



## **FAIR Association of Victims for Accident Insurance Reform**

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### **FAIR Submission to Proposed FY 2019-20 FSRA Priorities and Budget Consultation Document**

Thank you for the opportunity to speak to the issues facing consumers who find themselves using their auto insurance product.

FAIR is a grassroots not-for-profit organization of Ontario car accident survivors who have been injured and who have struggled with the current auto insurance system in Ontario.

Our comments will be brief and in respect to auto insurance issues only.

#### **Auto Insurance: Support Auto Reform Strategy**

Our concern is that a false picture has been painted in respect to the upward pressure on auto insurance rates. Insurers have consistently passed on costs without any acceptable information on where they are spending our premium dollars. We have no idea where the dollars go or why the industry has inflated the original estimate of fraud as reported in the FSCO Anti-Fraud Task Force Report done some years ago.

While “auto insurers indicate they do not earn a profit sufficient to sustain widespread industry viability and product availability” it stands in direct contrast to their efforts to export the Ontario insurance model to other provinces such as Newfoundland and B.C.

Greater financial transparency about where all the premium dollars are going is key to public support for rate increases. It’s an oversight to simply accept what insurers are telling us about their profits without supporting documentation. We believe there is substantial profit in auto insurance and most of the problems have been created by greed and incompetent claims handling.

#### **Auto Insurance: Review Health Service Provider Regulation**

While we recognize that many aspects of service are being looked at by the FSRA as being worthy of attention through Health Service Provider Regulation it seems amiss that the accident victims who use these services aren’t included in that discussion.

It is a major concern that the hourly rate for those who provide treatments to MVA victims is being repressed and that many treatment providers often must chase insurers for payments.

We understand that other systems pay better rates than Ontario auto insurers do and in other systems far less unpaid work is expected. This extra financial stress on rehabilitation providers undermines the access to quality recovery resources for Ontario's patients who are often seriously injured.

We are disappointed to see that those rehab providers who treat only a few car accident patients should have to pay the full HCAI fees. This has become an access to treatments issue and is going to be felt the most in our rural areas. We'd ask for reconsideration on this.

### **Auto Insurance: Develop Fraud Reduction Strategy**

There's a theme at play here. All the focus is everywhere BUT on the insurers themselves. Since it is the insurers' product that requires the oversight, ignoring the insurers' behavior isn't appropriate, fair or good strategy to enhance the public's confidence in the product.

It isn't as if insurers themselves aren't fraudulent. In the public's view it is the insurers who are the biggest perpetrators of fraud in the system. That should not be overlooked. Not by a regulator.

This one sided perspective and the tendency to look at all but one stakeholder as potentially harmful is behind many of the existing problems with auto insurance. The insurers are counting on the status quo, a climate where they are given deference in all matters and that is where consumer confidence goes awry. What is wrong with insurer accountability?

The true cost of fraud at this point cannot be calculated since there is no reliable data when it comes to Ontario's auto insurers. Their side of the financial picture is not all disclosed in the HCAI data and we have absolutely no information on their legal costs. The FSRA role should not be to blindly accept data but to assure the public that their premium dollars are put to good use and coverage will be there when they need it.

Now that the ADR hearings system is no longer under FSCO control we feel that the FSRA should also collect data on the Licensed Appeal Tribunal (LAT) and any costs to the taxpayers to manage the approximately 10,000 cases a year in that system. Data on the LAT AABS system would also include information on insurers who are overusing the LAT as that can be an indicator of an insurer abusing the system and their own customers.

A close eye should also be kept on our civil court system and what taxpayers are paying to fund the chronically high volume of auto insurance related cases in that system. With over 50,000 cases on the docket for years on end, it is a statement on both the dysfunction of the insurance product and evidence of Ontario's auto insurance industry's inability to adjust claims competently.

## **Insurance Conduct**

Insurer conduct or insurers who behave badly is a huge problem for consumers. This is the result of a lack of regulatory follow through. FAIR has on occasion requested that the Superintendent send out advisories to insurers when there is evidence of widespread egregious behaviour only to be blown off as if composing an email is just too much work or sending out the advisory might offend the insurers. This isn't acceptable and lack of action is behind some of the current problems.

There are no corrective measures, no disincentives for insurers who are incompetent file managers or who abuse their own customers.

And the bottom line is when insurers don't pay the taxpayer does. Insurers also know that and are counting on the lack of regulatory follow through on complaints to enhance their profits while draining away our public supports. This has to end.

There need to be disincentives put back into the system. There should be court costs allowed to victims who are successful and steep interest penalties on past due amounts paid to the abused claimant for insurers who wrongfully deny legitimate claims.

Too much emphasis is put on the insurance industry needs and wants while little attention is paid to the needs of the injured.

Despite the obvious problems with insurer adjusters and their role in file management there is no mention of training or improving their knowledge base to better ensure that Ontario's needs are addressed. Insurer adjusters have various levels of training and yet they are the ones making unqualified medical decisions that affect the rest of the MVA survivor's life. One need only picture oneself with a serious brain injury having to beg for treatment from an adjuster who not only is without medical knowledge but may only have a few weeks training of any sort, to see how quickly a claim can deteriorate and take with it any hope of timely treatment. It is in this adjuster space that questionable insurer decisions are made and where insurers begin to make their profits by denying and delaying the claim. This is an area that remains a wild west of auto insurance and where meaningful oversight does not exist.

There's an old saying that in order to fix a problem you have to acknowledge there is a problem. In the case of auto insurance there are so many problems that to ignore the actions of the biggest stakeholder is to make any attempt at improving the situation ineffective.

We must hold insurers to a higher standard because for consumers it truly is a David and Goliath situation. And once the consumer has to make use of the policy and promised benefits they find the rules favour insurers and the regulations have no meaning as long as there is no follow through.

We look forward to greater accountability and to reforms that will not be band-aid solutions that favour the insurers over the needs of vulnerable Ontarians.