

John Butcher response to Provisional Findings report

It seems that you have overlooked two major problems with this 'service', so you have not carried out your investigation thoroughly.

1 If the no-fault insured (NFI) and the third party (TP) are insured by the same insurer (MI), there will be an incentive for MI, when handling NFI's claim against TP, to prevent NFI receiving fair compensation, as MI will have to pay that itself.

2 If NFI has legal expense cover arranged by MI, a solicitor (PS) on MI's panel who is instructed by MI to handle NFI's claim against TP will have an 'own interest conflict' of interest, as PS's fees will be paid by MI, so PS should not (under Rule 3 of the Solicitors Code of Conduct) accept that instruction. But such solicitors routinely ignore this - perhaps with tacit, but improper, approval of the Solicitors Regulation Authority. PS/MI will only agree to NFI appointing their own solicitor (and being paid for by MI) if the matter comes to trial, which is only likely in the case of a minority of claims. This systemic weakness means that MI does not obtain adequate compensation, as PS is under pressure to keep down that claim, for fear of (a) being removed from that panel, or (b) not getting the more lucrative work from MI. This problem also arises if PS is on the panel of several insurers, as NFI's claim may be against a different motor insurer than MI, but one on the panel of which PS is, so PS is still subject to such an 'own interest conflict'.

So, far from this service resulting in the value of claims being higher than should be the case, it's the other way round!