

The Compensation Culture

Or, Insurance Fraud and what can we do about it?

Stefan Puttnam
Executive Director
Jardine Lloyd Thompson Leisure

COMPANY/DIVISION/DEPARTMENT (BAR CAN BE COLOUR CODED)

□ CLIENT LOGO AREA

□ Distinctive. Choice.



Agenda



- What is the Compensation Culture/Insurance Fraud?
- Why does it occur?
- Facts and Figures
- Examples
- How it is being tackled within the UK
- Has this action worked?

The agenda for my presentation includes reviewing the following

What is the Compensation Culture, or is it Insurance Fraud

Why does it occur

I will give you some facts and figures

Run through some examples of incidents

How the problem is being tackled in the UK

And the effect this has had

What is the Compensation Culture / Insurance Fraud?



- Exaggerated or Inflated Claims
- Fabricated Incidents
- Staged Accidents
- The same!

First of all what is the Compensation Culture?

The definition I found describes a society in which it is acceptable for anyone who has suffered a personal injury to seek compensatory damages.

I do not have an issue with this. If someone has suffered personal injury due to another's negligence then they should be entitled to seek recourse.

However this type of incident is not the issue. What we are concerned with is

-

An **exaggerated or inflated claim** where an incident has occurred but the loss or damage is far less than the amount being claimed.

A **fabricated incident**, for example someone simply falling over then coming onto your premises and claiming that the incident took place there.

And the most common type, a **staged accident**, usually a motor accident. This type of incident has been widespread in the US and UK for many years and has spread across parts of Europe particularly Spain and Germany. I will give some figures later.

Personally I believe that they are, on the whole, one and the same. Both are fuelled by greed and dishonesty.

Compensation Culture and Insurance Fraud = the same thing.

Why does it occur?



- Dishonesty
 - No Win No Fee
- Compensation Claims Cost
- £12 Billion
 - £16million per day Legal Costs

Firstly there has always been a section of society that is **dishonest, people** who will try it on, however the main catalyst is deemed to have been the **no win no fee** solicitor. This activity began across the Atlantic and has spread to the UK, where it has replaced Legal Aid. It is worth mentioning that in the UK during the mid 1990's the Legal Aid bill for compensation claims was approaching £1.5 billion and so the UK Government were keen to pass this cost on to someone else. That someone was the Insurance market. And then in turn the insurance buyer.

Within the UK, generally a solicitor agrees to act on your behalf in return for a % of any damages awarded. If the case is lost then the claimant does not pay for the solicitors services as the solicitor will have arranged "after the event" insurance which will cover costs awarded against the claimant. Basically this has encouraged people to have a punt.

Worth mentioning that of the estimated **£12billion paid** out by insurance companies within the UK for compensation claims during 2008, 40% or **£16million** per working day goes on legal costs. It is estimated that these amount will increase by approx 10% per annum.

It has been estimated within the UK that 90% of claims brought under a no win no fee basis would not have been brought if the claimant had had make a personal financial commitment.

And it does not help when the courts do not support the insurance market.

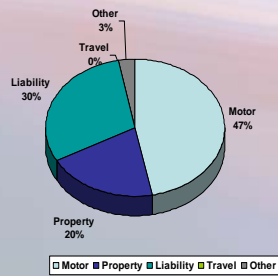
A recent example involves a young lady who following a minor motor accident alleged severe injuries and sought compensation of £750,000. With supporting evidence the insurance company fought the case and although they proved that the alleged injuries were false the judge still awarded the claimant £25,000. The reason given by the judge was that he did not want to penalise the claimant for exaggerating her claim!

ABI Fraud Statistics

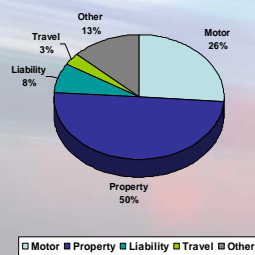


- Figure 1 – Detected fraud savings in UK general insurance split by product line, 2007
- Source ABI Research

Fraudulent Claims by Value



Fraudulent Claims by Volume



This slide gives a snapshot of the 2007 Detected Fraud savings and volume of incidents by product line.

The interesting statistic is the comparative low level of Fraudulent Liability incidents, 8%, against the actual savings made, 30%, which would suggest that this is an area that individuals will target for a big win rather than say travel and property insurance where the amounts involved will be negligible by comparison.

Facts and Figures – Detected Fraudulent Claims



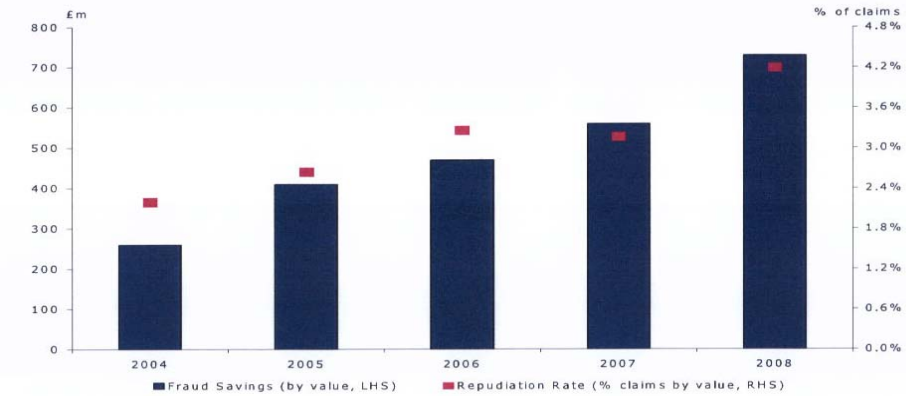
- 107,000 Detected Fraudulent claims in 2008
- Saving £730 Million in 2008

The following figures have also been produced by the Association of British Insurers

In 2008 **107,000 fraudulent** claims were detected in the UK which has generated an estimated saving of £730 million – **slide from ABI papers**



Figure 1 – Detected general insurance claims fraud (by value, total savings and repudiation rate)



Source: ABI (2009c).

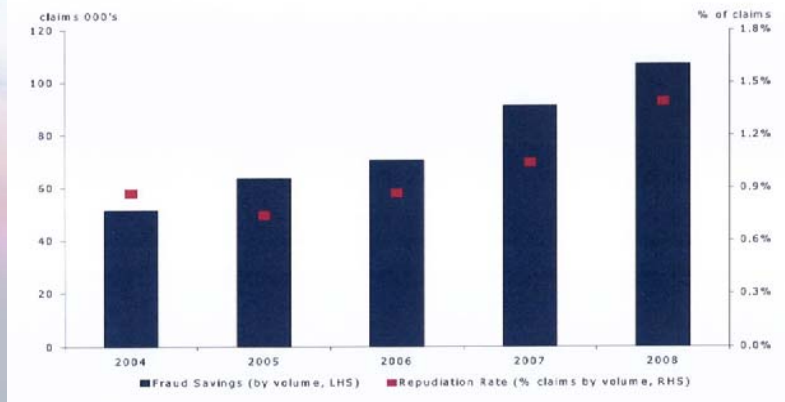
As you can see from this slide, over the past 5 years the estimated annual savings have increased from approx £250 million.

Important to note that the increase between 2007 – 2008 was over 30%

The red mark shows the Repudiation rate as a % of claims by value – reaching 4.2% in 2008.



Figure 2 – Detected general insurance claims fraud (by volume, total savings and repudiation rate)



Source: ABI (2009c).

The number of detected fraudulent claims has increased from around 50,000 to 107,000 in 5 years

The red mark on this slide shows the repudiation rate as a % of claims by volume and reached 1.4% in 2008.

Facts and Figures – Detected Fraudulent Claims



- 107,000 Detected Fraudulent claims in 2008
- Saving £730 Million in 2008
- 30% increase in 2009
- Estimated saving in 2009 £1billion

And estimates for the first 6 months of 2009 have seen a further increase of **30%**

And the current estimated saving in respect of detected fraudulent claims for 2009 stands at **£1billion**

Why the big increase?

The recession has seen a massive increase in attempted insurance fraud and with the improved detection tools in place, which I will go into later, this has contributed to these figures but we have also seen a five fold increase in the number of anonymous tip offs through the registered Cheatline that has been set up by the Insurance Fraud Bureau

The ABI estimate that One in five will consider making an exaggerated, therefore fraudulent, claim

FYI characteristics are male, in full time employment, 18-34 with household income in excess of £30,000.

Facts and Figures – Undetected Fraudulent Claims



- Estimated 250,000 Undetected Fraudulent claims
- 17% increase between 2007/08
- Estimated cost £1.9 billion
- 50/50 split – Commercial/Personal
- Estimated 12% of all claims are Fraudulent

That is just the detected claims!!

Undetected fraudulent claims are another matter.

The ABI estimate **250,000 Undetected Fraudulent claims in 2008**

This an increase of 17% on the previous year

Undetected fraud totals £1.9billion per year.

This is in addition to the £1b detected.

It is estimated that **50% relates to** personal policy holders such as household, motor and travel claims and 50% relates to commercial insurance, i.e property and liability.

It is estimated that approx **12% of all claims are fraudulent.**

Facts and Figures – Comparisons



- USA 15% - Cost of \$80 Billion
- Canada 15% - Cost \$1.8 Billion
- Australia 13% - Cost \$2.1 Billion
- Fraudulent Motor Claims – Germany
- 12%
- Fraudulent Motor Claims – Spain
- 22%

Comparisons – In the **USA Estimated 15%** of all claims are Fraudulent and it is estimated that Fraudulent PL claims cost over \$2billion annually. The overall cost of insurance fraud within the US is estimated at **\$80billion**.

In **Canada Estimated 15%** of all claims are Fraudulent at an estimated total cost **\$1.8billion**

In **Australia 13%** of all claims are Fraudulent at an estimated total cost **\$2.1billion**

Motor claims in Germany? Guess?.....**12%**

Motor claims in Spain?.....Guess?.....**22%**

There is evidence that suggests that Motor insurance has always been the easiest area to commit fraud. Countries such as the USA and UK have worked hard to tackle this problem in recent years which has certainly seen a large increase in detected fraud but this in turn has encouraged claimants to seek other ways to make claims and it is strongly believed that this mentality will gradually spread across mainland Europe as action takes place in countries such as Spain and Germany to tackle the existing motor fraud issues

Examples – Myth or Legend



- Kathleen Robertson
- Carl Truman
- Amber Carson
- Kara Walton
- Merv Grazinski

These are well known examples of incidents that have been widely reported in the press over a number of years.

Kathleen Robertson allegedly broke her ankle tripping over a child in a department store and successfully claimed £780,000. Fair enough you may say but the child was hers!

We have had many alleged incidents at attractions involving parents failing to control their children. There was an incident recently when a child ran into an adult whilst playing with his friend. The adult not only tried to sue the park but believe it or not both of the children! On this occasion the courts saw sense.

Carl Truman won \$74,000 when his neighbour drove over his hand. Again sounds fair however Mr Truman was trying to steal the hubcaps at the time!

Amber Carson won \$113,000 after slipping on a spillage on the floor of a restaurant despite the fact that she had thrown the liquid at her boyfriend not 30 seconds previously.

Once again this is rumoured to be a myth however many of our attraction clients have received claims from individuals who have allegedly slipped on a spillage that they themselves have caused.

Kara Walton successfully sued a nightclub owner when she fell in the bathroom damaging her teeth. She was climbing through the window at the time trying to avoid paying the entrance fee. She was awarded \$12,000!

I recall a nightclub in Scotland receiving a claim from a nurse who alleged that she had tripped on the step at the entrance and fractured her shoulder. Fortunately the club retained its CCTV videos and was able to show the claimant approaching the club with her arm in a sling then removing the sling before performing a Ronaldo type dive through the entrance of the club.

And one of the most famous, **Merv Grazinski** who set the cruise control on his new motor home and then left the drivers seat to make himself a coffee. Needless to say, but the vehicle left the road and crashed. He sued the manufacturer and won \$1,750,000 – plus a new Winnebago!

I was always convinced that this is a myth however one of my colleagues worked for the insurer involved in this incident and is adamant that it is true.

Here are some other genuine claims just to give you a flavour of the lengths people will go to...

A family travelled to India on holiday. Whilst there the mother died of natural causes. The following day the family moved the body from the hotel room and pushed her body in front of a moving taxi and attempted to make a claim under their travel insurance accident policy. It was only following the post mortem that it was established that the woman had been dead for 24 hours.

A London double decker bus travelling back to the depot with only the driver onboard took a different route and hit a bridge slicing the top off the bus. The story made the national news and within 48 hours over 20 claimants had come forward with tales of injuries. The bus was empty.

You will all have had customers complain about the weather, it being too hot or too wet, but what about complaining because your water shute ride is too wet! And not just complaining but reporting the matter to the local Police station who deemed it necessary to visit your park to see for themselves – unbelievable you may think but true.

A visitor to a well known Theme Park tried to claim for damage to his jacket caused a Seagull depositing what seagull deposit as it flew over the Park.

And just to prove that you never know who will try it on – the Reverend Roland Gray is now serving a prison sentence for enlisting his congregation to fake slips and trips within hotels, parks and retails outlets. It is estimated that he was involved in over 200 incidents.

How do we Tackle?



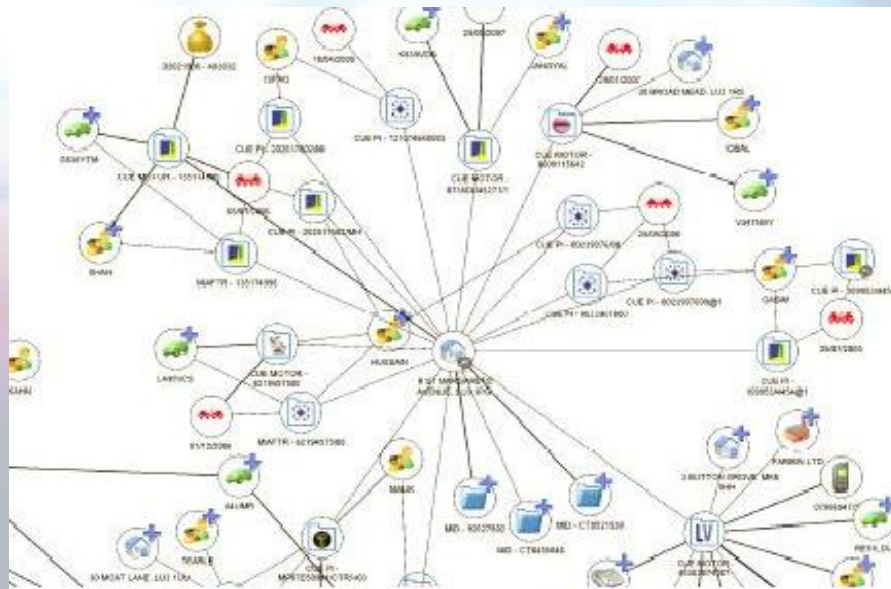
- Government Support
- Claims and Underwriting Exchange (CUE)
- Insurance Fraud Bureau

Government Support – Despite a vast improvement in Health and Safety activity that has resulted in far fewer Real incidents occurring during the past 10 years we have not seen a reduction in the number of incidents reported and because of this, despite clear evidence to the contrary, the British Government refuses to accept that we suffer from a compensation culture. The fact that the legal costs from compensation claims alone total an estimated £5billion per annum is considered by many to be a major factor in this stance.

CUE – established in 1994 is a central database of motor, home and liability incidents that have been reported to insurers. Membership includes 53 Insurers. All reported incidents are loaded onto the database and details are cross checked against existing data which then flags any duplicate details be it name/address etc. These would then be investigated.

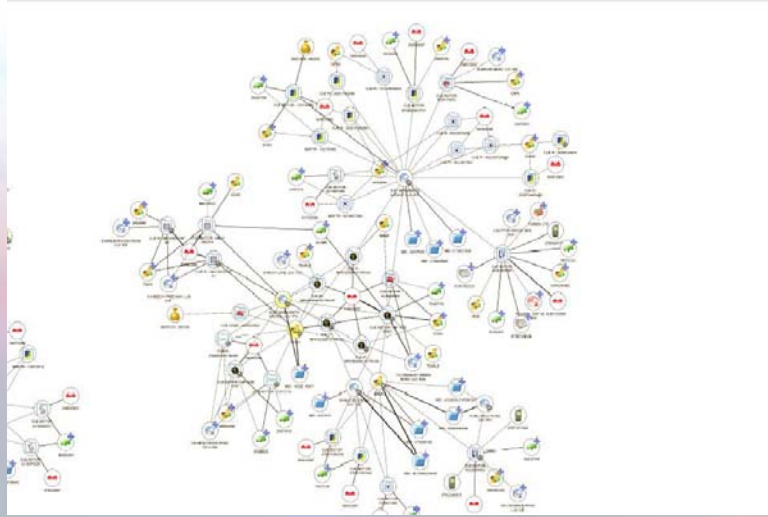
IFB – New industry funded initiative which collates data from a number of sources including CUE and uses analytical techniques to identify potential fraud. They also actively encourage “whistle blowing” and have set up Cheat Line which promotes the reporting of alleged fraud.

Insurance Fraud Bureau



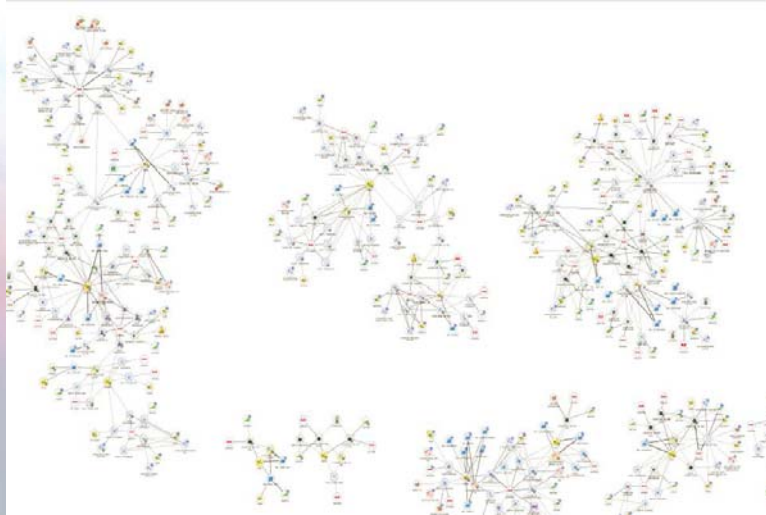
Difficult to see any detail on this slide but basically gives you an idea of how the database works. If you enter a record that is recognised it will then build from that name/address/or whatever, clusters associated with the original that also have records of fraudulent activity and then this grows

Insurance Fraud Bureau



And Grows

Insurance Fraud Bureau



And grows

All the records on this snapshot are linked in some way with the centre record

How do we Tackle?



- Government Support
- Claims and Underwriting Exchange (CUE)
- Insurance Fraud Bureau
- Lie Detectors

Lie Detectors – many insurers have in recent years encouraged the use of telephone claims reporting rather than form filling. The reason given is to cut down on administration costs, which I am sure it does, but they are also monitoring the call through a lie detector and using equipment that recognises signs of stress in the callers voice.

How do you help?



- Defend Vigorously
- Ensure Compliance with Health and Safety
- Paperwork, Paperwork, Paperwork

Many insurers have been guilty of seeking cheap and quick settlement which is correct if there is liability but spurious claims must be **defended vigorously**.

There needs to be a clear message that the industry is not a “soft touch”. The short term cost of defending a claim will be more than off-set by the longer term reduction in claims made.

You cannot expect an insurer to defend you if there have been breaches in **Health and Safety requirements**.

You must ensure that you are fully aware of your requirements. In the UK we encourage what we refer to as a Scored Audit. This is carried out by a Health and Safety expert and covers literally hundreds of different question sets and is tailored to the Leisure sector. This document enables us to set Industry benchmarks and has proved of great use to many operators.

And finally **Paperwork**, paperwork, paperwork!

Give your Insurer something to defend, whether it be training records, risk assessments ride inspections. As much supporting documentation as possible will increase your insurers chances of successfully defending or just deflecting a spurious claim. No win no fee solicitors are usually looking for a cheap win and will not want to take on a company that clearly knows what they are doing and has supporting documentation to evidence this.

Has this action worked?



- It is working
- Yes
- But, still a long way to go!

The Insurers that we work with are far more likely to defend claims now than they were in the past which is mainly due to the confidence that they have with the Leisure sector and the fact that the majority of operators can provide supporting documentation that will enable a vigorous defence.

An recent example – a young man, showing off to friends, jumped from a ride. He suffered serious injury. The operator was able to provide records covering staff training, the maintenance and up keep of the ride, details of how the ride is monitored etc and despite the serious nature of the incident the insurer was confident that he could successfully defend the incident, and did so.

In the past many incidents of this type would have been settled swiftly by insurers to avoid costly legal fees but the tide is changing.

So is it working Yes

But there is still a long way to go