House of Commons

Justice Committee

Whiplash reform and the Official Injury Claim Service: Government Response to the Committee's Ninth Report of Session 2022–23

First Special Report of Session 2023–24

Ordered by the House of Commons to be printed 28 November 2023

HC 317
Published on 29 November 2023
by authority of the House of Commons

Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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First Special Report

The Justice Committee published its Ninth Report of Session 2022–23, Whiplash reform and the Official Injury Claim Service (HC 1140), on 20 September 2023. The Government Response and a covering letter were received on 20 November 2023.

Appendix 1: Letter from Lord Bellamy KC, Parliamentary Under Secretary of State, to Sir Robert Neill MP

The Government welcomes the Justice Committee's report on Whiplash Reform and Official Injury Claim, and we are grateful to those who contributed to this inquiry. We have carefully considered the conclusions and recommendations made by the Committee and have provided our response in a memorandum attached to this letter.

The Government remains committed to reducing costs for ordinary motorists in England and Wales through the Whiplash Reform Programme, whilst also ensuring access to justice for all parties through a more proportionate compensation regime.

The Official Injury Claim (OIC) service was developed to provide a free and accessible service for bringing low-value, Road Traffic Accident (RTA)-related personal injury claims. OIC was implemented to provide greater choice and the 67,000 claimants who have chosen to bring their own claims—compared to virtually none pre-reform—is testament to this greater choice. I am pleased that the web-based service used by these unrepresented claimants has worked consistently well since launch. We are committed to optimising the visibility of OIC, to ensure that claimants can access the service and helpful information when they need it.

I am also pleased that the API-based system, via which many professional users access OIC, is now working well following the resolution of some technical issues. System changes proposed by users are now enhancements, rather than issues which require fixing. We are committed to building a thorough understanding of the flow of claims through OIC and how this might be impacted by factors beyond the technical operation of the service, and I am grateful to Claims Portal, MedCo and the senior judiciary for their continued engagement with officials on this work.

The Committee rightly acknowledges the various factors affecting motor insurance premiums and the difficulty of assessing the impact of the whiplash reforms on savings as a result. The Government agrees that the impact of the whiplash reforms on premiums must be properly addressed, in as transparent a manner as possible. My officials are already engaging with their counterparts in HM Treasury to ensure a robust review of the impact of the reforms on costs for motor insurance policyholders.

I would like to thank you and the Committee, and all those who contributed to the inquiry, for your interest in this important work. The Government will draw on the valuable learning and insights gained through this inquiry as we take whiplash reform work forward.

Kind Regards,
LORD BELLAMY KC

Appendix 2: Government Response

Introduction

The Government's Whiplash Reform Programme was implemented on 31 May 2021 with the intention of reducing the disproportionately high number and cost of whiplash claims in England and Wales. The measures also sought to introduce greater claimant choice in how to proceed with their claim, and to ensure that the compensation paid for whiplash injuries was proportionate to the level of pain and suffering endured.

A new digital service, Official Injury Claim (OIC), was developed on behalf of the Ministry of Justice (MoJ) by the Motor Insurers' Bureau (MIB) to support claimants affected by the implementation of the whiplash reforms. OIC has been operational since 31 May 2021 and it empowers and enables claimants to start, progress and settle their own claim with or without professional representation.

After 31 May 2024, when the reforms and OIC have been in place for three years, MoJ will be undertaking a review of the reform measures. The Government therefore welcomes the Justice Committee's (JC) Ninth Report—*Whiplash reform and the Official Injury Claim Service*[1] which provides helpful insights into areas to consider.

This memorandum provides the Government response to the relevant conclusions and recommendations made by the Committee. Where appropriate we have provided information on next steps and supporting data and evidence drawn from a variety of sources, including data from the Department for Work and Pensions Compensation Recovery Unit (DWP CRU) and Claims Portal Limited (CPL). Additional updated data from the most recent quarterly Official Injury Claim (OIC) data report[2] and Court usage statistics have also been provided where relevant.

The MoJ also submitted detailed written evidence[3] to the initial JC inquiry in February 2023 which provides additional context and explanation to the material provided in this paper.

Executive Summary

OIC was developed to provide an accessible, easy-to-use and free process for bringing RTA-related personal injury claims valued under £5,000. The system is available to both unrepresented claimants and represented claimants (whose claims are progressed by professional users). Use of this portal is mandated by the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents (The RTA Small Claims Protocol).[4]

The OIC service is working well and has grown consistently since its introduction, with over 635,000 claims commenced since 31 May 2021 and £218 million paid out as of 31

1 https://publications.parliament.uk/pa/cm5803/cmselect/cmjust/1140/summary.html
2 https://www.officialinjuryclaim.org.uk/media/1396/oic-july-september-2023-data-publication-final.pdf
3 https://committees.parliament.uk/writtenevidence/119286/html/
4 https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/pre-action-protocol-for-personal-injury-claims-below-the-small-claims-limit-in-road-traffic-accidents-the-rta-small-claims-protocol

October 2023. The OIC system has also provided greater claimant choice in how to take forward a claim and this is demonstrated by the fact that the service has enabled over 67,000 claimants to represent themselves and progress their claims.

In terms of whether claimants are being put off from using OIC or bringing a claim at all, we can look at data provided by the DWP CRU service. Insurers who receive a claim for compensation must notify the DWP CRU within 14 days of their receiving it, so CRU data can provide a good indication of likely claims volume.

Some caution is needed when using DWP CRU figures as they cover RTA claims of all values, not just OIC claims which are valued up to £5,000. The published figures also include data for Scotland, which is not in scope of the whiplash reforms.

However, when correctly adjusted to only include claims for England and Wales the DWP CRU data for 1 January to 31 September 2023 shows that DWP were notified of 244,441 claims. In comparison, during the same period 273,840 claims were brought via OIC and Claims Portal Limited[5] (CPL) which indicates that valid claims are not being held back post reform.

MoJ and MIB are in regular contact with service users and stakeholders in order to gather feedback to inform system maintenance and improvement, including through MoJ's OIC Advisory Group (OICAG). Further information on this group and minutes of its meetings are available on GOV.UK.[6]

Therefore, the OIC service is, in the Government's opinion, working well and that unrepresented claimants who need to use its services can do so whilst suffering no impingement to their access to justice.

Ministry of Justice

20 November 2023

Response to Conclusions and Recommendations

Use of the OIC portal by litigants in person

Justice Committee Conclusion

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)

5 Claims Portal is an industry owned and operated service which provides claimant representatives and compensators with a safe and secure electronic means of communication in line with the provisions of the RTA Pre-Action Protocol and is the mandated route for claims valued between £5,000 and £25,000.

6 https://www.gov.uk/government/collections/official-injury-claim-advisory-group

Justice Committee Recommendation

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)

Government response

Unrepresented claim volumes: We note that some claimant representatives put forward an estimate in their written evidence that the OIC is underperforming, and that the volume of unrepresented users is below the 30% target set by the Government. This figure has been taken from the final Impact Assessment which was published in support of the Civil Liability Act (CLA) 2018 reaching Royal Assent.[7]

It is standard practice for Government to update Impact Assessments as a policy progresses and more data and evidence becomes available. During the passage of the CLA 2018 through Parliament, additional feedback and evidence was received from stakeholders from across the claimant representative sector and from the judiciary on how many unrepresented claimants they felt there would be.

Having considered this feedback, the 5% assumption included in the Bill stage Impact Assessment was therefore revised upwards to 30% to take account of this additional claimant representative and judicial stakeholder input.

So, to be clear, this was an assumption—not a target—designed to indicate a maximum number of possible users. The MoJ has not set any targets for increasing the number and proportion of unrepresented claimants and this has never been an objective of the whiplash reform programme. OIC was designed to be accessible to both unrepresented and represented claimants.

The proportion of unrepresented claimants has remained broadly consistent since the implementation of the whiplash reforms and the launch of the OIC service on 31 May 2021. Of the 67,327 claims registered in the July – September 2023 quarter, a total of 7,544 (11.2%) were made by unrepresented claimants and 59,783 (88.8%) had professional representation.

There has been a small increase in the proportion of unrepresented claimants using OIC, from 9.4% during the first quarter of operation (May-Sep 21) to 11.2% in the most recent quarter.

Defining an unrepresented claimant: We are aware that some claimant representatives have asserted that the actual unrepresented claimant figure is closer to 3%. This estimate appears to have been calculated by assuming that claimants are not truly unrepresented if they are receiving third party support from someone other than a lawyer, such as a family friend, colleague or an insurer.

7 https://assets.publishing.service.gov.uk/media/5c62d19e40f0b676df6e470f/Whiplash-impact-assessment.doc

The MoJ disputes this definition. An unrepresented claimant is an individual who is using the OIC service directly, without the assistance of a legal professional and irrespective of whether they are seeking/receiving help from another type of professional (such as a teacher, advice sector provider or an insurance company).

Visibility: We note the Committee's comments regarding the visibility of the OIC service to unrepresented claimants. However, we firmly believe the approach taken in this area since the system's launch has been the correct one. As stated in our previous written submission to this inquiry, the Government made a deliberate decision not to spend public money on an expensive but short-lived awareness campaign to advertise the implementation of the whiplash reforms and the launch and operation of the OIC portal.

Such a campaign would not be relevant to the majority of the public, who only need to use such a system if they suffer an injury following an accident. Instead, we focused on ensuring that OIC was publicised through social media channels and via insurance companies (who are the first point of contact for a claimant following an accident), and that information was accessible when it was sought by claimants. We have also provided third sector advice organisations with information and toolkits to support and signpost any injured claimants who contact them.

Information about OIC and how to use it was, and continues to be, put out on OIC's Facebook, LinkedIn, YouTube and X (formally Twitter) channels. Additional work was also done by MIB to increase OIC's online visibility, including through search engine optimisation and via information on OIC itself, such as guidance on what is the service is and how to use it, along with frequently asked questions. This is available via both GOV.UK[8] and OIC's website.[9]

Guidance: Paragraph 16 of the Committee's report refers to the 'help hub[10]' and '*Guide to making a claim*[11]'. It may be helpful if we clarify that the guidance was drafted by MIB with oversight from MoJ, but it is maintained by MIB and is hosted on the OIC website and not GOV.UK. It is a reference guide and is specifically designed to be used by claimants who need help on a particular part of the process. It is not intended to be read as a user manual and there is no need for claimants to download or read this document before making a claim. If, however, they require help on a specific topic they can access additional guidance.

The help hub was developed over the last year by MIB to bring together helpful information for claimants based on topics registered through questions to the OIC helpline. This feedback was supplemented by data gathered from an exit survey which is sent by OIC to all unrepresented claimants—whether they exit due to settlement or for other reasons—and through other sources such as an Ipsos Mori feedback exercise on the unrepresented claimant user journey. The help hub has been positively received by both unrepresented claimants and professional users and is also hosted and maintained by MIB on the OIC website.

8 https://www.gov.uk/government/publications/whiplash-reform-programme-information-and-faq
9 https://www.officialinjuryclaim.org.uk/resources/
10 https://www.officialinjuryclaim.org.uk/help-hub/
11 https://www.officialinjuryclaim.org.uk/guide-to-making-a-claim/

In addition to the detailed OIC guidance, MoJ have also produced a 'Five Steps to using the online OIC service[12]' leaflet. This document provides a helpful guide to using the service which can be read before a claimant starts the process of making a claim.

Unrepresented claimants that cannot use the online system can contact the Portal Support Centre (PSC) by telephone, who will guide them through making a paper-based claim. Since launch, 414 claimants have started a claim via this assisted paper claims process. The PSC service is there to help all users—claimants and professionals alike—with any questions that they may have. For clarification, this is an OIC service, rather than one that is run and resourced by the Government.

The Committee quote an estimate put forward by some respondents at paragraph 17 of the report that six out of ten unrepresented claimants are making calls to the PSC. This is not an accurate figure and appears to be a broad generalisation made by simply dividing the number of calls made by the number of unrepresented claimants. The number of calls made by an individual user is not monitored. Therefore, a single user may make multiple calls to check facts or ask for help in using different parts of the system whilst another user may make no calls to the PSC at all.

Next steps: As noted above, the Government does not agree that the number of unrepresented claimants using the OIC is a point of concern, and does not think it appropriate to set targets for a specific number of unrepresented users. MoJ and MIB have undertaken substantial work in terms of awareness and visibility of the service, but we accept that more can always be done to improve this.

We will therefore continue to work with MIB to develop and enhance a communications strategy, including looking for new ways to engage with consumers who may need to use the OIC service. This will include additional work to improve online search optimisation and create more focussed social media engagement. Guidance material and signposting toolkits will also be reviewed and reissued to key stakeholder groups.

In addition, we will continue to seek feedback from both unrepresented claimants and professional users of the OIC system to ensure that relevant and useful information is useful and easy to find. This will include ensuring that comprehensive material on GOV.UK is maintained and is accessible.

Technical issues for professional users

Justice Committee Conclusion

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)

12 https://assets.publishing.service.gov.uk/media/620a6912e90e0710ad0e3d75/5-steps-using-online-official-injury-claim-service.pdf

Justice Committee Recommendation

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)

Government response

Services provided by OIC: As previously noted, the OIC service is designed to be accessible and usable by both unrepresented claimants and professional users. This dual role presents technical challenges due to the way each of these groups access the portal. OIC has a single back-end process which is accessed in different ways depending on whether a claimant is unrepresented or not.

For example, unrepresented claimants access the OIC through a web-based interface which presents the relevant fields to them as they proceed, whilst at the same time ensuring they are shown contextual information to help them navigate their user journey. However, OIC also caters to professional users who generally access the service via a different route which links their own case management systems with OIC through an application programming interface (API).

Feedback from the OIC exit surveys confirms that the web interface used by unrepresented claimants is working well. These surveys have also enabled us to identify enhancements to improve the process for unrepresented claimants in relation to information provision, for example, the enhanced 'help hub'. OIC data shows that these claimants tend to move through the process quickly.

Technical challenges: For professional users who connect to OIC via an API, we have previously accepted that there have been technical challenges from the need to interface OIC with a large range and of different case management systems across the sector. The biggest issue encountered was ensuring that bug fixes and enhancements were tested and rolled out in a way which addressed issues for all users (and not just one type of user, which could impact negatively on other users' systems).

Considerable effort was made by MIB, therefore, to meet with professional users to identify bugs and to implement fixes to improve the API integration process. This interaction has provided varied and helpful feedback from professional users on technical issues relating to API integration.

For example, specific roundtable events were held during June this year for legal professionals with hands-on user experience of using OIC.[13] These sessions were very positive, with good engagement from claims professionals in both claimant and defendant sectors.

13 https://www.officialinjuryclaim.org.uk/news/oic-roundtables-a-success/

Overall, the feedback confirmed that the system is now working well and as intended for professional users, with most suggested changes being "quality of life" improvements to make using the OIC easier rather than for system bugs.

MIB is making several enhancements to the OIC service following these sessions and MoJ continues to consider the policy issues raised by attendees. Such engagement with both unrepresented claimants and professional users remains an ongoing process and MoJ and MIB will continue to engage with all groups.

Pre-launch integration: In the written evidence put to the Committee by some stakeholders, it was claimed that not enough work took place to ensure that OIC would integrate smoothly with professional user systems. We would dispute this assertion.

As noted above, the process of integrating the OIC system with multiple different claims management systems across a range of different operating systems is a technically challenging exercise. However, prior to the launch of OIC, significant work was undertaken by MIB with stakeholders. This included multiple workshops with users throughout service development, as well as the widespread provision of access to a test server to support integration with law firms' IT systems via API. Since launch, MIB has continued to work extensively with all market sectors to understand any ongoing issues they might be experiencing with the system.

Next Steps: As noted above, the most recent feedback from the sector confirms the service is operating well. However, work will continue to further improve the OIC process. Working with MIB, we will continue to consider feedback from unrepresented claimant exit surveys and to engage directly with professional users on service issues.

In addition to the established feedback channels, MIB also has an ongoing invitation on the OIC website to encourage any user to approach them to discuss any outstanding matters and clarifications at any time. MoJ also continues to seek feedback from industry representative groups through the quarterly OICAG meetings.

Unresolved cases and timeliness

Justice Committee Conclusion

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)

Justice Committee Recommendation

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. (Paragraph 40)

Government response

Identifying unresolved cases: Context is an important consideration when looking at the issue of unresolved claims. As of 31 September, around 385,000 claims that were started on the system since launch remained unresolved. However, for a variety of reasons, not all of these are claims actively seeking settlement and this can distort settlement rate figures and timeliness. Whilst the majority of claims proceed through OIC towards settlement, there are an increasing number of claims sitting on the system where no positive action to move them forward has been taken for some time and could, therefore, be considered as dormant.

The reasons that these claims become dormant can vary. Some have valid reasons, such as the claimant wishing to "wait out" their prognosis period before continuing their claim, but other claims seem likely to have been abandoned. Many claims were also stalled to await the outcome of the *Hassam v Rabot* Court of Appeal case[14] and OIC data does show there was an acceleration in settlements after this judgment was handed down.

However, there is also a significant tranche of claims which have stalled for other reasons. These include claims which have received a denial of liability and which the claimant has chosen not to pursue any further. Such claims need to be closed on the OIC system by the user (either the unrepresented claimant or the professional representative). If they are not closed, they remain in the OIC service and are currently counted as an active claim. Since launch, liability has been denied in 54,399 cases, and 936 claims have exited citing liability denial as the reason. Some of the significant remainder will have chosen to go to court, but a number of them are likely to be dormant or abandoned.

Claims progression and settlements: Timely progression of claims is of great importance to ensure access to justice and is therefore something we are currently investigating in detail. MoJ has been working with MIB, CPL, MedCo and the senior judiciary to better understand claim progression, timeliness and dormancy across these different systems.

159,888 claims have now settled since the launch of the service. There is, however, an additional cohort of claims which have settled but where the claimant or their representatives have not yet confirmed the claim is complete. These are referred to as 'open' settlements and there are currently 20,658 of these (1,140 unrepresented and 19,518 represented) still being counted as live on the service.

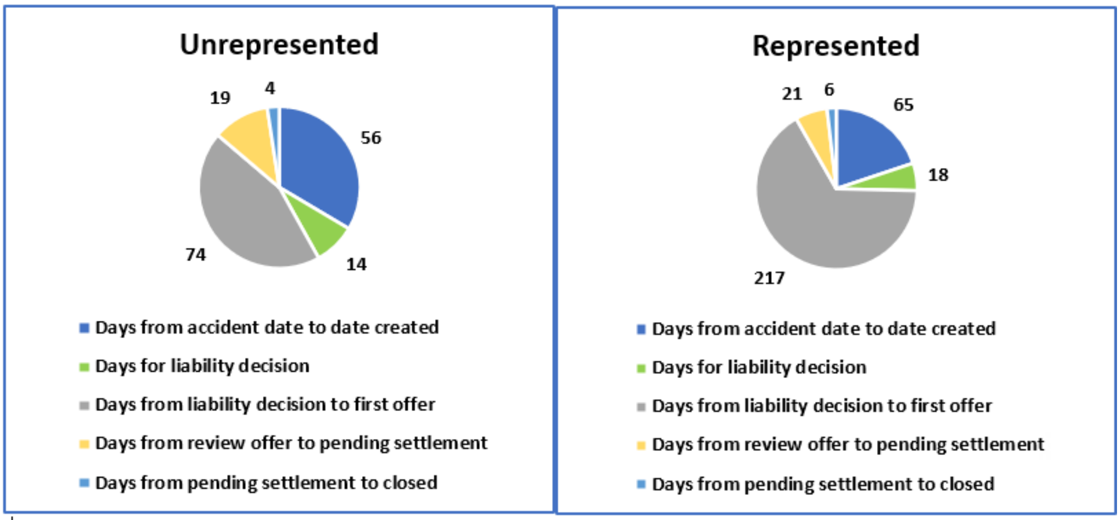
Claims continue to progress and settle in OIC. Unrepresented claimants are settling their claims quickly; whilst the overall average settlement time is 270 days, the average time for unrepresented claimants to settle a claim is around 167 days, compared to 327 days for represented claimants.

14 https://caselaw.nationalarchives.gov.uk/ewca/civ/2023/19

OIC data also continues to demonstrate that unrepresented claimants are settling their claims for similar, if not higher amounts, to represented claimants. For example, the average settlement amounts for represented and unrepresented claimants are £731 and £738 for whiplash, and £952 and £981 for other injury types. Despite moving through the process far more speedily than represented claimants, therefore, the data shows that unrepresented claimants are not suffering any negative access to justice issues in respect of settlements.

Lifecycle analysis: As noted above, the MoJ are currently reviewing and comparing data on the overall lifecycle of a claim. Initial consideration of OIC data has shown that the most obvious discrepancy between the unrepresented and represented claim journeys is in the period between obtaining a liability decision and the insurer making a first offer to the claimant.

The average times taken to progress through four of the five key stages of the process are broadly similar for represented and unrepresented claimants but there is a notable difference between the liability decision to first offer stage. The average time taken to complete this stage is 217 days for represented claimants and 74 days for unrepresented claimants.



No technical issues with the service have been identified by MIB which might be causing this discrepancy and consideration is being given as to what else could be at the root of this difference. We therefore welcome the Committee's recommendation that "there is 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".

Next steps: We have also considered how claim dormancy might be affecting the volume/settlement data and how this can be improved to provide greater clarity in this area. We have worked with MIB, who have developed additional data views that provide information on how long a claim has been sitting in a particular status, including claims that appear to be dormant.

MIB will begin publishing this additional data from January 2024 alongside the present quarterly data publication so that a direct comparison can be made. This will be a useful tool to produce a clearer picture of live claims.

MoJ will also continue to work with MIB, CPL, MedCo and the senior judiciary to analyse the different claims journeys on each of the main portals used to better understand the flow through each. Once this is complete the outcomes will be used to identify where learning can be shared and implemented to improve the claims process for all claimants both pre-action and through the courts.

In terms of the areas already identified for further investigation, it is worth highlighting that one of the processes which takes place during the liability to first offer stage is the seeking and disclosure of medical evidence. The process is currently different for represented and unrepresented claims, so MoJ took the opportunity to use a recent consultation exercise on medical reporting[15] to seek information and evidence on this issue and whether amendments to align these processes would be helpful. The outcomes of this exercise will be fed into the wider work being undertaken on claims throughput.

The cost of motor insurance

Justice Committee Conclusion

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)

Justice Committee Recommendation

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)

15 https://www.gov.uk/government/consultations/revisions-to-the-medical-reporting-process-for-road-traffic-accident-claims

Government response

Civil Liability Act 2018: Part 3 of the CLA 2018 requires insurance companies who sell motor policies in England and Wales to provide the Financial Conduct Authority (FCA) with data and information to enable a thorough review of the impact of Parts 1 and 2 of the CLA 2018 on insurance policy holders. Following the completion of the FCA's review, the provisions in the CLA 2018 also require HM Treasury (HMT) to lay a report in Parliament by no later than 1 April 2025 on savings achieved and how these have been applied to motor insurance policies.

MoJ has liaised directly with HMT and the FCA and work is ongoing regarding the evidence gathering phase of this process. A template has been prepared and distributed to relevant insurance companies. The information provided in response, via this template, will be considered by the FCA and they will then work with HMT to produce a report which will be laid before Parliament.

We agree with the Committee that it would be difficult to determine the extent to which economic upward pressures have been offset by any savings arising from CLA 2018 reforms. We also agree that this work should be completed in as transparent a way as is possible. However, we do note that full transparency may be affected by the need to protect commercially sensitive data supplied to the FCA for assessment by insurance companies.

Next steps: HMT are already working closely with the FCA in respect of the completion of the required statutory savings report. MoJ will continue to liaise with HMT and the FCA and will provide advice and support as necessary as this work moves forward.

We also note the recommendation that the Government conduct a follow-up assessment one year after the publication of its planned review. Whilst there is no statutory requirement to complete a follow up exercise we do not disagree with the suggestion. We would, though caution that it is too early to make such a commitment. We will, however, continue to discuss this point with HMT and FCA as their work on the savings report progresses.

Conclusion

In conclusion, the Government welcomes the Justice Committee's helpful report. It considers several issues of importance and is useful in identifying areas where the performance of the important OIC portal system can be reviewed and improved.

The Committee has drawn a number of conclusions and made several recommendations for further action. The following section of this memoranda provides a summary of the Government's position in relation the recommendations made by the Committee in its Ninth Report.

Use of the OIC portal by litigants in person

The Government does not agree that further action is required regarding the proportion of unrepresented claimants using the OIC service. The OIC provides claimants with a choice as to whether to progress a claim themselves or to seek the support of a legal professional.

It is important that this choice is maintained. We will, however, continue to work with MIB, and other stakeholders to identify and implement web optimisation and improve the visibility of the OIC service.

In addition, we will continue to work with MIB and representative groups on the OICAG to seek feedback from users of the OIC system. We will also continue to update and refresh all relevant and useful information on GOV.UK.

Technical issues for professional users

The OIC service is currently operating well for both represented and unrepresented users. MoJ will continue to work with MIB to ensure further appropriate enhancements continue to be made to the service.

Unresolved cases and timeliness

MoJ agrees that more work needs to be undertaken to better understand the flow of claims through the OIC process. Additional data will be published from January 2024 to help to provide greater clarity on the impact of dormant claims on outstanding claim volumes. MoJ will also continue to work with MIB, CPL, MedCo and the senior judiciary to analyse the different claim journeys, to identify and implement improvements to the claims process.

In addition, feedback and evidence from the recent medical reporting consultation exercise will be considered and fed into the work on claims flow.

The cost of motor insurance

MoJ agree that transparency is important regarding the production of the statutory savings report and will work with HMT and the FCA in this regard, taking due notice of commercial sensitivity of the data collected. We will continue to liaise with HMT and the FCA in relation to whether to conduct a follow-up assessment one year after the publication of the review report. Whilst there is no statutory requirement to complete a follow-up exercise we do not disagree with the suggestion. We would though caution that it is too early to make such a commitment. We will, however, continue to discuss this point with HMT and FCA as their work on the savings report progresses.