



Law Society, APIL and MASS urge re-think on Government civil litigation reforms

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Three leading legal organisations have joined forces to suggest to the Government how its proposals for reform of the civil litigation system in England and Wales could be improved to protect injured victims. The legal bodies' proposals, which they will be putting forward as potential amendments to the Legal Aid, Sentencing and Punishment of Offenders Bill, involve:

- fixing and limiting claimant lawyers' success fees at a new lower level, while retaining the current principle of making them recoverable from the losing defendant;
- enabling claimants in most cases to pay their own premiums to insure against paying the other side's costs (after-the-event, or ATE insurance premiums);
- implementing a workable method of introducing the Government's proposal for qualified one-way cost shifting ('QOCS') which would make the system truly effective in helping injured people; and
- put into legislation the ten percent uplift in damages recommended by Lord Justice Jackson.

The Association of Personal Injury Lawyers (APIL), the Law Society, and the Motor Accident Solicitors Association (MASS) have today urged the Government to revise plans which would force injured people to pay towards the cost of claiming compensation.

"The Law Society remains convinced that the changes to the civil litigation system in Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Bill will harm access to justice" said Desmond Hudson, chief executive of the Law Society.

"The changes will make it much more difficult for people to pursue claims for injury and loss caused by the wrong-doing of others. This is in no-one's interests. However, we also recognise that Government is determined to review the system. With colleagues at APIL and MASS, we have combined in a spirit of pragmatism to present to the Government an alternative set of proposals which address their concerns but which will cause less damage to the interests of ordinary citizens who have been wronged."

APIL president David Bott said: "Transferring costs from the person who inflicted needless injury onto the innocent victim, as currently proposed by legislation before Parliament, will mean many injured people won't be able to afford to claim the compensation which they deserve and may desperately need. Even if they can claim, their damages will be cut. But in the face of the Government's apparently implacable determination to drive reforms through, we have focussed on the development of constructive and thoughtful alternatives."

"This may not be the ideal solution," he said, "but the claimant community has worked hard to formulate a compromise which is balanced enough to suit all parties in this debate. We are now calling on the Government to give this package serious consideration. The only party to benefit from the Government's current proposals is the insurance industry whose interests should not be put before those of the public."

Donna Scully, Chair of the Motor Accident Solicitors Society, said:

“All of MASS’s work is dedicated to helping the innocent victims of motor accidents and that is why we are pleased to join with the Law Society and APIL to urge the Government to make these changes to the Bill.

In its current form, the Legal Aid, Sentencing and Punishment of Offenders Bill will limit access to justice for injured claimants. These small changes, which build on the package of reforms put forward by Lord Justice Jackson, would bring balance to the new system and protect claimants. They are small changes but they would make a big difference where it is needed. We hope the Government will give our suggestions serious consideration ahead of Report Stage and are happy to work closely with them to ensure the best possible implementation and outcome for everyone involved.”

The move also has support from charities dealing with injured people.

Peter Walsh, chief executive of Action against Medical Accidents (AvMA) said:

“As a charity working with the people whose lives have been ruined by clinical negligence we welcome the thrust of these proposals, which would be a big improvement on what is in the Bill. Another vital change that is required is to keep legal aid for clinical negligence cases, and we expect there to be widespread support from peers of all parties when this is voted on in the Lords. Without these changes the Bill would deny justice to many of the most vulnerable and deserving people in society.”

Dan Burden, Head of Public Affairs at Spinal Injuries Association (SIA) said:

“The Spinal Injuries Association (SIA) is absolutely opposed to the changes to personal injury law that are proposed under the Government’s LASPO Bill and believes that access to justice is a fundamental right to protect the most vulnerable in society and should therefore not be influenced by an individual’s ability to pay. SIA considers the proposed alternative to QOCS to be preferable to the system proposed under the Bill, although we believe that anyone who acquires a catastrophic injury has a right to full and proper compensation – something which will become a thing of the past if the current system is abolished”.

Executive Director of RoadPeace, the national charity for road crash victims, Amy Aeron-Thomas said:

“Innocent crash victims deserve fair compensation settled without delay. What they do not deserve is further victimisation with uncertain financial risks in claiming compensation. The alternative proposal eliminates this and represents a significant improvement on the proposals being debated in Parliament”.

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