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Statutory review of the Whiplash Tariff: Call for Evidence

The Civil Liability Act 2018 ushered in significant reforms to the compensation process for low-value road traffic accident (RTA) related personal injury claims, particularly those involving whiplash injuries.

One of the key changes introduced by the Act was the implementation of a fixed tariff system for compensating whiplash injuries. This system aimed to establish a more predictable and proportionate framework for awarding compensation, reflecting the level of pain and suffering typically associated with such injuries.

Under this fixed tariff system, the compensation amounts for whiplash injuries were predetermined based on the duration of the injury, with separate provisions for injuries involving only whiplash and those with minor psychological damage. This approach sought to ensure that claimants received fair and appropriate compensation tailored to the severity and duration of their injuries.

Furthermore, the Civil Liability Act mandated regular reviews of the tariff to ensure its continued relevance and effectiveness.

The Ministry of Justice's recent Call for Evidence represents a crucial step in the statutory review process, soliciting input from various stakeholders to assess the impact of the tariff since its introduction. The review aims to examine not only the adequacy of compensation amounts but also factors such as changes in the claims sector, economic influences like inflation, and broader societal developments.

Additionally, the Call for Evidence underscores the importance of considering equality considerations under the Equality Act 2010. The assessment acknowledges the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations among different groups,

emphasising the government's commitment to ensuring fairness and inclusivity in the compensation process.

The Call for Evidence will last for 8 weeks and will close on the 2nd of April 2024.

The Call raises questions in relation to the whiplash tariff itself and are intended to gather evidence from respondents about the tariff to inform the review. This includes evidence on how simple the tariff is to navigate both for professionals and those without representation.

Secondly, it raises questions regarding changes since the introduction of the tariff to understand what has changed in the personal injury sector since the introduction of the whiplash tariff.

Thirdly, questions in respect of mixed injuries and how the tariff may have impacted such claims.

Broader factors are also important and considered and how such elements including for example inflation and The Consumer Price Index (CPI) impact upon the review of the tariff.

Additional factors are also considered in the review including political, social, technological, legal, environmental and other developments.

Finally, considerations concerning equality and discrimination are a crucial part of the review including indirect discrimination and advancing equality of opportunity and fostering good relations.

FOIL has been very active within the consultation process as have many of its member firms.

Overall, the statutory review of the whiplash tariff represents a comprehensive effort to evaluate and improve the compensation framework for RTA-related personal injury claims, with the ultimate goal of providing fair and just outcomes for claimants while balancing the broader interests of consumers and society as a whole.

If you have any comments or feedback in response to the Call, please contact Dr Jeffrey Wale, FOIL Technical Director at jeffrey.wale@foil.org.uk.

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