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MONEY BOX

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LEWIS: Hello. In today's programme a judge finds that Royal and Sun Alliance is bumping up the cost of repairing accident damage to vehicles. Tenants who've left their rented home can discover their deposit is at risk.

NICK: Our deposit wasn't properly protected. We've tried to get our deposit back ever since, but the landlord has now stopped even replying to our letters.

LEWIS: How did a trader at the Swiss Bank UBS lose well over £1 billion without anyone noticing? How can we keep our heating bills under control as the last of the 'big six' energy suppliers puts its prices up? And Ryanair changes the only way passengers can avoid its admin fee of £6 per person per flight each way.

But first, Money Box has been highlighting the reasons behind rising car insurance premiums in many recent programmes. Now we can reveal that one insurer has been singled out by a judge for stinging criticism. The judge claims the insurer has been inflating the price of vehicle repairs. He said in court the practices by Royal and Sun Alliance are seen by some of its rivals somewhere between sharp practice and outright fraud. Bob Howard reports.

HOWARD: Paul, Circuit Judge John Platt has shone a spotlight on some very murky practices indeed. They revolve around what costs one insurer can claim back from

another when it arranges for the repair of a damaged vehicle. The company in question is Royal and Sun Alliance, one of Britain's biggest insurers. It underwrites business for other companies and has its own consumer brand More Than, which is currently being heavily advertised on TV by More Than Freeman.

CLIP: MORE THAN TV ADVERT

HOWARD: Now we couldn't actually speak to Judge John Platt, but we have spoken to another district judge, Stephen Gerlis. He's been dealing with many cases involving Royal and Sun Alliance at Barnet County Court.

GERLIS: Normally what happens is that the claimants' insurance company produce a copy of the invoice for the cost of repairs. It's either agreed by the other side or it's challenged and the court make a decision. But what happened in this case (and indeed has happened in many other cases) is that the insurance company, Royal Sun Alliance, instead employed intermediaries - a company known as Royal Sun Alliance Accident Repairs Ltd, which is a wholly owned subsidiary of their own company - to undertake repairs on their behalf. So the invoice initially that was produced was not the repairer's invoice, but an invoice from this subsidiary.

HOWARD: And Judge Platt found the two invoices didn't match up. The invoice sent from the subsidiary was 18% higher than the original garage receipt for no obvious reason. More and more insurers receiving these bills are refusing to pay. One district judge estimated more than a hundred cases involving Royal and Sun Alliance are being filed a week. This case is considered so important because Judge Platt has investigated the company's procedures and has published the results of this case so other judges know about it. Judge Platt says the hourly rate for the repairs was bumped up from £36 to £39.50 an hour without explanation. £118 was added for things like a road test cleaning and an environmental charge which weren't on the original bill, and £110 added for taking the car to the garage and back when it was drivable and the owner lived nearby. This is a reading from his conclusion.

READING: JUDGE PLATT'S CONCLUSION: In my judgement, the effect of inserting an intermediary simply inflates the ultimate cost by increasing the hourly rate and adding extra charges - one of which I have disallowed in any event as a fabrication and another as not reasonably incurred. If RSA chooses to carry on its business in that way, it is entitled to do so, but it is not entitled to allow RSA ARL to add on what it pleases and then expect defendants to pay a sum which is not the true cost of repairs.

HOWARD: And Judge Platt was in no doubt as to what all this was doing to all our car insurance premiums. He describes it as “a giant struggle within the industry with millions of pounds at stake”, and he said, “if every insurer followed Royal & Sun Alliance’s lead, bills would rise by 25%.” As a result, he said in this case the insurer could only claim back the cost of repair invoiced by the garage and told it to pay the other insurer’s legal costs. But other judges are simply throwing out the cases when Royal and Sun Alliance - as it often does - fails to provide the court with the original repair bill. The firm would not be interviewed, but it sent this statement.

ROYAL SUN ALLIANCE STATEMENT: Royal Sun Alliance takes very seriously any suggestion that it has acted inappropriately and strongly refutes any suggestion that it has acted so.

HOWARD: And it said it had suspended court proceedings in other cases pending a test case at the High Court.

LEWIS: So, Bob, what’s the insurance industry had to say about this?

HOWARD: Not much, Paul. Not only would the Association of British Insurers not be interviewed; it wouldn’t even send us a statement. Another insurance professional told me this was “dangerous territory”. But David Cresswell from ABP Club, which represents body shops involved in accident repair, was prepared to speak to Money Box.

CRESSWELL: It is shocking. The trust certainly the insurers have with RSA has gone to a very large extent. The whole insurance industry has to sort their house out, get their act together and move forward in a much more transparent and honest arena.

HOWARD: And presumably the loser for all this is the motorist who just has to pay higher premiums?

CRESSWELL: Yes - as simple as that, yes - because the whole principle of insurance is recovering the cost outlaid, not making a profit out of it.

HOWARD: And, Paul, I spoke to Jonathan Evans, Chair of the All Party Parliamentary Group on Insurance and Financial Services. He said he was “surprised” and “shocked” by the case, and would be requesting that Royal and Sun Alliance and the Association of British Insurers appear before MPs to explain. And this is piling more and more pressure on UK motor insurers in general.

LEWIS: Thanks Bob.

One of the most common problems mentioned by tenants used to be getting back their deposit from the landlord when the tenancy ended, but for more than 4 years a Tenancy Deposit Scheme has been in place in England and Wales to protect the deposit and resolve any disputes. But a court ruling in May means that tenants are finding problems in recovering their deposit if they’ve already left the tenancy. Nick and his partner moved into their flat in October 2009, paying a £1900 deposit, but when they left a year later, they discovered the landlord hadn’t put it into a deposit scheme. Nearly a year later, they’re still waiting for their money.

NICK: When we started the tenancy, the contract that we had said that the deposit would be protected with one of the schemes. After we had left the property, we had a dispute over the deposit, and at that point we asked for a copy of the certificate from the scheme and they admitted that in fact they hadn’t ever protected the deposit and claimed that they would do so at that point and provided us with a new certificate. So

when we contacted the scheme, they told us that because it was after we'd vacated that in fact our deposit wasn't properly protected at all. We've tried to get our deposit back ever since, but the landlord has now stopped even replying to our letters.

LEWIS: Well I put that case to John Gallagher, Principal Solicitor at the housing charity Shelter.

GALLAGHER: In a significant minority of cases - in fact we dealt with 4,000 cases last year and Citizens Advice more than that - in which people either had failed to have their deposits protected or the landlord didn't notify them, didn't give them the necessary information as to where the deposit was protected. So the suspicion was that it wasn't protected at all.

LEWIS: Just explain to us, John, how this system is supposed to work.

GALLAGHER: What should happen is that the landlord should protect the deposit within (at present) 14 days of receiving it. There's what's called a custodial scheme, which is a scheme that actually keeps the deposit, and there are two insurance schemes whereby the landlord pays a premium and the scheme insures the safe custody of the deposit.

LEWIS: And what kind of disputes come your way?

GALLAGHER: I'm afraid the kind of disputes we normally see are where the landlord hasn't protected at all or possibly has protected with one of the insurance schemes but hasn't paid the premium when the tenancy comes to be renewed. And of course this is only discovered towards the end of the tenancy. And that's where the problem that the caller had comes into place because once the tenancy has ended, there is no penalty for the landlord not protecting the deposit.

LEWIS: Well listening to that is Mark Butterworth who's a Director of the Residential Landlords Association. Mark Butterworth, why are landlords not

protecting deposits?

BUTTERWORTH: I have to say that in the whole they are, and out of the 3 million tenancies in the country the vast majority are protected.

LEWIS: Yes, but of course landlords have a legal obligation to do it and it's relatively simple among all the other things a landlord has to do it, isn't it?

BUTTERWORTH: Well if you appreciate there are 70 acts of parliament to comply with and the volume of legislation for any tenancy now is increasing and is very, very onerous. You've got prescribed information, inventories, you've got the deposit to fill out, you've got the registration to do. It is time consuming, particularly where you have a large number of tenants changing over at the same time. It can be very difficult for people to try and stick within the time limit. And of course with 3 million tenancies, the odd one is going to get forgotten. They are going to be ... you know it is human nature.

LEWIS: Yes, but of course the people where it hasn't worked are not delighted and they want to know what they can do.

BUTTERWORTH: Well I suppose this is where we could go back to tenant education. If tenants were more reasonable in their assumptions or more aware of their rights, then they would be quite easily able to check on whether the deposit was protected or not; and if they knew to ask for a certificate if they hadn't had one in a reasonable time, they would satisfy that score and also be more aware of their obligations on leaving the property, and this is where a lot of disputes do arise.

LEWIS: So if you don't get a certificate from your landlord, you then check where it is and you can then go online and check whether the deposit's in place. Is that the position?

BUTTERWORTH: Yes, absolutely. And of course don't forget a tenant always has

redress through the old court procedure and through the small claims court.

LEWIS: Yes, though of course the legislation was to deal with problems surrounding going to court. John Gallagher, the problem we heard about from Nick where the tenancy had come to an end, so there was no penalty and he found it hard to get any redress from his landlord, that loophole's being closed by the government, isn't it?

BUTTERWORTH: Yes it is. Yes there's an amendment to the Localism Bill, which is going through parliament at the moment, and that will do a number of things. First of all, it extends the landlord's time for protecting the deposit from 14 to 30 days, so most landlords should now know about that requirement. It'll also enable the tenant to claim the penalty from the landlord even if the tenancy has come to an end. The penalty will now be on a sliding scale from one time the deposit to three times the deposit. Up to now, it's been a straight three times deposit penalty and we accepted that that could be unfair to landlords who actually didn't realise that they had to protect.

LEWIS: The scheme is being improved. What else would you like to see changed?

GALLAGHER: The law still doesn't deal with a common problem that we come across where there is a change of landlord in the middle of the tenancy. It's never clear whether the new landlord or the old landlord is responsible for protecting the deposit. It also doesn't deal with those tenants who have been in occupation since before 2007 when the claim came in and their tenancies have been renewed ever since. It's not clear whether the landlord in that situation needs to protect or not.

LEWIS: Mark Butterworth, what's your view on those disputes?

BUTTERWORTH: Well I think we've had a similar situation. Most landlords will protect that deposit when they take over a property; and if the property is sold or transferred the deposits are all part of the legal rigmarole. You know it goes over with the contract. The deposit's transferred and the landlord will then protect it.

LEWIS: Mark Butterworth of the Residential Landlords Association and also John Gallagher of Shelter. Lots of you are having your say on tenancy deposits on our website. Derek from Hove says, 'I'm a landlord and this scheme has just added administration and another cost to my business'. But Kerry from Bristol says, 'I'm a student with three others. We paid £3,000 deposit only to discover when we moved out it hadn't been paid into a deposit scheme. The landlord's company's now gone into receivership. We're seeking legal advice on how to get the deposit back'. And of course you can join in that debate on our website: bbc.co.uk/moneybox.

How can a single trader at a major bank lose \$2 billion, around £1.3 billion, over a period of months with no-one apparently noticing? A dealer from the Swiss Bank UBS, Kwaku Adoboli, has been charged with fraud after he apparently confessed late on Thursday. The charge alleges he filed false accounts to the bank in 2008 and 9 as well as every month this year relating to his dealings in Exchange Traded Funds, or ETFs. It's not the first time UBS has failed to control its business: in 2009 it was fined £8 million for breaches of systems and controls and inadequate risk management. So what went wrong this time? Terry Smith is Chief Executive of the lower cost investment managers Fundsmith.

SMITH: It seems to me that the management of UBS did not understand the risks that this trader and his desk, the so-called Delta One desk, were taking. It looks as though he's taken a series of positions in Exchange Traded Funds or the underlying equity swaps which are supplied to the so-called synthetic ETFs which have gone wrong.

LEWIS: The desk is called a Delta One desk. What does that mean?

SMITH: Imagine that the client had come on and said that they wanted to buy a lot of Shell. And rather than just going off and buying millions of Shell shares for the client, what a desk like this might do is go well we can get BP more cheaply, they're trading on a lower rating. So it's nearly as good as buying Shell. Let's just sell the client the Shell, so we'll give them a promise to deliver the Shell; but rather than go and buy the Shell for them, we'll buy BP because we reckon we can get that cheaply and we can

make a profit out of that. And that's all well and good except owning BP is not the same as owning Shell. And imagine if they'd done exactly that trade just before the oil rig blew up for BP in the Gulf.

LEWIS: So basically we call these people traders, but basically they are betting, aren't they, that they understand the market so well they can do things other than what their client has explicitly said and make more money for the company?

SMITH: Yes, that's what they're doing. And it may be a coincidence, but I don't think it is. You note that the trader concerned in this UBS incident is a computer science graduate. Quite a lot of it is people using computers to find correlations, find things that move together, and then trade in the correlated instrument rather than the one that the client's actually asked them to deal in.

LEWIS: A lot of people have been contacting us - we've had a few emails already this morning - saying, 'I've got ETFs. They're supposed to be safe, they're supposed to track an index, they're low cost. I'm now very worried that I don't actually have a simple ETF; I've got something that people are buying and selling in this way, and is my money at risk?'

SMITH: When I talk to people about ETFs and they've got them, I say, "What do you think they are?" And they go, "Well they're just index funds, aren't they?" And the answer is well some of them are, but quite a lot of them aren't. Some of them just do what index funds do, which is they go off and they buy the shares in the underlying index, and that's pretty straightforward. But quite a lot of them don't. They engage in derivatives, the so-called synthetic ETFs. They go off and trade with things like this Delta One desk at UBS to try and put together a cocktail of things which will match the underlying index.

LEWIS: One of the reasons people invest in them is because they're low cost. Now you've written about some of the high costs around in your business. People are clearly tempted by the low costs. Should they be, or should they be more cautious in

future?

SMITH: No, they should be more cautious than that. If you look particularly at the synthetic ETFs - here's a conundrum for you - they're supposed to be low cost, but the banks that provide ETFs make their biggest profit from ETFs because all of the other stuff that they do to manage that ETF - the equity swaps and the cocktails of securities and the derivatives that they do - all of those things make them a great deal of money. There's a whole tail of hidden costs associated with these ETFs.

LEWIS: Terry Smith of Fundsmith. And if you have an Exchange Traded Fund, an ETF, look at the paperwork and it should tell you what your investment is in.

The last of the 'big six' energy suppliers has announced its price rises for the winter. EDF will raise prices slightly less than the other five, but they come just as the nights get colder and some of us have already thought of putting on the heating. The latest round is the second this year, and with me is Joe Malinowski, Founder of the comparison site, the Energyshop.com. Joe Malinowski, how much have bills gone up over the two rounds compared with a year ago?

MALINOWSKI: Over two rounds, we are looking at just short of 60% on the first occasion. Just over £153 this time round, in total £210, well over 20%.

LEWIS: Yes and are these rises justified by the wholesale price changes?

MALINOWSKI: The level - or sorry - I should say the direction is certainly justified. I mean do bear in mind that wholesale gas prices have risen by over 90% in the course of the last year and a half; electricity by 30%. The question really is not the direction, which is up; it's more the level. Again they have gone up and they are trading at new high levels, whereas wholesale prices have gone up but have not yet reached high levels, record levels. So there's a disparity between the two, which is being looked at by the regulator.

LEWIS: Right. Some of the 'big six' though are imposing the biggest increases on the lowest users by raising the first unit or the standing charge by a lot more than later units. Why is that?

MALINOWSKI: That's because although this latest increase has been primarily about the rise in wholesale prices, it's not just wholesale prices for energy that have gone up. It's also distribution charges, environmental costs. And those are the kind of costs which they have to allocate across all customers irrespective of usage, and of course what happens is the low tiers get their share of the energy and their share of the lower cost, which is why the lower units have gone up by more.

LEWIS: Some people of course are not facing a rise because they fixed their cost a while ago, as I think you recommended to us. Is it possible still to fix and avoid some of these rises or at least make sure you don't face a future one?

MALINOWSKI: Yes, that's what's been really surprising about this round. Not only has it gone on for longer than we expected and we for the first time seem to have some meaningful differences between what the companies have done. We also have had the opportunity to fix at discounted prices through the course of the summer, and some of those tariffs are still available today, so you can actually bag yourself £185 saving, a 15% discount just by fixing for the next year compared to what you're getting. I just can't see why people wouldn't do that.

LEWIS: No. And nor indeed can the Energy Secretary Chris Huhne, who was quoted in the Times this morning blaming customers for their high bills, saying if they did a bit of work they could get £300 off. Is that true?

MALINOWSKI: It is actually. In some cases, if you're moving from an overpriced standard tariff to a discounted, you can quite easily - well not quite easily - you can pick up those kind of savings.

LEWIS: And go to one of the registered comparison sites. I think there are 13 of

them altogether. Thanks very much for that, Joe Malinowski, who runs one of those: theenergyshop.com. Thanks. Lots we haven't covered there of course. There are links on our website about keeping down the cost of domestic heating oil and getting advice about energy saving. That's all on our website: bbc.co.uk/moneybox.

Ryanair, the Irish low cost airline, has changed the rules again for customers who want to avoid paying a charge of £6 each way each person added to the ticket cost. The £6 charge can be avoided at the moment by paying with a prepaid Mastercard. Now Ryanair has decided that from 4th October customers must use only Ryanair's own branded prepaid Mastercard to avoid those charges. Martin Lewis, the Founder of MoneySavingExpert.com, has criticised the move.

M. LEWIS: You pay £12 return for paying on a credit or debit card. That's £48 for a family of four. The Office of Fair Trading has said very clearly debit card pricing should be the price that you advertise. Unfortunately it doesn't have the power to enforce that. I consider this to be a discount for using the Ryanair card, but the core price includes the fee for paying, and I just think Ryanair, along with, I have to say, all other parts of the budget airline industry, is just playing consumers on this one. But now the fact that you can only use its own card, that's just a step too far.

LEWIS: You mention the Office of Fair Trading and it has called on companies to review their fees for passengers. Are you saying they have no power to do more than just say this is what we'd like you to do?

M. LEWIS: They have a power to make it transparent and they've recommended that the government creates law that says that the debit card price is like a cash price and should be the price that is advertised - but, no, they don't have the power to enforce this. And I think the airline industry are thumbing their nose with glee at the Office of Fair Trading. I think it's quite simple - that the get out of jail card that the airlines use is as long as you've got one method that you can pay for free, you're allowed to advertise it at that price - and I think we have to shift the burden here, so that the price most people pay and the standard way for paying is either with cash or a debit card. But of course with online bookings, there's no cash payment, so the debit card

payment is the standard price. That's the one that you should be advertising. By having this niche form of payment, setting the standard rather than being counted as a discount, I do think it's not transparent as it should be.

LEWIS: Martin Lewis. Ryanair says the £6 per person each way fee is to pay for its booking infrastructure and not using the card. Using the Ryanair card does avoid this charge, but there can be other charges on the card, as Stephen McNamara, Head of Communications at Ryanair, explains.

McNAMARA: No matter what provider you're with, there are various charges. But our one is most competitive in terms of purchasing a Ryanair flight because everything will end up being free for you, and then after that our transaction charges in a restaurant or in a shop buying your groceries, you'll be charged 50p per transaction. So it is very competitive. After that, there are other charges. And inactivity would mean that you haven't used it for 6 months or you haven't loaded it for 6 months and there's a charge of £2.50. And I think that is a monthly fee, but the way to get around that if you for instance haven't booked a Ryanair flight within 6 months is to simply load some money onto the card, which is free to do.

LEWIS: Right, that's of course if you load the money through the Ryanair website. If you do it from a credit card, you can pay up to £15, can't you?

McNAMARA: Yes if you use a credit card to charge it, then there would be a fee for that. But there's always a free option and the easiest one with all of these cards is to simply connect it to your current account. And if you lodge money from your current account onto the card, it's free with this card. I know with other cards there will be a charge for that.

LEWIS: Yes. And of course if you happen to go overdraw ... For example, supposing you had a pound on there but then the 6 months passed, you hadn't used it and you took the £2.50 charge. You would then be a negative balance, I think you call it, and then you'd incur a £10 charge for that.

McNAMARA: Well yes, you would.

LEWIS: And if you decide you don't want the card anymore, you can be charged for that?

McNAMARA: If for example there's a balance left on the card, so say you've £100 left on the card and you don't want the card anymore. Now why you would not want this card anymore would be beyond me because clearly ...

LEWIS: (*over*) I'm sure it would, but there is a charge.

McNAMARA: If you request the money back from the card - as with all card providers, there is a charge for that and it's £6. So most people will know that they need to make sure that they're going to use it; and if they don't use it look at their monthly balance and see is there anything they need to do or maybe top it up.

LEWIS: Stephen McNamara of Ryanair. And despite those potential extra costs, which are common to most prepaid cards and which you can avoid with care, they're unlikely to be as expensive as paying the £6 admin charge per person per flight each way.

Well that's just about it for today. You can find out more from our website: bbc.co.uk/moneybox. Send us your thoughts on tenants' deposits. Vincent Duggleby's here on Wednesday with Money Box Live taking your questions on mortgages. I'm back with Money Box next weekend. Today our Morgan Freeman was played by Alvin Hall, the reporter Bob Howard, producer Lesley McAlpine. I'm Paul Lewis.