

# A case of fundamental dishonesty

A late personal injury claim following a low speed impact, which was presented 9 months after the accident, results in a court case and a finding of fundamental dishonesty.



## The accident

When a car in front of our policyholder stopped suddenly, because someone stepped out in front of them, he wasn't able to stop and hit the back of the other car. No police were called and no witnesses were recorded.



This was a low speed impact and at the scene the driver in front (Mr A) didn't mention any injuries and seemed okay. He also didn't mention any injuries when he reported the claim.

The claims progressed, vehicles were examined and repaired and all seemed well, until 9 months after the accident, Mr A submitted a claim for a personal injury as a direct result of this accident.

## The injuries

As with any injury claim we have to investigate it to make sure that the person has got the right level of treatment and gets the right care.

However, when looking into the claim, it was odd that while Mr A claimed his injuries were "severe at the outset, at a level of 6-8/10, for the first two weeks" that he'd sought no physiotherapy, pain relief or medical treatment. Particularly as "it was so severe it interfered with his sleep and going up and down stairs" and that it "severely impeded his usual activities for several months" He said that he'd previously enjoyed playing badminton and cricket but was no longer able to play.

Mr A was asked if this pain could be from an existing condition and he denied any past medical history of a similar nature. However, further research showed that he'd had a previous whiplash claim in 2006.

During a medical examination, the medical expert recorded that there was "no restriction with sporting activities". And looking at notes from his GP, they state that he was "playing sport at least twice a week". While his GP notes spoke of minor ailments, there were no notes about this alleged injury and the resulting pain.

## The court case

His claim was taken to court. When he was questioned about the claim, his injuries, his sports and GP notes, he wasn't able to offer a full reason for the inconsistencies.

The judge said "(Mr A is) in my judgment, someone who makes things up as he goes along, to try and plug the inconsistencies exposed in cross examination". He went on to say "all of the evidence points to a person who was not, as he suggests, injured, but is instead seeking to profit from making a false claim. The claim is therefore dismissed, and I have no hesitation in finding that (the solicitor) has proven, on the balance of probabilities, this is a fundamentally dishonest claim".

## Key learnings

Be wary of late personal injury claims particularly if your system says there were no injuries previously noted. Sometimes people are talked into making personal injury claims by an unscrupulous solicitor. To help stop this type of fraud we can assist people at the scene of an accident by suggesting the following:



- Get out and assess the level of damage and make a mental note of any pre-existing or non-related damage that might be passed off as being caused from that collision.
- Take photographs of the point of contact on both cars, regardless of the level of damage. These can be vital if we receive personal injury claims from low speed collisions, where the injury is later questioned.
- Take pictures of the road layout and location, especially if it's under construction or a new layout not on Google Maps.
- Take special notice of the occupancy and make sure you get a clear and unobstructed view of the inside of the vehicle.
- Make sure you're clear as to who was driving and who was a passenger.
- Brokers should ask about Dash cam footage from the scene of the accident and encourage new customers to potentially purchase a dash cam if they don't already have one. Dash cam footage has been pivotal in the defence of some very key cases.
- Make note or take pictures of any CCTV cameras, especially in car parks or petrol station forecourts.
- Ask the proprietor about the CCTV footage as soon as possible as it's often only available for a short time.
- Check if there's an independent witness to the accident who could help in any potential investigations.
- Lastly, when they report the accident to you as their broker you should always ask whether anybody in either car has any injuries.

