

FINANCIAL GUIDANCE AND CLAIMS BILL



A parliamentary briefing from the Association of Personal Injury Lawyers (APIL)

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About APIL

The Association of Personal Injury Lawyers (APIL) is not-for-profit organisation which has worked for more than 25 years to help injured people gain the access to justice they need and to which they are entitled. We have around 3,000 members who are committed to supporting the association's aims, and all are signed up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives, paralegals and some academics.

Cold calling for personal injury claims

The Financial Guidance and Claims Bill is a missed opportunity to tackle the epidemic of cold calling and spam texts encouraging people to make personal injury claims – often when they are not even injured. Around 51 million calls and texts are made and sent by regulated claims management companies, and most people are likely to have received one.

Cold calling for personal injury claims exploits vulnerable people. It is tasteless and intrusive. It generates the false perception that obtaining compensation is easy, even when there is no injury. It brings the whole sector into disrepute.

Solicitors are banned from cold calling for personal injury claims, and APIL fully supports this. Unfortunately, the opposite is true of claims management companies which are free to contact people provided they adhere to certain rules. The problem is that the rules are often ambiguous and difficult to navigate. Recent attempts to curtail the worst excesses of CMCs appear to have had limited impact.

Support for a ban

APIL has long called for a ban, and is not alone. Appearing alongside APIL's president in front of the Prisons and Courts Bill Public Bill Committee in the House of Commons in March, James Dalton of the Association of British Insurers and Rob Townend of Aviva both agreed on the need for a ban. A recent YouGov survey also revealed public support for a ban, with 67 per cent of people in favour¹.

¹ YouGov Reports: *Personal Injury 2017*

Background

In the 2015 Autumn Statement, the Chancellor announced the Government's intention to tackle the number of whiplash claims by restricting the rights of people who have been injured through no fault of their own. A document from HM Treasury² published at the same time suggested the proposals were part of the Government's determination to 'crack down on the fraud and claims culture.'

Defining 'claims culture' in a parliamentary answer of 19 April 2016, justice minister Dominic Raab said 'the Autumn Statement referred to the cost to society of the substantial industry that encourages claims through cold calling and other social nuisances and which increases premiums for customers.'

As the Government clearly equates 'claims culture' with cold calling, the logical, fair and just action would be to ban all cold calling for personal injury claims, rather than restrict the rights of people who have been injured through no fault of their own, which the Government is expected to do in the forthcoming Civil Liability Bill. Those proposals aim at the wrong target, but the Financial Guidance and Claims Bill gives the Government the opportunity to aim at the right target, and ban cold calling which it states encourages a 'claims culture'.

Conclusion

While the Government has been reluctant previously to ban regulated claims management companies from cold calling, we were encouraged by the commitment in the recent Conservative party general election manifesto to "consider a ban on companies cold calling people encouraging them to make false personal injury claims"³.

As the Government recognises there is a problem, and there is both industry and public support, the Financial Guidance and Claims Bill should be amended to include a ban on cold calling and spam texts. This will put an end to the estimated 51 million calls and texts which people receive each year from regulated claims management companies encouraging them to make a personal injury claim.

² *A better deal: boosting competition to bring down bills for families and firms*, November 2015

³ Conservative party 2017 general election manifesto, page 59

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