

## Firm to send open letter to six law firms and the insurers they work for

# Old wounds re-opened as Accident Exchange raises evidence concerns



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Six years after the Autofocus fraud scandal, Accident Exchange is to write an open letter to defendant law firms and insurance companies it believes are engaged in dishonest car hire rate evidence activity.

Post understands the letter will be sent to approximately six law firms, commencing on 31 August. Several small insurance companies are also expected to receive the correspondence from the credit hire firm.

Accident Exchange CEO Steve Evans said: "We have got our team of 18 ex-police officers who are out interviewing various people and putting statements together. What we are intending to do is write to those solicitors against whom we have expressed concern inviting them to confirm their commitment to ensure evidence before the court is proper, honest and truthful. We will copy those to the insurers that are having this done on their behalf."

Accident Exchange announced on 21 August it had launched an investigation into dishonest hire rate evidence. The investigation was sparked by the February Court of Appeal ruling in *Stevens v Equity Syndicate Management*.

In that case, it was determined that, where the claimant is considered able to ordinarily afford to hire a vehicle, insurers could see significant reductions in the hire charges claimed. The court ruled

the correct rate to be applied in such cases was the lowest reasonable rate quoted by a mainstream supplier for the basic hire of a vehicle.

Credit Hire Organisation director general Martin Andrews told *Post*: "We are concerned [defendant lawyers] are over-egging the *Stevens* [decision] and encouraging insurers not to settle claims and, as a result of that, claims will end up going to litigation and it is part of that litigation that rate reports are required to be produced by the defendants.

"The probable increase in litigated cases [impacts] the rate surveyors are bashing these reports out and are not doing it with the veracity and conscience the court imposes on them."

Charlie Williams, a member of the Forum of Insurance Lawyers' credit hire sector focus team and a partner at Weightmans, responded: "I am not aware of that practice [by defendant lawyers] but I cannot speak for other law firms. Insurers and their solicitors are committed to ensuring the evidence they rely upon is truthful and honest."

Williams added any recent issues with rate providers had not been raised at Foil meetings.

As part of the current Accident Exchange investigation, Evans has reviewed more than 100 cases and their adjoining sets of evidence.

He told *Post* that 97% of the cases reviewed contained evidence that was not proper and claims to have identified individuals deliberately concealing documents that would challenge the evidence in their own witness statement, as well as instances of entire witness statements being predicated on evidence of available hire rates that the maker knows cannot be true.



Evans: reviewed over 100 cases

Evans also claims to have found examples of organisations relying on records of telephone conversations with hire companies but refusing to disclose the transcript of those conversations or, in cases where they have been disclosed, revealing the notes are not necessarily accurate or true records of the conversations that took place.

He told *Post*: "My primary issue is to level the playing field and get the parties together and agree the rules of engagement should be the civil procedure rules. It shouldn't be [up to] small, individual, entrepreneurial, potentially dishonest individuals to pollute the legal system again."

Evans has the backing of the CHO and said his team of investigators is collating evidence from other credit hire companies as well.

Susan Brown, chair of the Motor Accident Solicitors Society, said Mass members would not likely be involved.

"The law firms [Accident Exchange] is talking about are for

insurers. Largely, Mass members are claimant representatives. [However], anybody who does motor work is interested in credit hire and the issues around it," she said.

An Association of British Insurers spokeswoman said the trade body did not wish to comment fully until it was aware of the contents of the open letter.

A Solicitors Regulation Authority spokesman added: "If anyone has evidence of such practices taking place, we would ask them to forward that information so that we could investigate fully. Solicitors have a duty to uphold the rule of law and proper administration of justice, act with integrity and not allow their independence to be compromised."

The previous legal battle, involving now-defunct Autofocus, resulted in 27 insurers reaching compromise agreements with Accident Exchange in claims totalling more than £12m, an ongoing action against a number of solicitors for damages of £129m as well as one former Autofocus employee receiving a suspended prison sentence and permission granted for Accident Exchange to apply to commit a further seven.

Evans said: "One of the things I said at the time was that it should never happen again and we should not be in a situation where the prize for saving a few pounds allows insurers and their solicitors to put evidence in front of the court they know is dishonest."

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