

## Note of meeting

Attendees:

<b>AXA / Litigation Protection</b>	<b>APPG</b>	<b>Others</b>
Matthew Scott – Head of Liability Claims, AXA Insurance Brian Raincock – MD, Litigation Protection Ltd	John Greenway Baroness Turner Baroness Gibson Lord Hunt Lord Davies Lord Brookman	David Worsfold David Morey (PwC)

### 1. AXA

Experience suggests that there is a general perception of compensation being available for all injury events and that some business practices exist in the claims management process that do not lead to prompt settlement of valid claims.

In a number of cases, there are (unexplained) delays in the reporting of events both to policyholders (e.g. under employer liability) and to insurers. There are also instances where it is difficult to obtain joint medical reports (where the insurer and the claimant's adviser jointly instruct a practitioner for a medical report) on a timely basis.

Some claims management companies (CMCs) appear to seek to stretch the duration of claims without justification (making it difficult to be contacted by the insurer for example).

There are unrealistic (and inappropriate) expectations on the part of some claimants, caused by inappropriate advertising by some CMCs.

There is also a perception that insurers are aiming to reject claims wherever possible such that claimants need to take advantage of 'professionals' and instruct legal advisers. AXA emphasised that insurers are there to provide protection and settle valid claims.

In AXA's experience, only 7% of claims involve litigation yet the legal costs amount to some 33% of total claims costs. From a claimant's perspective, a valid claim can be settled effectively on a direct basis (without recourse to CMCs) such that much of the additional cost of CMCs is incremental to the insurance industry with a consequent inflationary effect on premiums.

Most spurious claims (within AXA's book) arise under Public Liability insurance; it is estimated that 10 to 20% of such claims would not have arisen at all without the services of CMCs.

It is the case that insurers tend to settle to avoid more costly defence costs arising, but this depends on the extent of evidence that disproves a particular claim.

AXA is keen to see rapid compensation and rehabilitation of injured claimants, without the unnecessary cost and delay brought about by some CMCs. Some of these, not signing up to the various voluntary codes, adopt practices which leave much to be desired including hidden referral fees (to medical practitioners) and delay tactics.

A recent development seems to be the concept 'credit rehabilitation' whereby a claimant is persuaded to take out credit to fund the rehabilitation with an expectation that the cost of

credit will be covered under the insurance policy. This in itself may lead to a lower level of transparency for the insurer regarding the validity of costs incurred.

AXA believe that CMCs should be regulated (to cover the advice and transparency side of the operation of CMCs, including advertising, referral fees, adoption of pre-action protocols, ensuring that all claims meet common standards of probity). The regulator's standards need to be commensurate with those existent for insurers through the FSA. It will be important that insurers have access to the regulator to respond to alleged breaches of regulatory requirements.

AXA also believe insurers have more to do to help to change perceptions on how insurers respond to claims - improve the transparency of claims processing and rehabilitation; emphasising that litigation is a last resort.

AXA believes that the recent (over last 5 years) growth in the compensation culture may be tailing off, with some 10 to 20% of Public Liability cases driven by the compensation culture frenzy.

## **2. Litigation Protection (LP)**

By way of context, the number of injury cases has fallen as a result of improvements in the standards under the Health & Safety regulations. In addition, of some 846,000 adverse NHS (clinical negligence) incidents p.a., only 10,000 come through as claims. Also the 'compensation culture' is often blamed for particular changes (e.g. a reduction in the availability of organised school trips) when in reality, the reasons may be varied.

LP supports Access to Justice including minority groups for whom the system may be more difficult to navigate. Rehabilitation requires rapid action to be effective; delivery of rehabilitation at reasonable cost is critical.

LP believes that Access to Justice is obviously desirable, but questions whether it should be without charge on the claimant (since without incurring some form of contribution, there may be a tendency not to care about the incidence of cost).

LP believes the process for resolution of small claims needs to be improved – at present, a claim for £1,500 may cost £4,000 to resolve. Generally, a more effective process is needed to streamline claims handling.

In some cases, LP believes that the involvement of a CMC may help to get the insurer to take a claim seriously. For consumers, CMCs can provide a very beneficial service, helping to take away the burden of pursuing a claim directly with the insurer and customers are happy to pay for such a service.

Conditional fee arrangements for solicitors present a particular conflict, in that a solicitor may be tempted to settle at a lower cost than otherwise available in the interest of keeping its own costs capped (although such practice would expose the solicitor to allegations of unprofessional conduct).

LP supports the regulation of CMCs; and believes the Claims Standards Council (CSC) is the appropriate regulator (Litigation Protection is one of the founder members of CSC). LP also believes that there needs to be improved legal services regulation of solicitors (e.g. including transparency over referral fees).

One means of streamlining the claims process is the move towards the use of predefined settlement figures (as used for motor claims under £10,000). Another is the obligatory use of agreed protocols by each participant in the claims chain.

### **APPG view**

All Party Parliamentary Group  
Meeting with AXA and Litigation Protection (1 November 2005)

The Group recognises the need for more effective streamlining of claims processes to ensure that valid claims are processed promptly and victims compensated without delay, recognising the need for timely rehabilitation where necessary.

DL Morey  
20 October 2005