

## FOIL

Prepared by Kysen PR

**Date** 21 March 2018  
**Publication** Legal Futures  
**Type of publication** Legal Press



### Insurers and claimant lawyers clash over impact of Civil Liability Bill on motor premiums

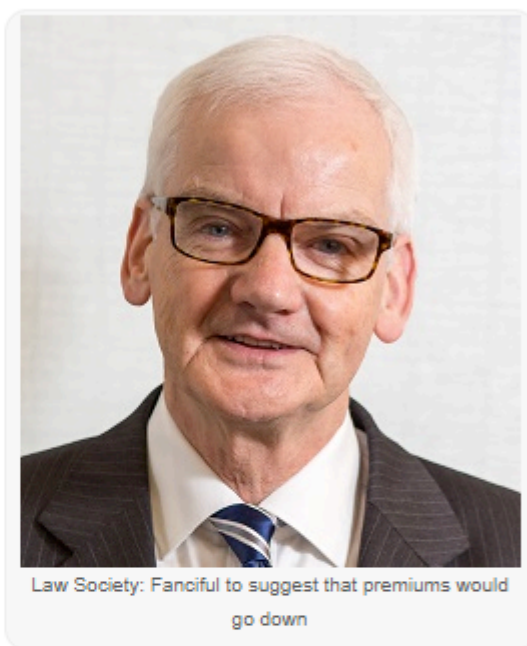


By Neil Rose

21 March 2018

Publication of the Civil Liability Bill yesterday met with a polarised response and a commitment from the chief executives of 26 leading insurance companies to pass on the savings to customers – dismissed as empty promises by claimant solicitors.

The Law Society issued the most emotive response on the claimant side, saying the whiplash reforms would penalise the victims of drunk drivers.



Law Society: Fanciful to suggest that premiums would go down

Until yesterday, only AXA and LV= had made a public commitment to pass on the savings from the whiplash reforms – although the Ministry of Justice has not explained how it would monitor and enforce such commitments.

In a joint letter co-ordinated by the Association of British Insurers, the 26 motor and liability insurers – who between them have 86% of the motor market – said that they had already passed on over £1.2bn of savings from the LASPO reforms in 2013 in the form of lower premiums.

The letter, which also encompassed the proposed discount rate changes, said: "In the UK's fiercely competitive insurance market, each individual insurer will continue to make their own independent decisions on pricing in order to remain competitive. Indeed, such independent decision-making is a requirement of applicable competition law.

"However, the signatories to this letter today publicly commit to passing on to customers cost benefits arising from government action to tackle the extent of exaggerated low value personal injury claims and reform to the personal injury discount rate."

The 26 are: Acromas, Admiral, Ageas, Aioi Nissay Dowa, Allianz, Aviva, AXA, CNA, Co-operative Insurance, Covea, Direct Line, esure, First Central, Hastings, LV=, Markerstudy, MS Amlin, NFU Mutual, Police Mutual, RSA, Sabre, Salvation Army, Swiss Re, Tesco, XL Catlin and Zurich.

The ABI itself said the bill would be "great news for motorists". Director-general Huw Evans said: "People and businesses are paying more for their motor insurance than ever before and we need changes to the law to tackle some of the root causes.

"Soft tissue injury claims have been rising year on year since 2014 as cold calling claims firms have thrived, driving up the cost of insurance. This bill will ensure people in England and Wales receive fair compensation while reducing excess costs in the system."

Don Clarke, member of the Forum of Insurance Lawyers' (FOIL) national committee and director of strategy at Keoghs, also welcomed the bill. "FOIL has always been supportive of the Government's desire to tackle the number and cost of whiplash claims...

"We acknowledge that there is a great deal to do if the government is to hit the planned implementation date for whiplash reform of April 2019 whilst at the same time preserving access to justice."

The Law Society warned that "families put at risk by drunk drivers would be penalised by the government's new whiplash proposals" because they would struggle to get justice.

President Joe Egan said: "As we see in the news every day, anyone can be the victim of drink driving. This is a significant change to the present system where judges decide what compensation is to be awarded.

"There is a risk these new proposals will mean victims will receive far less than under current levels of compensation.

"When combined with MoJ proposals to increase the small claims limit, the amount of legal advice and guidance that can be obtained from a solicitor in these cases will be severely restricted."

Mr Egan said it was "fanciful" to suggest that motor insurance premiums would go down because of the reforms.

"These promises have been made before. The government says its objective is to reduce the cost of motor insurance, but the reality is insurers take the savings and fail to pass them onto consumers.

"The Law Society does not accept that this legislation is necessary and we continue to oppose these reforms."

The Association of Personal Injury Lawyers accused the government of "washing its hands of injured people".

President Brett Dixon said: "Any concept of fairness or compassion or help for genuinely injured people has been sacrificed in what the government is now openly calling a 'bill to cut car insurance premiums'..."

"People with genuine and painful whiplash injuries will have their compensation restricted – just because they have had the temerity to have a 'whiplash' claim. All this is for a promise of reduced car insurance premiums, which we know will never stick in the long term..."

"The fact that the government has been seduced by these empty promises shows a gullibility which is beyond belief."

Andrew Twambley, spokesman for pressure group Access2Justice, argued that the government was "seeking to fix a problem that is already being fixed, without the need for legislation. Whiplash claims have fallen sharply in the last 12 months, and the cost of claims has also fallen sharply".

He claimed that the MoJ's own figures showed that the savings were likely to be half the £35 claimed.

"For the sake of £18, some 600,000 people injured in road traffic accidents each year will be denied access to legal advice if they want to go to court and claim for their injuries..."

"MPs and peers will now have the chance to look at the government's proposals in detail, and they will see that there is little substantive reason for reform, beyond keeping the insurance industry happy."

Mr Twambley said a better approach would be "to work with all sides of the industry" – Access2Justice has been pushing its 'alternative claims framework' as a way to achieve the goals of the legislation without making the reforms in the bill.

Vidisha Joshi, managing partner of London law firm Hodge Jones & Allen, called on the government to wait for the findings of the justice select committee inquiry into the small claims element of the reforms before proceeding.

"There remains no clear evidence to the extent of whiplash fraud which would warrant introducing a system designed to make it impractical or uneconomic for any genuine claimant to make a claim.

"The reforms will place significant impediments in the way of claimants seeking justice for smaller personal injury claims and would appear to be caught by the Supreme Court's statement in last July's *Unison* case that, without unimpeded access to justice, the democratic process is in danger of becoming 'a meaningless charade'. This is another sad day for British justice."

Qamar Anwar, managing director of marketing collective First4Lawyers, added: "It's extremely disappointing, although somewhat predictable, that the new justice secretary has followed in the path of his predecessors by rolling over and taking the insurance industry's propaganda, which is fuelling these proposals, at face value.

"Coming at a time when insurers report having to shrink their claims departments in response to falling claims and reduced fraud, the justice secretary cannot have satisfied himself that reform is actually needed.

"Reform should only be based on fact rather than the whim of the ABI. Further, the promise that the Bill will offer hope of lower insurance premiums to millions of motorists is a fallacy."