

Westminster Legal Policy Forum

Remarks from APIL president Brett Dixon

I remember when, back in the Autumn Statement document of 2015, the issue of fraud was given as one of the main reasons for the need to reform the law relating to 'minor motor accident injuries'. At that time, the idea that litigation could reduce insurance premiums was more of a - hopeful suggestion.

By the time the Civil Liability Bill was published, though, it seemed fraud was pretty much a distant memory. The Bill was trumpeted instead as a 'new Bill to cut insurance premiums'.

Will the Act cut car insurance premiums? Time will tell. According to data from a comparison website, motor insurance cover is close to hitting 'an all-time high' after premiums reached (on average) £761 last November – which was, of course, the month the Civil Liability Bill was passed.

Data analytics company Consumer Intelligence said last month that it is "futile to predict what will happen with rates this year. Motor insurance could become cheaper because of the Civil Liability Act. It could become more expensive if it becomes harder and more expensive to import repair parts". It also seems that premiums for BTE cover may need to increase in any new system.

It was right, of course, that the façade of fraud was quietly dropped as a basis for this legislation because we all knew that the problem didn't lie with personal injury. The most recent ABI figures show that 0.22 per cent of ALL motor claims were confirmed to be fraudulent in 2017. This includes claims relating to vehicle damage, vehicle replacement, application fraud, withdrawn claims or acceptance of reduced settlements (for example). There are no published figures about how many of that 0.22 per cent of confirmed fraud are personal injury cases. My guess is that the Bill's provision to ban pre-medical offers will take care of that tiny fraction of cases in any event.

So we now have an Act which sets out to reduce redress for genuinely injured people based on a premise of fraud, which is flimsy, at best, and for a promise of reduced premiums which may never be kept.

And even if your car insurance premium is reduced, that's not going to mean much if you're injured and can't recover fair compensation.

The tariffs proposed for whiplash injuries in the draft statutory instrument are draconian and unfair. One of the effects will be that more and more injured people will represent themselves, so the process available to help them do that MUST work fairly and efficiently. At the moment, it does neither. The critical thing is to ensure that the system works – HOWEVER LONG THAT TAKES. Injured people must not be held to ransom by the Government's 2020 deadline for the introduction of these tariffs if the system doesn't work.

The new discount rate is to be set by the Lord Chancellor by the beginning of August and we hope he will make his decision based on the needs of people who have suffered often life-changing injuries.

The value of periodical payment orders for people who need to cover their future losses has also been raised in this debate, and we discussed our concerns about barriers to PPOs direct with Lord Keen. The Civil Justice Council has been asked to look into this which is good news. But again, the timing will be critical. The needs of some catastrophically injured people are best served by a lump sum payment, others by periodical payments and still others by a combination of the two. If the Government is determined to make changes let's get them done properly and make sure we have a new way of using PPOs AT THE SAME TIME as changes to the discount rate are introduced. Let's at least get THIS right.

ends

