

FOIL**Prepared by Kysen PR****Date** 9 May 2018**Publication** Claims Magazine**Type of publication** Insurance Press**CIII.CLAIMSMEDIA**

Vulnerable road users to be exempt from Civil Liability Bill

0

BY MARK DUGDALE ON MAY 9, 2018

INJURY, INSURANCE, LEGAL, MOTOR, NEWS

Lord Keen has confirmed that vulnerable road users such as cyclists and motorcyclists will be exempt from the Civil Liability Bill, but the increase of the small claims limit to £5,000 will still apply to them.

In a letter to peers ahead of the Civil Liability Bill entering the committee stage in the House of Lords, where it can be amended, Lord Keene addressed **concerns raised during the second reading last month** that vulnerable road users would be adversely affected by the cap on damages for whiplash claims and the ban on settlements struck without medical evidence.

Despite their exemption from the whiplash reforms of the Civil Liability Bill, vulnerable road users will still be hit by separate secondary legislation that is increasing the small claims limit for road traffic accident claims to £5,000 and for all other personal injury claims to £2,000.

Commenting on the concession, Qamar Anwar, managing director of First4Lawyers, said: "The concession made by the House of Lords to exempt cyclists, motorcyclists and other road users from the bill is welcome news, but is in reality a very small concession, and a fairly predictable one."

"It's an easy concession to give to look good, but doesn't do anything to fundamentally tackle the unjust nature of these reforms. Innocent motor accident victims will still remain penalised and ostracised by the justice system under the proposed terms of the bill. We simply cannot stand by and quietly let this pass."

Vidisha Joshi, managing partner at London law firm Hodge Jones & Allen, added on the exemption to vulnerable road users: "This concession is just a small step to tackling the injustice that people will face following the reforms. Yet, I struggle to understand the rationale behind elements of this announcement. Surely people's injuries should be judged on the severity and symptoms rather than the method of transport which they are using?"

Lord Keen went on to discuss other issues raised during the second reading, including the provision of legal services and how costs can be kept under control for claimants.

Claimants using the small claims court may not necessarily require legal representation, Lord Keen said, and those that wish to "seek some other form of help or representation" will benefit from a competitive and adaptable legal sector.

Lord Keen said: "We expect lawyers to continue to adapt and be fully capable of providing cost-effective services to genuinely injured claimants following the implementation of these reforms."

"For example, the president of the Association of Personal Injury Lawyers recently confirmed that a number of firms are already development a new market on unbundled legal advice which will see lawyers provide low-cost advice on specific parts of the claims process."

Anwar commented: "This is an area of the legal system that has constantly adapted to reform, and cuts to legal funding. This statement highlighted how truly wide the gap is between those who spend their days fighting for justice for people who need it the most, and those who spend their days discussing it."

Joshi said: "Against a backdrop of stringent and increasing cost restrictions, I take issue with the inference that providing cost effective services isn't something that most law firms are trying to do."

Another criticism of the Civil Liability Bill was its lack of means to enable the government to in any way force the insurance industry to pass on savings from the whiplash reforms and changes to the way the personal injury discount rate is set.

Lord Keen said that the government expected the competitive nature of the insurance market to force insurers to pass on [the mooted £35 saving](#) to policyholders.

If the savings fail to materialise, it could mean that the insurance industry isn't sufficiently competitive and so require investigations from the Financial Conduct Authority and the Competition and Markets Authority, Lord Keen said.

The Forum of Insurance Lawyers (FOIL), meanwhile, has urged the timetable for the Civil Liability Bill's introduction to be ramped up.

Tim Wilson, member of the FOIL catastrophic claims sector focus team, commented: "The current rate of -0.75 is leading to very high damages awards, with a new record payment reported in the press this week: with the impact of the current rate having such a significant impact it is important that the review of the rate is commenced and completed as soon as possible."

Under the present bill, the lord chancellor has 90 days to start a review and 180 thereafter to complete it, a timetable likely to push the process well into 2019.

Under the present bill, the lord chancellor has 90 days to start a review and 180 thereafter to complete it, a timetable likely to push the process well into 2019.

Rod Evans, also a member of the FOIL catastrophic claims sector focus team, said: "Several of the speakers in the Lords recognised the urgency of taking action to review the rate and Lord Faulks has now tabled an amendment to start the review 10 days after the new act comes into force. FOIL supports that approach. The Ministry of Justice (MoJ) has said it will aim to complete as much of the preparatory work for the review before the Bill becomes law and, again, that is a very welcome step. We urge the MoJ to get the process underway as soon as possible."

The Civil Liability Bill enters the committee stage of the House of Lords tomorrow.