

**A Summary of Evidence to the Northern Ireland Assembly's All Party Group
on Motor Insurance**



**A report prepared by the Consumer Council for Northern Ireland on behalf of
the All Party Group on Motor Insurance**

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All Party Group on Motor Insurance Report

Foreword by Trevor Lunn MLA: Chair of the NI Assembly All Party Group (APG) on Motor Insurance



In Northern Ireland (NI), most of us rely on our cars to take part in society, to travel to work or school, receive health care, access goods and services and to make and maintain social contact with others. However keeping a car on the road is a financial struggle for many; recent research from the Consumer Council showed that only seven in ten people here can afford the cost of running a car.¹ While many factors are involved in the overall cost, including maintenance and paying for fuel, the cost of insurance can be a barrier to many people, preventing some of us from driving altogether.

The group took evidence, both written and verbal from a range of key players in the car insurance arena, including government, legal and industry groups.

I'd like to take this opportunity to warmly thank all those who gave invaluable evidence to the APG on Motor Insurance. In addition I extend my thanks to all group members and attendees for their interest and support in this area. Finally, I am grateful to the Consumer Council for providing ongoing policy and secretarial support to the APG.

¹ Consumer Outlook Index - A report by the Consumer Council, January 2015.

1. Introduction

- 1.1 In March 2009, the Consumer Council released the report, '*Quote ... Unquote. The Cost of Insurance in Northern Ireland*'.² The research found that NI consumers were paying considerably more than those in the rest of the United Kingdom (UK) for certain types of insurance. The cost of car insurance emerged as a particular area of concern, with NI drivers then paying 84% more for car insurance than those in the rest of the UK.
- 1.2 A subsequent Assembly Briefing Paper in October 2010³ found the average cost of car insurance in NI was estimated at £659, higher even than rates for Greater London (£596) and well in excess of the national average of £525.
- 1.3 In fact, at the time of the briefing NI consumers were paying the highest car insurance premiums of any UK region.
- 1.4 Following market referrals from the Office of Fair Trading (OFT) to the Competition Commission⁴ an inaugural meeting of MLAs was held in December 2012 to examine the issue. This meeting established an NI Assembly All Party Group (APG) on Motor Insurance. Meetings ran from February 2013 to October 2014, with secretarial support provided by the Consumer Council.

² www.consumercouncil.org.uk/filestore/documents/Insurance%20Report_FINAL%20Web%20version.pdf

³ <http://archive.niassembly.gov.uk/researchandlibrary/2010/13510.pdf>

⁴ In April 2014, a new Competition and Markets Authority (CMA) replaced and combined the existing functions of the OFT and the Competition Commission (CC).

2. Aims of the APG

2.1 The APG's aim has been to examine the factors influencing the high cost of motor insurance in NI compared to other parts of the UK. Terms of Reference for the group included considering:

- Pricing of car insurance;
- The benefit of add-ons including legal expenses;
- The effect of legal costs and levels of awards;
- Comparisons with NI and GB;
- Rural and urban differences; and
- The role of brokers and claims management companies.

2.2 Membership of the APG was as follows:

- Trevor Lunn (Chairperson);
- David McClarty (Vice-Chairperson);
- Ross Hussey (Treasurer);
- Paul Givan;
- Alban Maginness;
- Cathal Boylan;
- Lord Morrow;
- Roy Beggs;
- Kieran McCarthy; and
- Megan Fearon.

2.3 A list of organisations that gave evidence can be found in **Appendix 1**.

3. Evidence to the APG

The British Insurance Brokers' Association (BIBA) – 25 February 2013

- 3.1 BIBA stated that its research did *not* find a substantial overall difference between prices of car insurance in NI and GB. It said that the cost of car insurance in large cities such as Birmingham and Manchester can often be around double the cost in NI. It also said that there were 92 different car insurance products selling through brokers, and around half that number of products through comparison websites.
- 3.2 3% cars in the UK are located in NI, but personal injury awards here amounted to 5.5% of the UK total. In the UK, 3.5% of motor insurance claims proceed to court, yet this figure is 40% in NI – indicating more claims are made in NI, with many more proceeding to court.
- 3.3 BIBA said that historically some insurance companies failed to look after customers post accident, leading to the rise in the number of claims management companies (CMCs) in the UK. In the last three years, the annual turnover of CMCs has risen from £248 million to £455 million. There were issues regarding how these companies are funded which the Access to Justice Foundation were looking at; BIBA feels that there should be room for the existence of well run and appropriate CMCs.
- 3.4 When asked if it thought there was a lack of competition in NI, BIBA replied that whilst this may have been the case in the past, there are now more direct insurers operating in NI.
- 3.5 Therefore, BIBA believes the NI market to be competitive, citing an AA survey in which average premiums in NI could be up to £100⁵ less than in the UK.
- 3.6 When discussing difficulties in the market, BIBA advised the group that brokers and insurance providers have indirect costs such as a levy for the mis-selling of payment protection insurance (PPI), and that the level of this has increased by 40%. Insurance fraud is another problem with organised fraud costing up to £30,000 per claim.

⁵ Minutes of APG meeting, February 2013.

3.7 BIBA predicts that whilst current black box driver numbers are small and these tend to be careful drivers anyway, telematics⁶ is likely to play a large part in bringing down future car insurance prices.

The Belfast Solicitors' Association (BSA) – 29 April 2013

3.8 The BSA's evidence indicated that the incidence of personal injury claims in NI is in fact *less* than in England and Wales. Based on Compensation Recovery Unit figures BSA established that there are 125 personal injury claims per 10,000 in NI whereas in England and Wales the figure is 148 per 10,000.⁷

3.9 The BSA's data also indicated that the amount of legal costs payable in NI is significantly less than in England and Wales. This is because legal costs in the NI County Court are on a scale dependent on the amount awarded and there is a local protocol applied. Insurers who settle before proceedings are issued receive a 33% discount, and if a case is settled after proceedings are issued but before the case is listed for hearing, a discount of 25% applies. Full costs are only payable once a case is listed for hearing. In the last ten to twelve years parties have become more proactive in settling at an earlier stage.

3.10 The BSA highlighted the issue of the North-South dimension and that some insurers, such as AXA, run their claims department operations from the Republic of Ireland.

3.11 The BSA told the group that a key reason often given for higher car insurance premiums is the level of insurance fraud. The insurance industry regularly produces figures for fraud in the UK but the BSA does not believe this claim to be substantiated.

3.12 NI does not feature in these fraud statistics, either because the figures are not deemed worth keeping, or because fraud is not a widespread issue here.

⁶ Telematics involves using satellite technology to monitor driver behaviour and reward careful driving with lower premiums.

⁷ 2012 Compensation Recovery Unit figures.

3.13 A possible deterrent to fraud here may be because of the ‘no win, no fee’ aspect of claims, which does not exist in NI. Also, ‘after the event’ insurance which was introduced in England and Wales following the end of the legal aid system does not operate widely in NI.

3.14 The vast majority of whiplash cases are now dealt with by the NI County Court system. Statistics presented by the BSA showed that awards for damages in the County Court did not increase significantly in the period from 1996 to 2010, and that the vast majority of personal injury awards in NI are below £5,000.

The Law Society – 4 February 2014

3.15 The Law Society advised the APG that it has consistently called for a comprehensive ban on referral fees. The Law Society believes that the activities of CMCs are increasing, and that this has in turn led to an increase in the cost of car insurance premiums.

3.16 It is also concerned that many consumers are not privy to the various costs involved after an accident, viewing the consumer as a ‘passive participant’ in a process where their data is sold on. The Law Society is deeply concerned about this, viewing it to be ‘sharp practice’ which has the effect of preventing consumers from seeking legal advice which might ultimately protect their interests much better.

3.17 The Law Society has stated that after an accident, consumers are effectively ‘steered’ toward contractual agreements which benefit others and not themselves.

3.18 Part of the difficulty the Law Society identifies is that consumers themselves do not distinguish between insurance companies and CMCs.

3.19 With regard to additional insurance agreements and/or credit hire arrangements post accident, the Law Society argues that informed consent should only be considered as occurring when the consumer is fully aware of all of the available options and potential implications.

“The Society accepts there are a number of features which can artificially inflate premiums in the motor insurance market; we

submit that the regulation of CMCs and a ban on referral fees would be a cost-effective way of making a start to addressing these issues.”

Crash Services – 25 March 2014

3.20 Crash Services is an independent accident management company dealing with an estimated 10% of third party claims in NI.

3.21 Crash Services supported two of the points made previously by the Law Society; namely Crash agreed that:

- CMCs should be regulated, adding that certain aspects of Crash’s operations are regulated by the Financial Conduct Authority (FCA);
- Referral fees should be banned.

3.22 Crash highlighted concerns over an agreement which the Law Society has made with local insurance companies, whereby solicitors are reportedly encouraged to hand their clients’ details over to the at-fault motorist’s insurance company for repairs and a replacement vehicle, in exchange for a £200 fee to the solicitor.

3.23 Crash is of the opinion that insurers are driven purely by profit, to the detriment of consumer interest. It contends that premium prices are unnecessarily inflated and that premium costs are driven up due to the financial “avarice” of the insurance companies.

3.24 Crash described the motor insurance market as being like a “complex jigsaw”, and pointed to a lack of reliable NI based claims evidence.

3.25 In addition, Crash expressed concerns that in some cases cars were not being repaired to an adequate extent due to cost pressures passed on to body shops by insurers.

3.26 Crash was disappointed at the direction taken by the (then) Competition Commission investigation in regard to NI. Crash told the group it would welcome an independent assessment of appropriate remuneration required in handling claims.

Motorists Insurance Services Ltd (MIS) written submission – 22 April 2014

3.27 MIS told the APG it plays a somewhat diverse role in the car insurance market, acting both as an insurance company and as a support to claimants.

3.28 MIS feels that whilst traditionally some insurers will offer assistance up to a point, this assistance has been purely financially driven.

3.29 MIS contends that the existence of CMCs means that a negligent driver's insurer cannot escape its responsibility to the insured party.

3.30 MIS and AXA have an agreed protocol which MIS believes serves to achieve faster settlements for non-fault motorists and reduce costs to the insurance market.

3.31 MIS attributes higher premium costs in NI to the following factors:

- A lack of competition;
- Legal costs of processing claims; and
- High frequency of accidents.

3.32 Contrary to other submissions received by the APG, MIS feels that CMCs are already effectively regulated, adding that any data given to their clients is fully transparent. MIS claims that it does not sell on consumer data to third parties. It further argues that its customers are treated fairly, are not overcharged and have access to a range of legal advice from its panel of solicitors.

The Association of British Insurers (ABI) – 14 October 2014

- 3.33 The ABI acknowledged that the cost of car insurance in NI has historically been higher than rest of UK.
- 3.34 Some potential reasons were given for this. The ABI referenced Department for Regional Development (DRD) figures showing that in 2013 there were 502 road traffic collision casualties per 100,000 of the population compared with 304 per 100,000 in England.
- 3.35 The ABI also acknowledged that consumers in NI do not shop around as much as their counterparts in the rest of the UK, despite the growth of comparison websites and the existence of more brokers here.
- 3.36 With regard to legal costs, statutory scale costs in NI have risen by more than 30%, following a government review in 2002. The application of an inflation index increase to legal costs has double inflated the expense of administering a claim and scale costs are disproportionately high at the lower end. The ABI suggested that it might therefore be advantageous for smaller damage only motor claims up to a value of £3,000 to be heard in the small claims court. The thinking is that this might work well for claimants pursuing non personal injury cases and could help lower costs.
- 3.37 In their evidence BSA dispute this view, as well as the figures cited by the ABI. They say that the Northern Ireland Court system and scale costs work well and are entirely proportionate.
- 3.38 The ABI has been working for some time to ascertain proportionate costs and excess fees around car hire/replacement. It expressed disappointment that the CMA report had failed to address the reform of the cost of credit hire. The ABI believes that the Department of Justice (DOJ) should implement a pre-action protocol to replace the current voluntary arrangement.
- 3.39 According to the ABI, significant civil justice reforms, including the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) have contributed to premiums falling by more than 14% over the past 18 months in England and Wales. Changes akin to these in NI could mean a reduction in premiums for motorists here.

3.40 Similarly, they believe that road safety legislation currently being proposed for NI is likely to exert downward pressure on costs.

3.41 The ABI has been trying to access NI specific information to further inform debate on the issue. However, it advised that it has been difficult to drill down into the data as not all figures are recorded uniformly across insurers. They also stated that claims information would be available, but this does not reveal what the overall costs are made up of.

The Department of the Environment (DOE)

(Remit now falls under Department for Infrastructure (DfI) due to Departmental restructuring from May 2016)

3.42 It should be noted that the DOE was not among those who formally gave evidence to the APG. However, it was able to provide some key information.

3.43 The DOE advised that while young drivers hold 11% of licences here, they are involved in 44% of fatal collisions. As a result, some initiatives led by the DOE have included changes to the learner driver process, an ongoing project to enable the recognition of penalty points between the north and south of Ireland and several hard hitting media campaigns aimed squarely at road death prevention.

3.44 There is also an intention to provide insurers with access to penalty point information on driving licences, and the DOE has assessed the impact on telematics-based insurance products.

3.45 The DOE discussed the proposed continuous insurance cover enforcement, where it would become an offence to keep a car without motor insurance, unless a SORN (Statutory Off Road Notice) is in place. Non compliance would result in fines and possible seizure of the vehicle.

3.46 The DOE reported that the ABI hoped the implementation of the Graduated Driving Licence (GDL) and other measures for young drivers including telematics could reduce premiums by up to 20% in NI. The main points of evidence are set out, at a glance, at **Appendix 2**.

Competition and Markets Authority (CMA) Private Motor Insurance Investigation

3.47 The work of the APG has been carried out against a backdrop of intensive industry wide scrutiny of the car insurance market. The investigation was initiated by the Consumer Council when it made a formal submission to the OFT on the matter. This was then referred by the OFT to the Competition Commission which later merged with the OFT to become the CMA.

3.48 The CMA published findings on its investigation in September 2014.⁸ Some recommendations were UK wide; others directly concern consumers within NI.

3.49 The CMA found some evidence of consumer detriment within the overall market. These were as follows:

- Some price parity clauses⁹ in contracts between price comparison websites and motor insurers prohibit insurers from making their products available more cheaply on other online platforms. This has the effect of restricting competition and leading to higher car insurance premiums overall;
- The limited provision of information in the sale of motor insurance add-on products to consumers makes it difficult for them to compare the costs and benefits of these products; and
- Overall costs to consumers were inflated because of the effect of 'cost separation' between the party managing the provision of post-accident services to claimants who are not at fault in an accident, and the at fault party. Ultimately this has historically increased motor insurance premiums, especially for higher-risk drivers.

⁸ https://assets.digital.cabinet-office.gov.uk/media/5421c2ade5274a1314000001/Final_report.pdf

⁹ 'Car insurers and price comparison websites agreements that prevent insurers from selling their policies at a lower price elsewhere'. The Telegraph, September 2014.

3.50 Given that the estimated UK wide additional levy passed to drivers from post accident services was valued at around £200 million, it was expected that the CMA might recommend a comprehensive ban of referral fees. This did not occur because the CMA could find *no effective remedy* to the high cost of providing a courtesy car that would not have involved an unwarranted *significant change in the law*. However some recommendations *were* made in order to redress other consumer detriments found within the private motor insurance market. These included:

- A ban on agreements between price comparison websites and insurers which stop insurers making their products available more cheaply on other online platforms; and
- A recommendation that the FCA looks at how insurers inform consumers about other products sold as add-ons to car insurance policies.

CMA Northern Ireland Specific Findings

3.51 The CMA stated that car insurance premiums in NI are higher than in the rest of the UK. Further it observed that, “Initially, we saw some evidence that profitability, premiums and concentration were somewhat higher in relation to PMI in Northern Ireland.”¹⁰ These observations were:

- The car insurance market operates differently in NI than it does elsewhere;
- There are fewer providers of motor insurance in NI; and
- Consumers here have historically bought car insurance through a broker.

¹⁰ Private Motor Insurance Market investigation - Final Report, September 2014.

3.52 For these reasons the CMA carried out an analysis of exactly how competitive the NI market was and found that the market was indeed concentrated (i.e. fewer providers than elsewhere). However, this level of concentration was not deemed to be high enough to cause a significant consumer detriment and was largely attributed to the recent growth and dominance of AXA within the market.

3.53 The CMA also found that overall the weighted average claims ratios over a five year period was higher in GB than in NI. The claims ratio essentially measures the proportion of premiums paid out in claims.

3.54 A low claims ratio indicated that only a small amount is paid out compared to the amount customers are charged in premiums.

Consumer Council's evidence from consumers

3.55 The Consumer Council commissioned research in November 2014¹¹, a core objective of which was to seek the views of respondents on the car insurance market in NI . 1,733 respondents were interviewed over 72 sampling points. Here are some of the findings:

Car use: 75% of consumers report having access to a car. This drops sharply to 50% for those aged 65 or over.

Shopping Around: the survey found that just 40% shop around for car insurance. Reasons for this may be due to fear of change, lack of access to the internet, or a preference to buy car insurance face to face.

Reasons for Using the Same Insurer Each Year: 56% use the same insurer each year. The most common reason is that consumers feel they are already getting the best deal and hence see no benefit in switching. 56% cite cost as the main factor. 40% place more emphasis on customer service, and 13% of us are focused on the level of cover.

¹¹ Energy and Money Affairs Research, Consumer Council, 17 April 2014.

How we buy:

38% buy through a broker.¹²

32% buy direct.

30% buy via the internet.¹³

Many of those surveyed seemed unaware of the difference between a broker and a direct insurer. Many firms broker a deal which is underwritten by another company. However, this is effectively seamless to the buyer and hence many people are unaware of the distinction.

Some consumers tell us that they shop around online to gauge prices and then revert to their broker or direct company to haggle for a better deal. One stated:

“Well I go through a broker but if they come back to me with a price I don’t like, well then I might go onto the internet and have a look about.”

Lisburn consumer, November 2014

Car Accidents: Almost 30% of respondents involved in a car accident said they had to make a claim on their car insurance as a result.

5% of respondents who made a claim following an accident used the services of an accident management/claims company.

Just over 25% of respondents said that making a claim on their car insurance following an accident increased their insurance premium.

3.56 The Consumer Council continues to challenge and work with industry and other stakeholders to ensure that their practices and products are transparent and fair for consumers. It also promotes switching to drive more effective competition.

¹² This figure does not necessarily capture the effect of Hughes & Co.’s exit and subsequent re-entry into the market.

¹³ This may also include internet brokers.

4. All Party Group Findings

- 4.1 We can say with reasonable certainty that car insurance premiums are higher in NI than elsewhere in GB. This was the working consensus of everyone who gave evidence to the APG even if the reasons cited for its cause varied widely. It is also evidenced (at least in part) by other sources such as the AA British Insurance Premium Index (BIPI) figures for the last quarter of 2015.¹⁴ These place NI as the third most expensive region in the UK, with drivers at this point in time paying an increase of 19% more for car insurance than the UK average (the average price per annum was £630.14 in GB and £752.48 in NI). As there are fewer insurance companies operating in NI than elsewhere, these figures should be viewed with this in mind.
- 4.2 We also know that the NI market differs greatly from its neighbours in that it is heavily dependent on brokers. This market, whilst not prohibitively concentrated (according to the CMA) nonetheless has fewer providers overall than other parts of the UK. This might in itself suggest a potential detriment to NI consumers. However without a comparison between broker prices compared with direct insurance quotes, it is impossible to fairly assess this.
- 4.3 In fact it is extremely difficult to be definitive about many aspects of the NI market.

Key questions arising from evidence

- 4.4 The evidence gathered is complex and at times contradictory. The APG has considered these areas and poses a number of key questions.

¹⁴ AA British Insurance Index Premium – based on average shop around rates for comprehensive and third party, fire and theft policies.

Are legal compensation levels higher in NI than in GB?

- 4.5 The BSA refutes this view and has provided extensive data to support it both to the APG and to the CMA¹⁵, but the ABI insists that levels are higher. Figures produced by the ABI indicate huge differences in the guideline settlement recommendations; e.g. total loss of one eye in the UK attracts an award between £40,000 and £48,000. In NI the figure is between £60,000 and £105,000. Similarly a minor eye injury in the UK attracts compensation of £3,000 to £6,500 but in NI an amount up to £15,000 is typically awarded.
- 4.6 The guidelines referred to by the ABI are the 'Green Book'¹⁶. The BSA has demonstrated, with court service statistics, to the OFT, the CMA and the APG that, in the context of minor RTA injuries, this publication has little relevance.
- 4.7 It is also noteworthy that the ABI has isolated guideline awards for the loss of an eye as a support for their arguments. Loss of an eye is uncommon enough but it is particularly rare in a car to car collision. Its relevance to the debate is hard to see.
- 4.8 In the evidence the APG received from the ABI it made some points around the factors which determine the cost of settling claims in NI.
- 4.9 ABI told us that a consultant's fee for a whiplash examination is now set at approximately £180 in England and Wales, however local insurers' claims managers confirm that the figure in NI is £300.
- 4.10 BSA argues therefore that the cost of medical legal reports has always been lower in NI than in England & Wales. The figures mentioned by the ABI relate to payments under a new system called MEDCO (www.medco.org.uk).

¹⁵ The BSA advises that less than 4% of cases go to court in NI. This evidence was also submitted to the original OFT investigation.

¹⁶ The Civil Court Practice 2015 (The Green Book).

4.11 This system went live recently. BSA argues that the new charging system is irrelevant to a debate about why insurance costs in NI are higher.

4.12 The fixed costs of obtaining a further report, where justified, are:

1. Consultant Orthopaedic Surgeon (including a review of medical records where applicable): £504
2. Consultant in Accident and Emergency Medicine: £432
3. General Practitioner registered with the GMC: £216
4. Physiotherapist registered with the Health and Care Professions Council: £216

4.13 The BSA is neutral in respect of the cost of consultant's reports. However BSA argues that the APG report appears to suggest that report costs in NI are indicative of a more expensive claims process, leading to higher premiums. BSA's view is that historically, medical examination fees have in fact been less expensive in NI than elsewhere.

4.14 The civil litigation environment in England and Wales has undergone reform in recent years. The passage of the LASPO Act (2012) has meant the introduction of a reduction of fixed legal fees. These fees are proportionate to the amount of work undertaken by the claimant's solicitor in low value personal injury claims. The ABI estimates that these actions have allowed premiums to fall by 14% over 18 months.

4.15 The civil procedures reforms which set the recoverable fee for medical reports are much lower than the amount normally charged and recoverable in NI. Furthermore, the medical experts who produce reports in whiplash claims are financially independent from the claimant lawyer who commissions them.

4.16 BSA commented:

“There appears to be a misunderstanding here. The reason that consultant’s reports in England and Wales were historically more expensive was because they were provided through medical agencies who took a cut of the fee. These medical agencies could often be part owned by solicitors themselves. This situation does not arise in Northern Ireland. Indeed, in NI, consultants have to sign a standard expert’s declaration to the court every time they provide a report.

“Breaching this declaration can have criminal consequence such as contempt of court charges. The changes in England and Wales were designed to counter a problem in that jurisdiction that does not exist in NI. We would ask that the APG note that in their final report”.

4.17 The ABI recommends a mandatory pre-action protocol with firm sanctions to encourage the desired behaviours of negotiation and early disclosure of facts. It also recommends the involvement of the small claims courts in NI as an alternative to the more expensive county court to settle non personal injury claims.

Are NI court costs higher?

4.18 Differences in court processes and structures are certainly a factor; however the legal profession in NI feels that our costs are not out of line with the UK. There are differences, notably the changes seen recently in England and Wales through the introduction of LASPO in 2012. The changes introduced were designed to make the UK’s civil litigation system in England and Wales more efficient and more effective. These changes have brought fixed fees into line more proportionately to the amount of work a claimant solicitor undertakes in a low value personal injury claim.

4.19 BSA commented:

“The NI fixed fee system already does this. The changes in England and Wales are merely bringing them closer to where NI has always been.”

“Again, we would refer the APG to our data on costs in this regard and the conclusions of the OFT.”

Do we have higher numbers of claims?

4.20 According to the BSA, injury claims are less frequent in NI; 125 per 10,000 compared to 148 per 10,000 head of population in the rest of the UK. ABI figures state that there are 502 traffic collision casualties per 100,000 of population in NI compared to 304 per 100,000 in the UK.

4.21 These anomalies highlight a major hurdle to the investigation of private motor insurance. Namely, that detailed insurance claims statistics have simply never been made available by insurers themselves.

4.22 Reasons given have included:

- Not enough data to give a statistically significant account of claim averages in NI; and
- An inability to access data from companies with business on both sides of the NI/ROI border.

Are insurance companies charging too much?

4.23 The CMA investigated the market amid fears that 26 million private motorists in the UK are paying too much for their car insurance.

4.24 They decided that exclusive pricing deals between motor insurers and price comparison websites (e.g. gocompare.com, comparethemarket.com) should be banned as they did not give consumers a wide enough choice of price options.

4.25 The insurance industry has committed to pass subsequent LASPO related savings onto drivers themselves. This should be monitored in NI to assess its impact on premiums here.

4.26 In simple mathematical terms the premium charged by the insurance company equals its claims, its expenses and its profit.

$$\text{Premium} = \text{Expected Claims (C)} + \text{Expected Expenses (EE)} + \text{Desired Profit (P)}^{17}$$

4.27 The statistical evidence gathered in the CMA investigation was redacted and hence an examination of profit margins and their relationship to premium setting has simply not been possible. However it was clear that additional costs in the car hire chain were ramping up insurance costs overall.

Are CMCs inflating premium costs?

4.28 CMCs are an important and growing part of the car insurance scene in NI.

4.29 Opinions differ on their cost effectiveness and contribution to the handling of a claim. From the claimant's point of view there is anecdotal evidence that they smooth the process. The insurance industry and the legal profession may take a different view.

4.30 Some may question the need for the intervention of a CMC in a straightforward damage and low cost personal injury claim. This is because a comprehensive policy holder will normally have the availability of a courtesy car if using the designated approved repairer.

4.31 In addition to this a solicitor can make a claim for policy excess or injury at no cost to the claimant, and without the claimant having to pay for uninsured loss recovery or other services.

4.32 Crash Services and MIS supplied detailed evidence to the APG, and make a good case for the services they provide. There is no doubt from the customer's perspective that they can smooth the process. There are of course other companies involved in this market, not all of whom have the same local presence as these two companies.

¹⁷ Insurers must also prudently allow for a reserve against ongoing claims which may rise in estimated value and also guard against future claims, of which they have not yet been notified.

- 4.33 The Law Society's evidence however contained specific criticism of the modus operandi often seen with CMCs. It expressed concerns around the payment of referral fees, charging of premium rates for their services, credit hire charges for courtesy cars and other payments to repairers and car hire providers.
- 4.34 CMCs contend that the service is beneficial to the aggrieved motorist. Others could reasonably contend that adequate cover is often provided by a comprehensive policy, including legal expenses cover and a courtesy car, obviating the need for the CMC's inclusion in the system.
- 4.35 The payment of fees for referral of customer details or benefits in kind to brokers is a bone of contention. These are not always termed 'referral fees'. A one off agreement fee may be paid as an annual sum for example. These charges occur elsewhere in the claims 'chain'. Anecdotally we understand that such payments do occur and the CMA report of September 2014,¹⁸ appears to confirm this view.
- 4.36 The CMA estimates that the net detriment to the consumer, UK wide, is in the region of £110 million per annum. This is in the context of ABI's figure of £10.3 billion for the total claims incurred in 2013. .
- 4.37 Both Crash Services and MIS, in their evidence, indicate that they do not reward intermediaries for referrals.
- 4.38 The fact remains that a driver, post accident could have dealt with his/her claim without the intervention of a CMC. It seems obvious that customers do not always understand the process itself, in terms of who they are dealing with. The question one must ask is: what value do they add to the process and at what cost?
- 4.39 To quote from the Law Society evidence;

"The Society has consistently called for a comprehensive ban on referral fees in NI as is in place in England and Wales."

¹⁸ CMA Private Motor Insurance Report, September 2014.

It says further;

"The complex web of referral fees between CMCs and other parties with an interest in road traffic accidents including brokers is largely unknown to the consumer. The consumer is essentially a passive participant in a process in which their personal data is sold to third parties and they enter into contractual agreements to serve the commercial interests of others."

4.40 The Law Society also raises the question of informed consent from the customer to the sharing of personal information to a third party.

4.41 If a customer has not been made aware of all the available options and potential implications of having their information passed on, can one truly state that they have given 'informed consent'?

4.42 CMC activity has been severely curtailed in England and Wales and is under scrutiny in Scotland. Anecdotally we understand that some brokers receive referral fees for passing clients' details to CMCs.

4.43 BSA commented:

"We support the Law Society's submissions on CMCs. The BSA would however query the finding above. It is clear that CMCs continue to survive and thrive in England and Wales. The changes to the legal system in England and Wales have not curtailed their ability to operate and thrive."

Do consumers shop around enough?

4.44 Regardless of the different market here, evidence indicates that NI consumers do not always shop around for the best deal.¹⁹ It seems that the buying public needs to be encouraged to investigate different outlets. Even in a slightly less competitive marketplace, a determined consumer can be rewarded with a better price than the first offering he or she may have been quoted.

¹⁹ 'Quote.... Unquote': The Cost of Car Insurance in NI – A Consumer Council Report 2011.

Are young drivers paying more than they should?

4.45 Young drivers hold 11% of licences in NI and are involved in 44% of fatal collisions. Some insurers are reluctant to insure the newly qualified/young driver market; however this is a UK wide trend and not one confined to NI.

4.46 It would be useful to see data for all collisions by age, postcode and gender. This would help determine the factors which insurers are using when setting premiums for NI drivers.

Are there sufficient companies prepared to underwrite young drivers²⁰ in NI?

4.47 The figure changes over time but an average of around six providers seems accurate. Even those insurers would not remain in the market if they were consistently making underwriting losses.

4.48 The APG took a snapshot of quotations from a comparison website in November 2014.²¹ The full table is at **Appendix 3**.

4.49 In some cases the differences are stark, as with the 19 year old driver quotes. What is also interesting however is that one example shows a 50 year old paying *less* in Lisburn than in Lichfield or Buckinghamshire.

Is broker dominance of the market a factor?

4.50 The figures vary but recent indications, prior to the sale of Hughes Insurance are that around 60% of private motor insurance products were sold through brokers.²² Recent data from the Consumer Council suggests that brokers capture 38% of the NI market.²³

4.51 It will be interesting to see how consumer premiums are affected following recent major upheaval in the NI insurance industry, namely the exit and re-entry of Hughes & Co. into the broker market.

²⁰ By 'Young' we refer to the under 21 year old driver.

²¹ Moneysupermarket.com web search, November 2014.

²² Competition Commission commissioned research, August 2013.

²³ Consumer Council, November 2014.

4.52 The premiums available from the same insurers also differ between brokers. Evidently, this is a result of business volume and the profitability of the business introduced. The same risk therefore may attract a variety of premiums across broker outlets and online comparison sites.

4.53 Intermediaries can also charge for a variety of add-ons, for instance breakdown and roadside assistance, legal expenses cover or an administration fee. These charges can add up to 15% on top of the premium and also include insurance premium tax, which is required by law. Some brokers offer these as an optional extra (apart from the administration fee). Others make them compulsory.

4.54 None of this is questionable, provided that is clearly stated, but it reinforces the case for customers to shop around to identify the cover required and establish the lowest cost available.

4.55 One could reasonably query the need for a broker to receive payment for referral of claimants' details on top of:

- The commission received from the insurer annually for handling the policy;
- An administrative charge, up to £25 in some cases; and
- The commission received on roadside assistance/legal expenses and additional covers.

4.56 There are potential duplications of cover in these situations. A customer who maintains AA or RAC membership may not need roadside assistance. Someone who is involved in a non fault collision and who uses Crash Services or another CMC will receive and sometimes benefit from 'after the event' insurance. This provides the same service and more benefits at no cost.

Are there other measures which can bring down premium prices?

4.57 The introduction of LASPO in England and Wales has so far resulted in:

- The transformation of no-win, no-fee deals so lawyers can no longer double their fees if they win, at the expense of defendants and their insurers;²⁴
- The banning of referral fees paid between lawyers, insurers, claims firms and others, leading to a reduction in the fixed fees lawyers can charge insurers for processing basic, uncontested claims for compensation for minor injuries suffered in road accidents. This represents a fee cut from £1,200 to £500;
- The introduction of a new regime of ‘qualified one way costs shifting’ (QOCS) in personal injury cases. Honest claimants who lose their case are protected from having to pay the defendant’s legal costs; and
- Balanced insurer and claimant interest. Successful claimants in England and Wales now have to pay their own lawyer up to 25% of their injury damages.

4.58 The BSA disputes this however, saying:

“This is an Access to Justice argument. It does mean that costs in England and Wales have reduced due to the removal of success fees but as these have never existed in NI it is hard to see the relevance of same.”

4.59 Could independent medical panels to assess whiplash claims have contributed? The BSA argues that the costs above only apply to a limited number of claims. In addition the lack of penalty for submitting a false claim leads to cost separation and encourages speculation.

²⁴ Notably, the BSA has said that is irrelevant because a ‘no win, no fee’ scenario never existed in NI. A Claimant who loses their case must pay the defendant’s costs.

4.60 The BSA also holds that the Northern Ireland Court scale fees are proportionate in comparison to England and Wales saying that the fees:

- Provide proportionate remuneration;
- Encourage early settlement; and
- Dissuade fraud and speculative claims.

4.61 The BSA recommends:

- A ban on solicitors offering cash incentives or gifts to people or organisations who bring them claims; and
- Changes in the law so that regulated companies which breach Claims Management Regulation Unit rules can be fined.

4.62 According to the ABI, premium levels in England and Wales have fallen by 14% as a direct result of changes in respect of pre-action protocols, recoverable fees for medical reports, and separation of medical experts and the solicitors who commission them.

4.63 The ABI has committed to pass on any resultant savings to consumers.

4.64 In addition, NI could see a reduction in premiums following the proposed 'Continuous Insurance Enforcement' (CIE) reforms.

4.65 BSA commented:

"The alleged fall in premium due to Court changes (which we note is not supported by evidence) is not relevant to Northern Ireland. This is because the changes were in response to an England and Wales problem. That problem is the ongoing search for a solution to Access to Justice caused by the removal of Personal Injuries from the scope of Legal Aid in the late 90s. Mistakes were made thereafter in that jurisdiction which they are still trying to rectify. NI did not have that experience and therefore LASPO (in terms of court, structures, processes and billing arrangements) is irrelevant."

4.66 ABI takes an opposing view on this.

4.67 Following the introduction of CIE, the Motor Insurance Bureau (MIB) has reported an estimated drop of 3.5% in the level of uninsured driving in GB. In July 2013 Swansea DVLA reported that £5.1 million has been collected from uninsured motorists in the GB.

4.68 A similar projected drop in NI predicted by the DOE to be 2.6% could therefore be very welcome news for NI consumers.

4.69 In the meantime, the APG believes that the industry still has many questions to answer about a variety of issues; namely referral fees, the added cost of credit car hire, the relationships or commercial connection between CMCs and insurance providers, and between CMCs and solicitors, credit car hirers, repairers and consultants.

5. Conclusions

- 5.1 It is extremely difficult to formulate recommendations for action, given the absence of impartial market data on private motor insurance in NI. Further complicating this problem is the conflicting evidence received from the various bodies as to why premiums are higher here than elsewhere.
- 5.2 What can be said is that there is an ongoing role for everyone in driving down car insurance premiums, not least for drivers themselves. Whilst we broadly welcome the outcome of the CMA investigation, there is without doubt a need for further work by it and others in the areas of learner and restricted drivers, the impact of a broker led market, and how any changes will result in cost reductions for motorists.
- 5.3 The way forward will therefore require continued close working with all the relevant stakeholders.
- 5.4 We consider that the DOJ, the DOE (now DfI), the UK regulators, and the insurance industry could potentially work together on initiatives. Some extensive DOE (now DfI) road safety initiatives are already well underway. These schemes focus on road safety projects as well as on legal costs, licensing and claims handling.
- 5.5 It is hoped that safer driving will ultimately drive down the considerable price difference in car insurance premiums here, for younger drivers.
- 5.6 In 2012, the DOE issued the Draft Road Traffic (Drink Driving) (Amendment) Bill which completed its passage through the NI Assembly in January 2016. It is hoped that this will prove to be a useful initiative in terms of younger licence holders.
- 5.7 We would like to see NI legal practice, award levels, medical costs and claims management procedures in line with best practice in GB.
- 5.8 The increased use of telematics should continue to be assessed to see if it has a beneficial effect on claims frequency; we note the initiatives taken by the DOE and by a number of insurance providers, including Crash Services, in this area.

- 5.9 The DOE's 2012 'Wider Road Users' Responsibility Campaign' highlighted the stark statistic that over 95% of fatal or serious injury crashes in NI are due, purely and simply to human error.
- 5.10 Going by sentencing history, it might be thought that the holding of a driver's licence is a right and not a privilege. This should not be the case. In really serious situations a ban for life should be considered.
- 5.11 It might be beneficial for insurers to take more cases to court in order to test the system, particularly those involving minor whiplash injury.
- 5.12 It would be helpful in these types of claims if the medical profession could take a more robust approach in giving opinions on the severity, or the lack of it, of neck injuries.
- 5.13 The young driver market remains limited but reasonably competitive in NI, although it would benefit from a wider pool of insurers. The collision frequency in the age range of 17-20 year olds is a problem that mirrors the situation in many jurisdictions.
- 5.14 It is extremely difficult to justify the premium differences quoted elsewhere in this report, ranging from £3,120 in Belfast to £731 in St Andrews, Scotland for the same driver; over a 300% differential. Perversely a student attending St Andrew's University would have to pay the higher price for exactly the same risk, if he or she discontinued their studies and came home to NI.
- 5.15 It is a matter of disappointment for some that the CMA failed to take the hoped for action on a price cap of the replacement car hire market. Some industry experts predict that rather than driving down costs:

*"This U-turn on a proposed charges cap could well lead to higher charges for consumers... The reality is that the CMA has ducked this challenge."*²⁵

²⁵ ABI press release, 24 September 2014.

5.16 On a more positive note, the DOE predicted savings to motorists as a result of a number of schemes already in place, as well as those planned for the future. The ABI has committed to passing on car insurance premium savings to motorists.

5.17 The CMA, whilst not tackling cost control issues, has put in place some measures to improve the lot of drivers overall.

5.18 The FCA investigation into a wide range of add-on products as a whole has said it is:

"...committed to strengthening the transparency and comparability of the value of general insurance products and has proposed to impose a requirement on firms to publish claims ratios as a measure of the value of a product."

5.19 What is frustrating is the lack of reliable and statistically robust evidence as to the extent of inequality in premium prices here in NI. A further complication is that it is equally very hard to quantify the value of the various elements comprising a total premium price.

5.20 The pattern emerging shows younger drivers in particular paying well in excess of their UK neighbours. Rural areas are also often hit hard.

6. Key Recommendations

Recommendations for Industry

- 6.1 More product offerings for NI drivers would undoubtedly improve matters by driving down premium costs. Insurance quotes should be transparent and easy to compare against other quotes.
- 6.2 Add on products such as GAP insurance for example should be clearly explained so that the consumer can make an informed decision about the product and whether or not it is of value to them.

Recommendations for consumers and consumer groups

- 6.3 There has been an overall downward trend on premium prices across the UK but they are set to rise again by the end of 2015²⁶. Regulatory and departmental changes will hopefully pull down premiums further.
- 6.4 However NI has the lowest levels of financial capability in the UK. A report by Stepchange Debt Charity in 2014 highlighted the fact that their clients in NI are on average 20% more indebted than the average UK client²⁷.
- 6.5 Drivers themselves need to be encouraged to shop around for the best deals and for insurance cover which best suits their needs. They also need to fully understand the products they are buying and what exactly these products cover them for.
- 6.6 It is also fair to say that consumers must take responsibility for their own actions by not driving illegally, not putting others at risk and by refraining from the practice of 'fronting' (i.e. wrongly naming someone else as the main driver in order to get a cheaper premium).
- 6.7 BIBA's evidence indicates that telematics is likely to play a large part in bringing down future car insurance prices. This is an option which may work well for some consumers.

²⁶ AA British Insurance Premium Index, Quarter 1 2015.

²⁷ Stepchange Report, Northern Ireland, 2014.

Recommendations for Government

- 6.8 It is the view of the APG that there should, as a matter of urgency be a detailed review of how LASPO has changed the insurance landscape in the UK. If this can be established, NI drivers could benefit from any applied learning and changes.
- 6.9 Government should bring in tighter regulation and fines for companies that breach Claims Management Regulation.
- 6.10 Young drivers should be supported to get on the road.
- 6.11 Young drivers should take advantage of the various initiatives on offer or being imposed such as telematics, graduated driving licence, night-time curfews and restriction on the numbers of passengers. They should realise that anything which reduces the level of accident frequency will ultimately result in lower premium levels.
- 6.12 Given that it is unrealistic to offer introductory NCBs to young drivers, insurers might consider offering the incentive of a year's no claims bonus after ten months instead of a year.
- 6.13 This would reduce the initial premium by one sixth and provide a real incentive to the young driver to accumulate a NCB.
- 6.14 The Chancellor of the Exchequer has recently indicated that he intends to bring forward proposals to exclude 'minor' whiplash claims from compensation entitlement.
- 6.15 There are obvious problems with this, particularly in terms of who decides whether a whiplash is 'minor' or otherwise. This could only be assessed by an appropriately qualified medical practitioner, the same expert who currently provides expert opinion on these types of injuries.
- 6.16 Whiplash claims account for 20% of all claims costs²⁸ in the UK and the proportion may be higher in NI.

²⁸ 'Lifting the bonnet on car insurance – what are the real costs?' ABI report, 2013.

- 6.17 All reasonable steps should be taken to ensure that trivial or fraudulent claims are not successful. This will require action by insurers, consultants, solicitors and the judiciary as well as, or other than, to supplement the action already proposed by the Chancellor.
- 6.18 There is little doubt that a proportion of these claims are dubious and, if they can be identified, this provides an opportunity to reduce claim costs, to the benefit of all policyholders.
- 6.19 The CMA announced in January 2016 that it will launch a review of the legal services market. When this occurs, a review of the comparisons between NI and GB structures might prove very enlightening in relation to car insurance premiums.
- 6.20 In the meantime, further joined up working between Department for Infrastructure DfI and DoJ is required to ensure that uninsured drivers are detected and dealt with appropriately by the PSNI and the courts.
- 6.21 In undertaking this work, the APG has tried to shed light on what one contributor described as the ‘complex jigsaw’ of the car insurance market.
- 6.22 We have certainly unearthed some puzzling pieces of this jigsaw, however the wider picture as to why NI drivers pay more on average than elsewhere remains unclear.

Appendix 1

List of Contributors

Evidence was taken from the following organisations:

The British Insurance Brokers' Association (BIBA)

BIBA is the UK's leading general insurance intermediary organisation representing the interests of insurance brokers, intermediaries and their customers. BIBA has almost 2,000 members.

The Consumer Council

The Consumer Council is an independent consumer organisation, working to bring about change to benefit Northern Ireland consumers. The Consumer Council has a statutory remit to promote and safeguard the interests of consumers in NI.

The Law Society of Northern Ireland

The Law Society's powers and duties are to represent and regulate the solicitors' profession in NI with the aim of protecting the public.

Crash Services

Crash Services is an independent accident management company dealing with an estimated ten per cent of third party claims in NI.

The Belfast Solicitors' Association (BSA)

The BSA exists to ensure the provision of ethical and efficient legal services to the community, and is the largest association of solicitors in NI.

The Association of British Insurers (ABI)

The ABI speaks on behalf UK insurers and provides consumers with general information on insurance and other services.

The APG also received advice and input from:

The Department of the Environment NI (DOE)

The DOE's overall aim is to 'work in partnership' with the public, private and voluntary sectors to promote the 'economic and social welfare of the community' through 'promoting sustainable development and seeking to secure a better and safer environment for everyone'.

Motorists Insurance Services LTD (MIS Claims)

Motorists Insurance Services LTD (MIS Claims) provides claims accident management services to the motoring populace of Ireland.

Appendix 2

Why are car insurance premiums higher in NI? APG Evidence at a Glance

Crash Services

- Solicitors and insurers don't act in the interests of the consumer.
- Solicitors encouraged to hand over client details to the insurers of the at-fault parties.
- This leads to a lack of 'cost control' for the not at fault claimant.

Motor Insurance Services (MIS) (written submission)

- Traditionally, insurers have been purely financially driven.
- A lack of competition.
- Legal costs of processing claims.
- High frequency of accidents.
- MIS feels that CMCs are already effectively regulated and do not 'sell on' customer data.

Department of the Environment (Now Dfi)

- While young drivers hold 11% of licences here, they are involved in 44% of fatal collisions.
- Graduated Driving Licence and other measures for young drivers including telematics **could** reduce NI premiums by up to 20%

The Law Society

- CMCs serve 'no useful purpose' and indulge in 'sharp practice'.

- The consumer is a 'passive participant' in a process where their data is sold on.
- Consumers do not distinguish between insurance companies and CMCs.
- Called for a ban on referral fees.

Association of British Insurers

- More road traffic collision casualties.
- Consumers in NI do not shop around.
- Higher court costs (ie ABI suggests removing inflation index from court costs).
- Absence of pre-action protocol.
- Need to reform credit hire costs.
- LAPSO and other initiatives should help lower premiums.

Appendix 3

Snapshot of quotations from a comparison website

19 year old male / Ford Fiesta 1.3 / first time licence / two years driving:

Postcodes (NI)	Annual premium	Postcodes (UK)	Annual premium
BT28 (Lisburn)	£1,454	KY16 (St Andrews)	£731
BT20 (Bangor)	£1,423	HP22 (Buckinghamshire)	£802
BT47 (L'Derry)	£2,745	WS13 (Lichfield)	£1,067
BT92 (Enniskillen)	£1,657		
BT13 (Belfast)	£3,120		

50 year old male / Skoda Octavia / full bonus / one driver / clean licence:

Postcodes (NI)	Annual premium	Postcodes (UK)	Annual premium
BT28 (Lisburn)	£207	HP22 (Buckinghamshire)	£237
		KY16 (St Andrews)	£196
		WS13 (Lichfield)	£245