quarter. In addition, 72,141 claims had exited the

35 Motor Insurers' Bureau ([WHI0014](#))

36 The Law Society of England and Wales ([WHI0006](#))

37 The Law Society of England and Wales ([WHI0006](#))

portal for a reason other than settlement, of which 8,023 had gone to court. This means that approximately 349,000 cases remained in the portal pending a resolution—up from just under 212,000 at the same point in 2022.

35. For those claims that do reach settlement, the latest monitoring data shows that in the quarter to 30 June 2023 it took an average of 251 days for a claim to reach settlement—up from 238 days in the previous quarter, and 227 days before that. A determinant in the time taken to reach settlement is the fact that claimants may choose to wait out their prognosis if they believe their injuries will last longer than the medical provider has predicted and wish to prove this to receive a higher offer. The MoJ told us the average time for a claim to reach settlement was likely to continue to rise. It explained:

The average settlement time remains variable because claims with longer prognoses have started to settle. No claim on OIC is older than May 2021; the average time started low as short prognosis claims quickly settled and will increase as longer prognoses push up the average. We don't expect timeliness data to settle until OIC has been live for 3 years, the limitation period for these claims. Only then can we have a true picture of whether timeliness has improved.³⁸

36. In its written submission DAC Beachcroft Claims Ltd, who provide claims handling services to insurers in England and Wales, stated that insurers have reported that in represented cases there is often a significant delay in the medical report being uploaded to the system, adding “it is not clear why this is”.³⁹ They added that there was no suggestion that it is taking longer for medical experts to provide reports. Written evidence from Allianz, the Association of British Insurers and Keoghs LLP also referred to delays in medical reports being submitted in to the OIC portal in cases where claimants were professionally represented.⁴⁰ They highlighted the marked difference in the settlement times between represented and unrepresented claimants. In June 2023, represented claims took an average of 277 days to settle and unrepresented claims took 121 days.

37. In their written evidence, MASS said the settlement of cases was taking “considerably longer” than under the previous claims process and delays in settlement had steadily increased, likely due to the technical issues outlined in the previous section.⁴¹ They also acknowledged the disparity in the average number of days to settle a claim between unrepresented and represented claims. On this, Carpenters Group noted:

The OIC Portal was developed with LiP's in mind and whilst their user experience has been poor, professional users have faced almost 2 years of bugs, fixes and delays in roll out and faced delays not faced by LiP's.⁴²

38. Carpenters also told us litigants in person were “known to settle cheaply to avoid delay, particularly when in the midst of a cost of living crisis”.⁴³

38 Ministry of Justice ([WHI0008](#))

39 DAC Beachcroft Claims Ltd ([WHI0007](#))

40 Allianz ([WHI0012](#)); Association of British Insurers ([WHI0030](#)); Keoghs LLP ([WHI0033](#))

41 Motor Accident Solicitors Society ([WHI0023](#))

42 Carpenters Group ([WHI0019](#))

43 Carpenters Group ([WHI0019](#))

39. We are concerned by the growing number of unresolved cases in the OIC portal, which now stands at 349,000. For the minority of cases that have reached a settlement to date, the average time taken to do so is 251 days and is predicted to increase further as more complex cases, which have taken longer to reach conclusion, begin to settle.

40. *One of the objectives of the OIC portal was to simplify and speed up the process of making a claim for whiplash injuries. Whilst we acknowledge that the nature of the claims process is such that there will always be a stock of cases in the portal at different stages in the claims lifecycle, and that some will take longer to reach a resolution than others, we recommend the MoJ investigates further the reasons for the growing number of unresolved cases and the deterioration in the timeliness of reaching settlement, and publishes its findings by the end of the year. This should include an analysis of all stages of the claims lifecycle, including those aspects which defendants are responsible for progressing, those which claimants are responsible for progressing, and those where improvements to the OIC portal itself could raise performance. It should also include an analysis of timeliness in comparison to how equivalent cases previously progressed in the MoJ's Claims Portal, and of the apparent disparity in settlement times between represented and unrepresented claims.*

The cost of motor insurance

41. The Government had estimated that the savings made by insurance companies under the whiplash reforms, would lead to a reduction in motor insurance premiums by approximately £35 per policy. However, the majority of the evidence submissions we received noted that motor insurance premiums have continued to rise. This is despite there having been a reduction in the number of minor personal injury claims being submitted since the implementation of the reform programme.⁴⁴

42. In their written evidence, MASS told us “there is no evidence that the savings from the reforms are being passed to motorists and the reality is that few have ever believed that consumers will see any of the £1.1 billion of anticipated savings”.⁴⁵ Elsewhere, APIL told us that the price of motor vehicle insurance had gone up by 28% since the reforms were introduced, despite there being a 20% reduction in the number of motor injury claims registered with the Government’s Compensation Recovery Unit (CRU) in 2021. The Association said: “Insurance companies have enjoyed healthy financial savings at the expense of injured people and the wider British public who pay for car insurance”.⁴⁶

43. Zurich insurance company noted that its data showed a 30% reduction in the volume of minor personal injury claims received since the introduction of the reform programme but urged that “it is important to consider such facts in context to significant wider factors that have occurred in the UK during this period and continue to influence driver behaviour, car usage and accident rates”.⁴⁷ They added:

44 See for example, The Law Society of England and Wales ([WHI0006](#)); Winn Solicitors Ltd ([WHI0013](#)); Personal Injury Bar Association (PIBA) ([WHI0016](#)); Thompsons Solicitors ([WHI0026](#)); Association of Medical Reporting Organisations ([WHI0027](#)); Robert James Solicitors ([WHI0032](#))

45 Motor Accident Solicitors Society ([WHI0023](#))

46 Association of Personal Injury Lawyers (APIL) ([WHI0010](#))

47 Zurich Insurance Company UK ([WHI0009](#))

It must be recognised however that the rate of inflationary increases seen in motor damage have eroded overall benefits. It is fair to say that the reforms have helped create an offset which means premiums aren't as high as they would have been without the reforms.⁴⁸

44. Allianz concurred that the reform programme had reduced the frequency of minor PI claims but added that the factors behind the reduction were varied. They told us:

Whilst the Department for Work and Pensions figures show a 41% reduction in personal injury claims our own data (supported by industry experience) shows that 32% is as a result of a reduction in third party claims overall, driven by the Covid-19 pandemic when fewer people were driving and the subsequent changed driving behaviours. Overall, our own data for Personal Lines demonstrates that the reforms have resulted in a 12.6% reduction in the number of whiplash claims.⁴⁹

45. Allianz added that whilst it was committed to passing on any savings which have resulted from the implementation of the reform programme, it has been “very difficult” to gauge what the actual savings were and therefore to determine how much to pass on to policyholders.⁵⁰

46. In its submission DAC Beachcroft Claims Ltd told us that current premium levels could not be compared to those pre-reform without understanding the “complex set of moving factors” in the market.⁵¹ The firm said external factors such as inflation, supply chain issues caused by the pandemic and exacerbated by the war in Ukraine, and the value of used cars had placed pressure on insurance premiums to rise.

47. The ABI agreed that many factors impact on the cost of motor insurance premiums. They acknowledged that motor premiums were rising but stated that in their assessment, the reform programme had meant lower premiums than would have otherwise been the case. The Association provided examples of external factors which had impacted on insurance premiums and were outside of insurers’ direct control, including rising inflation, the increasing cost of care in relation to high value and catastrophic claims, the pandemic and Russia’s invasion of Ukraine.⁵²

48. In its evidence, the MoJ urged caution against attempting to form conclusions about the success of the reform programme at this stage and against attempting to compare current premiums with those pre-reform. They told us that “it is still too early to properly evaluate the reforms, even without past and prevailing complicating factors such as COVID-19 and inflation”.⁵³ The MoJ also acknowledged that there has been an increase in the average price for comprehensive motor insurance since 2021, which they stated has been driven by global supply chain issues and inflation. The Civil Liability Act 2018 requires HM Treasury to lay a report in Parliament during the 2024–25 financial year, assessing the effects of the Act on policyholders. This will be based on information which

48 Zurich Insurance Company UK ([WHI0009](#))

49 Allianz ([WHI0012](#))

50 Allianz ([WHI0012](#))

51 DAC Beachcroft Claims Ltd ([WHI0007](#))

52 Association of British Insurers ([WHI0030](#))

53 Ministry of Justice ([WHI0008](#))

insurers must have provided to the Financial Conduct Authority by 1 October 2023. The MoJ told us this meant “It would be premature to try to draw any conclusions about the impact of the reforms on premiums before this statutory exercise is completed”.⁵⁴

49. **The Government estimated that the whiplash reform programme would remove more than £1.2 billion from the cost of providing motor insurance, and that these savings would be passed on to policyholders through lower premiums. However, whilst the total number of minor personal injury claims has reduced in the last two years, the cost of motor insurance has continued to rise, with insurers citing cost of living pressures, the effects of the pandemic, the war in Ukraine and the increasing cost of care in relation to high value and catastrophic claims. It is, therefore, difficult to determine the extent to which these upward pressures have been offset by any savings arising from the whiplash reform programme.**

50. **We note the requirement in the Civil Liability Act 2018 for HM Treasury to report to Parliament in the 2024–25 financial year on the extent to which savings have been passed on to policyholders. Whilst we acknowledge that many factors may impact on the cost of motor insurance premiums, it is vital that the direct effect of the whiplash reforms is properly assessed. *We recommend that the Government ensures this process is as transparent as possible, including publication of the submissions made by insurers. Given the whiplash reforms are still bedding in, and the large number of cases still awaiting settlement, we further recommend that the Government conduct a follow-up assessment one year after the publication of its planned review.***

Conclusions and recommendations

Current Supreme Court case

1. Given that some of the witnesses the Committee would have intended to call to give oral evidence are parties to the case of *Hassam v Rabot* to be heard by the Supreme Court in early 2024, and the centrality of the treatment of mixed injury claims in assessing the overall implementation of the whiplash reform programme, the Committee has decided to pause its inquiry until the Supreme Court has ruled on the case. In the interim, we nevertheless wish to raise some concerns in relation to the operation of the OIC service to date, which were highlighted in the written evidence we received, and which we have set out in the remainder of this Report. We have also published the written evidence to the inquiry. We note that these are Parliamentary Proceedings, and that just as we are pausing our inquiry in respect to the Supreme Court, parties to the case should bear in mind that Article IX of the Bill of Rights 1689 applies to the Committee's proceedings and so not make reference to this evidence in the ongoing case. (Paragraph 7)

Use of the OIC portal by litigants in person

2. The OIC portal has been designed to support people who have suffered injuries from road traffic accidents to make a claim for compensation without the need for legal help. Initial estimates had suggested 30% of users would not have legal representation, yet this is currently the case for less than 10% of users, and even this figure is disputed by some who suggest it is likely to be lower still. This is largely because of a lack both of awareness around the existence of the OIC and of confidence in navigating a potentially complex system. (Paragraph 22)
3. *Whilst we accept that the majority of OIC users will continue to use legal representation, it is not clear to what extent a lack of awareness of the portal is responsible for the low number of unrepresented claims. Accordingly, we recommend that the MoJ and Motor Insurers' Bureau conduct research to better understand this, and whether steps to improve awareness of the OIC portal and user-confidence in the system would encourage more litigants in person.* (Paragraph 23)

Technical issues for professional users

4. The OIC portal was designed with unrepresented claimants and users in mind, whereas as we have already noted the vast majority of the portal's actual users are legal professionals. We are concerned to hear that a number of professional users of the OIC service continue to experience problems with the portal failing to adequately interface and integrate with other systems. We are also concerned to hear about the problems some professional users face when having to copy information between systems, leading to inefficiencies and potential delays in claims being settled and injured people receiving their compensation. (Paragraph 32)
5. *We appreciate that it takes time for new systems to 'bed in' and we are encouraged that the MIB continues to request and collate feedback from both direct and professional users of the OIC and that it is committed to finding resolutions to problems as they*

arise. However, it is vital that any technological problems which professional users of the OIC face that affect efficiency, accuracy or timeliness are resolved as a matter of urgency. In its response to this Report, the MoJ should set out what steps it is taking in conjunction with the MIB to address these concerns, and when it expects them to be resolved. (Paragraph 33)

Unresolved cases and timeliness

6. We are concerned by the growing number of unresolved cases in the OIC portal, which now stands at 349,000. For the minority of cases that have reached a settlement to date, the average time taken to do so is 251 days and is predicted to increase further as more complex cases, which have taken longer to reach conclusion, begin to settle. (Paragraph 39)
7. *One of the objectives of the OIC portal was to simplify and speed up the process of making a claim for whiplash injuries. Whilst we acknowledge that the nature of the claims process is such that there will always be a stock of cases in the portal at different stages in the claims lifecycle, and that some will take longer to reach a resolution than others, we recommend the MoJ investigate further the reasons for the growing number of unresolved cases and the deterioration in the timeliness of reaching settlement, and publishes its findings by the end of the year. This should include an analysis of all stages of the claims lifecycle, including those aspects which defendants are responsible for progressing, those which claimants are responsible for progressing, and those where improvements to the OIC portal itself could raise performance. It should also include an analysis of timeliness in comparison to how equivalent cases previously progressed in the MoJ's Claims Portal, and of the apparent disparity in settlement times between represented and unrepresented claims. (Paragraph 40)*

The cost of motor insurance

8. The Government estimated that the whiplash reform programme would remove more than £1.2 billion from the cost of providing motor insurance, and that these savings would be passed on to policyholders through lower premiums. However, whilst the total number of minor personal injury claims has reduced in the last two years, the cost of motor insurance has continued to rise, with insurers citing cost of living pressures, the effects of the pandemic, the war in Ukraine and the increasing cost of care in relation to high value and catastrophic claims. It is, therefore, difficult to determine the extent to which these upward pressures have been offset by any savings arising from the whiplash reform programme. (Paragraph 49)
9. We note the requirement in the Civil Liability Act 2018 for HM Treasury to report to Parliament in the 2024–25 financial year on the extent to which savings have been passed on to policyholders. Whilst we acknowledge that many factors may impact on the cost of motor insurance premiums, it is vital that the direct effect of the whiplash reforms is properly assessed. *We recommend that the Government ensures this process is as transparent as possible, including publication of the submissions made by insurers. Given the whiplash reforms are still bedding in, and the large number of cases still awaiting settlement, we further recommend that the Government conduct a follow-up assessment one year after the publication of its planned review. (Paragraph 50)*

Formal minutes

Tuesday 12 September 2023

Members present

Sir Robert Neill, in the Chair

Tahir Ali

James Daly

Edward Timpson

Whiplash reform and the Official Injury Claim Service

Draft Report (*Whiplash reform and the Official Injury Claim Service*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 50 read and agreed to.

Summary agreed to

Resolved, That the Report be the Ninth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoes copies of the Report be made available (Standing Order no.134).

Adjournment

Adjourned till Tuesday 17 October 2023 at 2.00 pm.

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Women in Prison	HC 265
2nd	Pre-legislative scrutiny of the draft Victims Bill	HC 304
3rd	IPP sentences	HC 266
4th	Fraud and the Justice System	HC 12
5th	Open justice: court reporting in the digital age	HC 339
6th	Appointment of the Chair of the Judicial Appointments Commission	HC 925
7th	The role of adult custodial remand in the criminal justice system	HC 264
8th	Appointment of the Prisons and Probation Ombudsman	HC 926
1st Special	Court capacity: Government Response to the Committee's Sixth Report of Session 2021–22	HC 548
2nd Special	Covid-19 and the criminal law: Government Response to the Committee's Fourth Report of Session 2021–22	HC 644
3rd Special	The Future of Legal Aid: Updated Government Response to the Committee's Third Report of Session 2021–22	HC 698
4th Special	Women in Prison: Government Response to the Committee's First Report	HC 802
5th Special	Bailiffs: Enforcement of debt: Government Response to the Committee's Seventeenth Report of Session 2017–2019	HC 979
6th Special	Fraud and the Justice System: Government Response to the Committee's Fourth Report of Session 2022–23	HC 1020
7th Special	Open justice: court reporting in the digital age: Government Response to the Committee's Fifth Report of Session 2022–23	HC 1040
8th Special	Pre-legislative scrutiny of the draft Victims Bill: Government Response to the Committee's Second Report	HC 932
9th Special	IPP sentences: Government and Parole Board Responses to the Committee's Third Report	HC 933
10th Special	The role of adult custodial remand in the criminal justice system: Government Response to the Committee's Seventh Report	HC 1244

Session 2021–22

Number	Title	Reference
1st	The Coroner Service	HC 68
2nd	Rainsbrook Secure Training Centre	HC 247
3rd	The Future of Legal Aid	HC 70
4th	Covid-19 and the criminal law	HC 71
5th	Mental health in prison	HC 72
6th	Court capacity	HC 69
1st Special	The future of the Probation Service: Government Response to the Committee's 18th Report of 2019–21	HC 475
2nd Special	Rainsbrook Secure Training Centre: Government Response to the Committee's Second Report of 2021–22	HC 565
3rd Special	The Coroner Service: Government Response to the Committee's First Report	HC 675
4th Special	The Future of Legal Aid: Government Response to the Committee's Third Report	HC 843
5th Special	Mental health in prison: Government Response to the Committee's Fifth Report	HC 1117

Session 2019–21

Number	Title	Reference
1st	Appointment of Chair of the Office for Legal Complaints	HC 224
2nd	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
3rd	Coronavirus (COVID-19): The impact on probation services	HC 461
4th	Coronavirus (Covid-19): The impact on prisons	HC 299
5th	Ageing prison population	HC 304
6th	Coronavirus (COVID-19): The impact on courts	HC 519
7th	Coronavirus (COVID-19): the impact on the legal professions in England and Wales	HC 520
8th	Appointment of HM Chief Inspector of Prisons	HC 750
9th	Private prosecutions: safeguards	HC 497
10th	Sentencing Council consultation on sentencing guidelines for firearms offences	HC 827
11th	Sentencing Council consultation on the assault offences guideline	HC 921
12th	Children and Young People in Custody (Part 1): Entry into the youth justice system	HC 306
13th	Sentencing Council: Changes to the drugs offences definitive guideline	HC 751

Number	Title	Reference
14th	Appointment of the Chair of the Independent Monitoring Authority	HC 954
15th	Appointment of the Chief Inspector of the Crown Prosecution Service	HC 955
16th	Children and young people in custody	HC 922
17th	Rainsbrook Secure Training Centre	HC 1266
18th	The future of the Probation Service	HC 285
1st Special	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
2nd Special	Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019	HC 151
3rd Special	Transforming Rehabilitation: Followup: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152
4th Special	Coronavirus (COVID-19): The impact on probation systems: Government Response to the Committee's Third Report	HC 826
5th Special	Coronavirus (Covid 19): The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report	HC 898
6th Special	Ageing prison population: Government Response to the Committee's Fifth Report	HC 976
7th Special	Court and Tribunal reforms: Further Government response to the Committee's Second Report of Session 2019 and Coronavirus (Covid-19): The impact on courts: Government response to the Committee's Sixth Report of Session 2019–21	HC 1008
8th Special	Coronavirus (Covid-19): The impact on prisons: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1065
9th Special	Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee's Twelfth Report of Session 2019–21	HC 1185
10th Special	Private prosecutions: safeguards: Government Response to the Committee's Ninth Report	HC 1238
11th Special	Children and Young People in Custody (Part 2): The Youth Secure Estate and Resettlement: Government Response to the Committee's Sixteenth Report of Session 2019–21	HC 1357