

**For discussion  
on 4 May 2021**

**Legislative Council  
Panel on Transport and Panel on Financial Affairs**

**Joint Subcommittee on Issues Relating to  
Insurance Coverage for the Transport Sector**

**Insurance Fraud and Champerty**

**Purpose**

This paper provides information on issues related to insurance fraud and champerty.

**Concerns of the Trade**

2. In recent years, there have been views from the taxi trade and the insurance trade that rampant illegal activities such as insurance fraud and champerty cause a significant increase in the number of traffic accident claims and compensation amounts, which is one of the key factors contributing to the soaring taxi insurance premium.

**(a) Insurance fraud**

3. According to the Police's records, the number of insurance-related fraud cases and the respective monetary loss between 2016 and 2020 are as follows:

Year	2016	2017	2018	2019	2020
Number of cases	74 (27)	42 (2)	60 (8)	45 (5)	29 (5)
Monetary loss (HK\$ million)	8.1 (5.35)	5.4 (0.01)	9.1 (0.02)	6.6 (0.01)	12.5 (1.43)

Note: Figures in brackets refer to cases related to motor insurance

4. Depending on the actual circumstances, individual insurance-related fraud case may involve offences such as “theft”, “fraud”, or “obtaining property by deception” under the Theft Ordinance (Cap. 210), and/or the common law offence of “conspiracy to defraud”, with maximum penalties of ten to 14 years of imprisonment. As insurance-related fraud is not itself a specified offence, the Police cannot provide the breakdown of prosecution, conviction and penalty figures.

5. The Police has been conducting professional investigations into insurance fraud, including the establishment of a task force under the Commercial Crime Bureau to monitor emerging trends of organised fraud cases, and conduct targeted investigation and analysis. The Police has also maintained close contacts with other government departments, the Insurance Authority (“IA”) and stakeholders (such as the Hong Kong Federation of Insurers (“HKFI”)), while at the same time enhanced intelligence gathering for intelligence-led operations. On publicity and education, the Police has disseminated information on the latest modus operandi of various common fraud cases and anti-deception messages via different media platforms, including online platforms and traditional media. The Police has also set up the Anti-Deception Coordination Centre's “Anti-Scam Helpline 18222” to provide 24-hour immediate assistance to the public.

6. The IA understands that insurance companies usually identify suspected cases for detailed review and consider whether the Police’s assistance should be sought through the deployment of claims handlers who have the requisite professional knowledge and experience in the area. In order to enhance effectiveness and efficiency, the HKFI developed the Insurance Fraud Prevention Claims Database in 2018 to identify suspected cases on claims fraud through artificial intelligence and data analysis.

**(b) Champerty**

7. “Maintenance” can be defined as the giving of assistance or encouragement to one of the parties to an action by a person who has neither an interest in the action nor any other motive recognised by the law as justifying his interference. “Champerty” is maintenance for a share in the proceeds of litigation.

8. “Maintenance” and “Champerty” are common law offences that are punishable by a fine and up to seven years’ imprisonment. According to the information from the Security Bureau, from 2015 to 2020, there were in total two

cases involving champerty and seven persons were prosecuted. Maintenance and champerty by recovery agents are illegal acts that should be prohibited. Those injured in accidents who wish to pursue legal claims should seek professional legal advice or representation, or seek assistance from the Law Society of Hong Kong or the relevant government departments such as the Legal Aid Department (“LAD”), Labour Department and Social Welfare Department (“SWD”).

9. At present, the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) (“the Ordinance”) provides for the establishment of the Traffic Accident Victims Assistance (“TAVA”) Scheme, which is administrated by the SWD. The objective of the TAVA Scheme is to provide speedy financial assistance to road traffic accident victims (including pedestrians and drivers) or their surviving dependents (in case of death of the victims) on a non-means-tested basis, regardless of the element of fault leading to the occurrence of the accident. Assistance payments are made for personal injuries, while loss of or damage to property is not covered.

10. According to some members of the taxi trade, some recovery agents have enlisted applicants of the TAVA Scheme to make insurance claims while guiding them to exaggerate their injuries as a result of the accidents, with the intention of profiting from a higher level of insurance compensation. At present, there is no requirement under the Ordinance or the eligibility criteria of the TAVA Scheme for the applicant to make insurance claims or take legal actions in respect of the traffic accident. According to the Ordinance, applicants who receive damages or compensation (including employees’ compensation) in respect of the same traffic accident must notify the Director of Social Welfare within a specified period and repay the amount of money received from the TAVA Scheme, or the amount of damages or compensation received, whichever is the less. An applicant who wilfully breaches the relevant undertaking of notifying the Director of Social Welfare commits an offence and is liable on conviction to a fine and to imprisonment.

11. The Government will continue to rigorously combat the illegal acts of maintenance and champerty while strengthening public awareness against such illegal acts through publicity and education. The latest version of the Announcements in the Public Interest have been broadcasting on television stations and radio stations since May 2019 and uploaded onto the Government’s website for public viewing and listening.

## **Members' Recommendations**

### **(a) Review of the TAVA Scheme**

12. To prevent abuse and fraud, an application for assistance payment under the TAVA Scheme must meet the following conditions:

- (i) the accident must have been reported to the Police and determined by the Police as a road traffic accident; and
- (ii) the victim is injured or killed in the accident. In case of injury, the injured victim must be certified by a registered doctor that such injury requires hospitalisation of no less than three days or has been issued with proof for medical leave of no less than three days.

13. SWD has all along maintained close collaboration with the Police, the Hospital Authority and the Department of Health to combat fraud cases. Any person who obtains assistance payment by deception is liable on conviction under the Theft Ordinance (Cap. 210) to imprisonment of a maximum of 14 years. Any person with information of attempts to obtain assistance payment by deception may report to the SWD or the Police.

### **(b) Stepping up efforts to combat insurance fraud and champerty**

14. In respect of insurance fraud, the task force under the Commercial Crime Bureau will continue to monitor trends, regularly exchange intelligence with relevant government departments, regulatory bodies and the trade, and take enforcement actions against such cases as appropriate. In 2020, the Police arrested ten people in relation to insurance-related fraud cases, including insurance agents involved in misappropriating insurance claims and policy holders involved in false claims. As regards champerty, the Police will continue to keep track of crime trends and investigate relevant crimes.

### **(c) Reviewing the nomination of lawyers by legally-aided persons**

15. The Legal Aid Ordinance (Cap. 91) ("LAO") provides that the LAD may act for an aided person through an in-house professional lawyer, or assign a lawyer in private practice selected from the Legal Aid Panel ("the Panel") by either the

Director of Legal Aid or the aided person. Having regard to the interest of the aided person, when an aided person nominates a lawyer pursuant to LAO by himself/herself, the LAD will normally give weight to such a nomination. However, the LAD may also reject the nomination if the lawyer nominated by the aided person is considered not appropriate. Specifically, to protect the interest of the aided person and ensure the proper use of public funds, the LAD will consider a number of relevant factors before assigning a lawyer from the Panel for a legal aid case. The LAD will act in accordance with established guidelines and criteria, taking into account the minimum experience requirements for the relevant area of work, the performance record of the lawyer in handling previous cases, whether the lawyer has exceeded the limit on assignments of legal aid work, as well as a series of relevant factors such as the nature and complexity of the cases, etc, before selecting a lawyer from the Panel.

### **Advice Sought**

16. Members are invited to note the content of this paper.

**Transport and Housing Bureau  
Financial Services and the Treasury Bureau  
Transport Department  
Hong Kong Police Force  
Department of Justice  
Social Welfare Department  
Legal Aid Department  
Insurance Authority  
April 2021**