

**Whiplash reform:**

**Proposals on fixed costs for medical examinations/reports and related issues**

Chartered Society of Physiotherapy

Consultation response

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The Chartered Society of Physiotherapy (CSP) is the professional, educational and trade union body for the UK’s 52,000 chartered physiotherapists, physiotherapy students and support workers.

The CSP welcomes the opportunity to respond to the consultation on the proposals on fixed costs for medical examinations/reports and related issues.

Our response is focussed on the areas in which we feel we can most effectively contribute to the debate. We would be pleased to supply additional information on any of the points raised in our response at a later stage.

**Physiotherapists – experts in whiplash injury**

The Chartered Society of Physiotherapy strongly welcomes the inclusion of physiotherapists in the fixed fee scheme as appropriate healthcare practitioners to complete initial medical reports for whiplash injury.

Physiotherapists are involved with the recognition and management of whiplash injury at all levels and are already recognised as independent medical experts under the Pre-action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents.

The assessment and management of soft tissue and neuromusculoskeletal (NMS) injuries is at the heart of physiotherapy expertise.

Physiotherapists have made significant advances in the field of whiplash injury research, both challenging current practice and thinking, as well as suggesting new ways to approach this complex problem.

In the last decade, physiotherapists have become world leaders in the field of whiplash injury research, contributing seminal peer reviewed scientific papers, and offering new and innovative ways to address this complex and costly issue.

With the benefit of this emerging research, skilled physiotherapists are able to undertake assessments in the clinic which go beyond the commonly used and outdated *‘Quebec Task Force’* classification. Using new and evidence-based approaches to examination, physiotherapists are able to identify subtle objective measures of genuine whiplash associated disorders.(1) This may, in addition, provide methods of filtering out fraudulent claims. Furthermore, we would highlight that physiotherapists are able to assess the psychological and social factors that are also important in the diagnostic and prognostic process for whiplash associated disorder.(2, 3)

Physiotherapy research has also identified measurable traits of whiplash which may help to differentiate between fraudulent and genuine claims.(4, 5, 6) This important work, though in its early stages, may provide innovative ways of approaching both assessment and management/rehabilitation of whiplash injury.

Physiotherapy led research into predictive models for prognosis have suggested effective ways to identify those patients at risk of poor recovery in the first few weeks following the injury. This approach takes into account pain levels, sensory and psychological changes(7) and would provide prognostic guidance. This literature has recently been interpreted for the medico-legal sphere(8) by expert physiotherapist, Christian WorsfoldMSc PGDipManPhys MCSP MMACP.

**1. Do you agree with the proposal to introduce mandatory fixed fees as set out in Annex B for all initial medical reports?**

1.1 The Chartered Society supports the proposal to introduce mandatory fixed fees for all initial medical reports.

1.2 While the majority of practicing physiotherapists are members of the Chartered Society of Physiotherapy, we would recommend that the table in Annex B be amended to say ‘HCPC registered Physiotherapist’, as opposed to ‘member of the Chartered Society of Physiotherapy’.

**2. Do you agree with the level of fixed fees for all initial medical reports as set out in Annex B? If you do not agree with the level, please provide evidence for your argument.**

2.1 The Chartered Society of Physiotherapy supports the proposed fixed fee of £180 for general practitioners and physiotherapists.

2.2 We would welcome provision for these fees to be increased in line with inflation, or reviewed on a regular basis to take account of such changes.

**3. If the insurer submits a version of events, the defendant would need to give the insurer specific authority to do this. We would therefore be grateful for views on how this can most appropriately be achieved, and on the provision of the defendant’s version of events more generally.**

3.1 The Chartered Society of Physiotherapy has no comment to make on this.

**4. Do you agree with the proposal that claimant and defendant representatives may only commission a specified proportion of medical reports via any give intermediary? If so, what should the proportion be and why?**

4.1 The Chartered Society of Physiotherapy supports the proposal to introduce a prohibition on either party having a financial interest in an intermediary through which a medical report is obtained, however, we do not have a view on the mechanism by which this should be achieved.

**5. Do you agree with the proposal that representatives should be required to commission reports on a rota basis from a variety of intermediaries?**

5.1 As explained in 4.1 above, the Chartered Society of Physiotherapy has no view on the mechanism by which financial conflicts of interest are avoided.

**6. Do you have any other proposals as to how such independence could best be secured?**

6.1 As explained in 4.1 above, the Chartered Society of Physiotherapy has no view on the mechanism by which financial conflicts of interest are avoided.

**7. Do you agree with the proposal that the cost of the report is not recoverable if the report is commissioned outside the fixed fee scheme?**

7.1 The Chartered Society of Physiotherapy would support the proposal for the cost of the report to be non recoverable if the report is commissioned outside of the fixed fee scheme.

**8. Do you agree that the above proposal is a sufficient deterrent?**

8.1 The Chartered Society of Physiotherapy does not have a view on whether the cost of the report being non recoverable would be a sufficient deterrent.

**9. Do you agree with the proposal that a pre medical offer could be made if a report is commissioned outside the fixed fee scheme?**

9.1 The Chartered Society of Physiotherapy supports moves to prohibit pre medical offers and therefore would not support this proposal.

**10. Please also provide any further comments you may have in relation to any of the proposals or amendments covered by this letter and its annexes.**

10.1 Physiotherapists have specialist training in soft tissue injuries and neuromusculoskeletal conditions. As such, they are regularly called upon to recognise and manage whiplash associated disorder and act as reliable and efficient expert witnesses.

10.2 The Chartered Society of Physiotherapy, therefore, strongly welcomes the inclusion of physiotherapists in the list of professionals from which an initial medical report can be sought under the fixed fee proposals.

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For further information on anything contained in this response or any aspect of the Chartered Society of Physiotherapy’s work, please contact:

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References:

1. Sterling M. A proposed new classification system for whiplash associated disorders -- implications for assessment and management. Manual Therapy. 2004;9(2):60-70.

2. Williamson E, Williams M, Gates S, et al. A systematic literature review of psychological factors and the development of late whiplash syndrome. Pain. 2008 Mar;135(1-2):20-30.

3. Walton DM, Macdermid JC, Giorgianni AA, et al. Risk Factors for Persistent Problems Following Acute Whiplash Injury: Update of a Systematic Review and Meta-analysis. J Orthop Sports Phys Ther. 2013;43(2):31-43.

4. Jull G, Soderlund A, Stemper B, et al. Toward optimal early management after whiplash injury to lessen the rate of transition to chronicity: discussion paper 5. Spine (Phila Pa 1976). 2011 Oct 20;36(25 Suppl):S335-42.

5. Treleaven J, Jull G, Grip H. Head eye co-ordination and gaze stability in subjects with persistent whiplash associated disorders. Manual Therapy. 2011;16(3):252-7.

6. Jull GA, O'Leary SP, Falla DL. Clinical assessment of the deep cervical flexor muscles: the craniocervical flexion test. Journal of Manipulative & Physiological Therapeutics. 2008;31(7):525-33.

7. Sterling M. Physical and psychological aspects of whiplash: important considerations for primary care assessment, part 2--case studies. Manual Therapy. 2009;14(1):e8-12.

8. Worsfold C. When range of motion is not enough: towards an evidence-based approach to medico-legal reporting in whiplash injury. Journal of Forensic and Legal Medicine 2014 http://dx.doi.org/10.1016/j.jflm.2014.04.013