

FOIL

Prepared by Kysen PR

Date 23 February 2017
Publication Solicitors Journal
Type of publication Legal press

'Deluded' government in 'cahoots' with insurance industry

Prisons and Courts Bill will leave injured people under-compensated while lining insurers' pockets, says claimant sector

23 February 2017

The government will be 'robbing' injured people of fair compensation under the 'deluded belief' that insurance premiums will fall following a proposed change in the law, lawyers have said today in response to the justice secretary's unveiling of the [Prisons and Courts Bill](#).



The new bill, set to be introduced to parliament by Liz Truss, proposes the introduction of fixed tariffs to cap whiplash compensation pay outs. The government says the plans will ensure payments are proportionate to the level of injury suffered.

However, the Association of Personal Injury Lawyers has argued that tariffs will inevitably mean people with genuine injuries are under-compensated.

The bill also raises the small claims limit for whiplash injuries to £5,000, and to £2,000 for other personal injury claims. Plans to reform workplace injuries appear to have been scrapped. The rise in the small claims limits requires only secondary legislation to implement.

Furthermore, a ban will be placed on offers to settle whiplash claims without medical evidence.

The government claims these measures will lower car insurance premiums by around £40 a year and help to 'crack down on the compensation culture epidemic'.

Claimant lawyers point to [insurance industry data](#) which shows that since 2013, the annual cost of motor-related personal injury claims has fallen by £536m yet insurance premiums have continued to rise.

‘Expensive motor repairs and repeated hikes in insurance premium tax are both major factors in the cost of motor premiums, yet the government is fanatical about suppressing the right to claim for legitimate injuries instead,’ said Neil Sugarman, president of APIL.

Vidisha Joshi, managing partner and head of PI at Hodge Jones & Allen, said the ‘legitimate injury of whiplash’ was being used by the insurance industry for their own advantage.

‘They claim insurance premiums will fall as a result of a fixed tariff – we know from past experience premiums do not fall. It will once again be individuals in our society who pay the price, with the growing profits going straight to shareholders.’

In agreement, Qamar Anwar, managing director of First4Lawyers, said that ‘far from reducing premiums, reforms to date have only increased insurers’ profits’, adding that there is ‘no reason to believe that it will be any different this time. The government has no mechanism to monitor and enforce lower premiums.’

Anwar added that, in rushing through their response to the PI reforms, the government and insurance sector ‘value the damage caused to vehicles more than they do to humans’.

‘It is clear that the consultation – which only closed on 6 January – simply paid lip service to a decision that was already made by the government in cahoots with the insurers behind closed doors. We are shocked at the government’s lack of concern for innocent victims of road traffic accidents,’ he said.

‘The initial consultation raised many questions around the fairness of the proposals, but also how they would be implemented. To date the government has not answered these questions, nor have they answered them through this bill.’

Speaking on the prospect of unintended consequences arising from the bill’s passage into law, APIL’s Sugarman warned that proposals to force more claims into the small claims court system will mean nuisance calls and texts about personal injury claims will reach ‘epidemic’ proportions.

‘There will be an explosion of calls and texts from claims management companies encouraging people to make personal injury claims, even if they haven’t been injured,’ he said.

‘The small claims court is designed for people to represent themselves and this will just be a business opportunity for claims management companies, which make the cold calls and texts, who will tout for claims just as they do for people who were mis-sold payment protection insurance.

‘The fact is the government should put its energy into banning cold calls and texts altogether.’

Instead of stamping out rogue claims management companies, Anwar believes the bill will lead to the 'PPI-ification' of road traffic accidents, driving up complaints and potential fraud.

Also commenting on the bill, [Nigel Teasdale, president of the Forum of Insurance Lawyers](#) and a partner at DWF, said: 'FOIL has said consistently that the system is in need of reform as the level of whiplash claims are too high. We still await details of the tariff and it will be important in the light of the increase to the small claims track to ensure that the relevant safeguards are put in place.

'It is pleasing to note the government's apparent commitment to implementing the reforms as one rather than piecemeal. We look forward to engaging with all interested parties and the MoJ to ensure that there is a new process fully fit for purpose.'

Meanwhile, the Association of British Insurers said reforms to whiplash claims 'cannot come soon enough'. In a statement, James Dalton, director of general insurance policy at the ABI, said: 'For far too long claimant lawyers have been defending a system riddled with exaggerated and fraudulent claims because they have been profiting handsomely from it.

'The gravy train must stop. Motorists know that the UK's roads have been getting ever safer, so why have whiplash style claims been rising? People want an insurance claims system that provides compensation and support to those who genuinely need it. What they don't want is to be plagued by spam calls and texts from ambulance chasers, whilst personal injury lawyers continue to profit from a broken system in urgent need of reform.'

John van der Luit-Drummond is deputy editor of Solicitors Journal

john.vanderluit@solicitorsjournal.co.uk | [@JvdLD](#)