



WHIPLASH NUMBERS – FACT OR MYTH?

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Statistics have a wonderful ability to be manipulated to prove almost anything. However, one would hope that rational and clearheaded thinking would largely avoid this problem in the medico-legal world. But how to explain the strange decline in whiplash claims?

For at least the last three years the Association of Personal Injury Lawyers (APIL) has been routinely trumpeting apparent falls in whiplash claims. A typical example being a tweet from June of this year that:

"Whiplash claims have fallen 41% since 2010/11. Let's build policy based on fact, rather than myth."

To place this in context, APIL is a campaigning organisation for claimant personal injury lawyers. Their members have been under the cosh for a number of years defending themselves from accusations that this country is plagued by a compensation culture. Whiplash claims have been one of the central examples of this alleged problem. This is not entirely

surprising given the inherent problem of diagnosing an injury where the symptoms are largely self-reported. How many of these claims are genuine? A recent headline from the Mirror newspaper gives a typical example of how this issue is often perceived:

"UK becomes whiplash capital of the world as ambulance chasers look to cash in on compensation"

The problem (or perceived problem) has become so widely accepted that there have been calls from some quarters, including former justice secretary Jack Straw, to ban whiplash claims entirely, with the matter apparently being given serious consideration by the government.

It can therefore be seen that APIL's repeated claims that whiplash claims are actually falling in number is a direct attempt to counter the growing perception there is a compensation culture problem. APIL claims that their whiplash figures come directly from the

government's own Compensation Recovery Unit (CRU) obtained as a result of freedom of information requests. If there has been a fall of anything like 40%+ in whiplash claims in recent years, the obvious cause would either be a significant reduction in road traffic accidents or, alternatively, a reduction in the number of legal claims being made (perhaps as a result of measures to clamp down on the cold-calling of accident victims and/or efforts to regulate claims management companies).

So what does the CRU data, freely available on the Department for Work and Pensions' website, say has happened to motor claims since 2010/11?

The figures for settlements recorded shows the number of motor claims as:

2010/11.....	659,671
2015/16.....	732,788

So the actual figures for motor claims settled shows a fairly significant increase in claims where insurers have had to pay out.

More commonly, commentators focus on the number of claims registered. What does the CRU data show?

2010/11.....	790,999
2015/16.....	770,791

This is a statistically irrelevant 2.6% drop. Neither set of figures suggests any meaningful reduction in accidents or claim numbers. Unfortunately, the DWP does not publish figures for whiplash claims, hence APIL's reliance on freedom of information requests.

If claim numbers are largely unchanged over this period but whiplash claims are down around 40%, it must mean non-whiplash claims are up by almost exactly the same amount in terms of absolute numbers.

Whiplash claims are generally claims that fall at the lower end of the injury scale in terms of seriousness and damages paid. On the face of it, it is difficult to see how these figures can be interpreted as meaning anything other than that there has been a massive increase in more serious non-whiplash injuries.

To elaborate, previous figures via APIL gives the number of whiplash claims in 2010/11 as being

571,111. The DWP figures for that year record 790,999 overall motor claims. The number of non-whiplash claims was therefore 219,888 (790,999 less 571,111). If (according to APIL) the total number of whiplash claims has dropped by 41% in 2015/16 it must mean whiplash claims were down to, about, 336,955 (59% of 571,111). The overall number of motor claims that year was 770,791. That would leave a balance of (about) 433,846 (770,791 less 336,955) non-whiplash claims.

That is almost a doubling (from 219,888 to 433,846) of non-whiplash injuries during a period where overall claim numbers were basically unchanged.

That is wholly implausible. Nothing could explain such a dramatic change in the nature of injuries suffered in RTAs during such a relatively brief period of time (with no significant changes in car design, seatbelt use, road congestion, etc.).

(Government figures give the number of pedal cyclist casualties reported to the police (not claims) as a result of road accidents in 2014 as 21,287. Even allowing for a very major increase in the number of cyclists since 2010/11, with a corresponding increase in casualties, and allowing for the fact the number of claims may be higher than the number of accidents reported to the police, an increase in cycling injuries does not seem to be a remotely plausible explanation for the massive increase in non-whiplash claims).

The far more likely explanation is that there has actually been no significant change in whiplash numbers but that many claims have simply been "reclassified", possibly as a result of the new rules concerning soft tissue injuries (which limits the recoverable costs of medical experts' fees in such cases). Whether this change in classification is as a result of pressure from solicitors or medical agencies on medical experts is a matter which no doubt merits further investigation.

In any event, whatever this "drop" in whiplash claims signifies is almost certainly not evidence that assists in the debate about the existence or otherwise of a compensation culture.