



Civil Liability Bill – UPDATE

The Civil Liability Bill has cleared its first day of committee stage in the House of Lords, with the Bill remaining unchanged after more than four hours of debate. Peers, who debated 60 amendments, do have the option of voting on amendments at committee stage, but this rarely happens. Instead, it is used as an opportunity to explore particular issues in the Bill.

Debate was limited to the whiplash proposals, with amendments to the discount rate proposals up for discussion next Tuesday (15 May). A variety of amendments were discussed during day one, including an attempt by peers to place a definition of whiplash on the face of the Bill. Lord Keen did not accept any of the definitions which were proposed by peers, but did indicate that the Government may be prepared to include a definition in the Bill.

Attempts to place the tariff amounts for whiplash injuries on the face of the Bill, and to place in legislation the need for the Lord Chancellor to involve the judiciary in setting the tariffs, were both rejected by Lord Keen. An amendment was tabled by Labour peer Lord Bassam of Brighton which would have forced the Lord Chancellor to consult the Lord Chief Justice and secure the agreement of the Judicial College before setting the tariff amounts. This approach, which was proposed by APIL, was also resisted by the Government. Lord Keen told peers the Lord Chancellor “is going consult widely and take into account the views of a wide spectrum of interested parties in order to arrive at what is considered, for policy purposes, to be the appropriate levels, both now and in the future”.

An amendment by shadow justice minister Lord Beecham also gave peers the chance to debate removal of the cap on the uplift of compensation in exceptional circumstances. APIL had briefed peers that the judiciary should be given complete discretion on the appropriate uplift. Lord Keen opposed any such discretion, arguing that it “would simply lead to an increase in litigation and in the claims culture...”

Complaints about cold calling were also aired, but Lord Keen insisted that the provisions in the Financial Guidance and Claims Act 2018 are “robust proposals”. APIL has argued robustly and consistently that those changes, which simply tinker around the edges of the rules of consent, do not go far enough to ban cold calling for personal injury claims.

Peers will return to the Civil Liability Bill on Tuesday, where they will have an opportunity to debate amendments proposed APIL which would limit the discretion of the Lord Chancellor in setting the discount rate.

The real opportunity for change will come at report stage, which follows committee stage. It is at report stage where peers will put amendments to a vote, with the hope of securing enough support to make changes to the Bill. A date for report stage has not yet been announced. After report stage and third reading the Bill will go to the House of Commons. This will give APIL members an opportunity to get involved with our lobbying work.

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