

# Blog: Vnuk opens fraud front

**The Vnuk ruling has raised the prospect of a much wider compulsory insurance regime being introduced in the UK, requiring vehicles such as golf buggies, quad bikes and farm vehicles to be insured, even when used exclusively on private land. The government has described the decision as a 'complete game changer' for motor insurance.**

While Brexit may eventually allow the UK to make its own decisions on the extent of compulsory motor insurance, until the UK leaves the European Union the government is required to meet EU obligations, to implement the Vnuk decision or a modified version of it if the Motor Directive is amended.

While the Department for Transport is consulting at present, all the available options have the potential to increase the risk of fraud, throwing up new challenges for insurers.

For example, accidents may be staged on private land, away from CCTV or potential witnesses; we could see an increase in fictitious accidents given the lack of corroborative evidence or validation tools; minor accidents could be exaggerated.

There would be enforcement and liability issues – who will check if I don't insure my Segway? Difficulties in identifying vehicles through a lack of registration plates or traceable markings would arise – defendants may blame another vehicle or person to deflect the claim. The lack of central registers for identifying insurers, vehicles and their owners would result in inadequate detail to inform and sustain suitable fraud registers.

## **The fraud problem**

There would be concerns at an increase in misrepresentation by policyholders on inception, and in first party fraud, and a sense of grievance at the additional cost of compulsory insurance could fuel fraudulent claims to cover the cost of the premium. In all, there would be further fertile hunting ground for claims farmers.

Whatever the outcome of the consultation, insurers will need to be more vigilant in the light of the increasing risk of fraud from this new source. With insurers already facing an onslaught of questionable claims driven by ruthless claims farmers, a category of litigation, which can proceed on the subjective account of individuals without objective evidence could leave insurers having to disprove even more tenuous and subjective claims. Insurers may need to develop new insurance products, and, when faced with claims, apply early detection processes, with strategies to obtain as much contemporaneous evidence as possible.

Vnuk is not just a problem for insurers. As with other vehicles required to be covered by compulsory motor insurance, if the new categories of vehicle brought within the regime are not insured, the Motor Insurers' Bureau is likely to have responsibility for paying compensation. The government is considering currently the regulatory requirements thrown up by Vnuk: should off-road vehicles have mini-number plates? Prior to Brexit, the government will be concerned at the risk of Francovich damages if the UK regime does not meet EU requirements.

Against the background of Vnuk, the government is working on the statutory insurance framework required for autonomous vehicles, and the proposed amendments to the soft tissue injury claims regime. How these different strands of policy will work together remains to be seen but we know that fraudsters will always exploit the weakest spot.

Depending upon your view the Vnuk decision can be seen as an example of EU over-regulation or an important step in increasing access to justice. Whichever the side of the argument you fall, the government is right when it says that "doing nothing is not an option".