

FOIL puts forward “independent and principled” response to the autumn statement

The Forum of Insurance Lawyers has announced that, following an extensive consultation process, it intends to put forward an “*independent and principled*” response to the Chancellor’s announcement in the autumn statement to raise the small claims track limit for personal injury claims and remove the right to general damages for low value whiplash.

FOIL has for some time opposed an increase in the small claims track limit for personal injury claims, believing that such a move would create claims inflation, increase costs by increasing the number of claims brought by litigants in person, and do nothing to address fraud. Recognising, however, that the Government is set on the policy, FOIL aims to persuade the Government to adopt a number of constructive proposals, enabling the reform to be implemented whilst limiting its effect to whiplash claims which are the Government’s main concern.

President, Duncan Rutter, explains,

“If the small claims limit is to be increased, a move we would caution against in view of the likely consequences, FOIL believes that the change should be introduced alongside a number of measures to make sure the new regime is workable. FOIL members would like to see on-line access to justice for claimants, whether through the portal or by way of a new on-line process, which should make allowance for individuals with limited access to technology; better regulation of claims management companies; and a process allowing claimants to value their own claims.”

On the issue of the removal of damages for low value whiplash claims, FOIL describes it as a “*blunt instrument*” to tackle the so called ‘compensation culture’. FOIL supports the recommendations of the Insurance Fraud Taskforce to reduce the incidence of fraudulent claims, but does not support the removal of general damages from genuine claims. If the right is to be removed it should be restricted to whiplash, the major problem area, with attention given to addressing the likely unintended consequences including the development of credit rehabilitation.

On FOIL’s approach to the reforms, FOIL CEO, Laurence Besemer, says,

“The approach we are putting forward has overwhelming support within FOIL. Regrettably we are not able to support fully the ABI’s stance on this issue but nor are we willing to align ourselves with the “strategic alliance” formed by APIL, MASS and the Law Society. It is unfortunate that there has not been a willingness on the part of the Government to wait until the effects of recent reforms have come to fruition before proposing further change. What’s needed is a well thought through package of measures to bring about the Government’s objectives and we believe that the proposals FOIL will be putting to the MoJ go some way to achieving that.”