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Government's plan for personal injury claims 'hits wrong target'

Government proposals to force more personal injury victims to use the small claims court could cripple access to justice for vulnerable people, lawyers warned today.

The Ministry of Justice consultation *Reducing the Number and Costs of Whiplash Claims* proposes to raise the value of whiplash or general road traffic claims to be heard in the small claims court from £1,000 to £5,000. Such a move would leave uninformed and vulnerable people at the mercy of defendants and insurance companies who know exactly how to exploit injured people by settling cases for less than they are worth, said the Association of Personal Injury Lawyers (APIL).

"The small claims court is designed for people to represent themselves, which may well work in disputes about faulty goods and services," said APIL president Karl Tonks. "But it won't help the hundreds of thousands of people who have serious and genuine injuries following road accidents."

"On top of that, even to begin to make a claim, the claimant needs to be able to put a value on the nature of his injuries, but independent research* has found that, in the case of a whiplash injury, for example, 70 per cent of people would not know how much to claim.

"Defendants and their insurance companies, on the other hand, will know exactly how much a claim is worth and it is the duty of insurance companies to look after their shareholders, not injured people," he said. "Getting fair and just compensation really will be an uphill battle – many people will be put off from even trying."

“The Government has been persuaded by the insurance industry that these proposals will deal with what is perceived to be a problem with whiplash cases,” said Tonks. “But this move will hit completely the wrong target. Its own figures show that whiplash claims fell by around 24,000 last year. Independent research has found that only one in a hundred people had a whiplash injury in the past year, and of those who have ever had a whiplash injury, almost 40 per cent have never claimed compensation for it.

Case study

Ann Cooper (71) is one of 20 per cent of whiplash sufferers whose symptoms have lasted more than a year and whose life has been severely disrupted as a result. Mrs Cooper’s Renault Clio was hit at low speed by a 4x4 near her home in Malvern, Worcestershire, last spring. She suffered more than 12 months of neck and lower back pain and restricted mobility, as well as nine months of psychological symptoms in the form of fear of travel and gastrointestinal disorders (IBS) from stress. She calls whiplash ‘the silent injury’.

Mrs Cooper had previously led an active lifestyle in her retirement, regularly swimming 40 lengths of her local pool, as well as hill-walking and practising yoga. “A person who has internal, unseen injuries could suffer more than someone with something as obvious as a broken leg,” she said. “Just because it can’t be seen doesn’t make it any less painful.

“I’ve always been active and an independent woman,” she went on. “But all of a sudden I was reduced to this wreck.” Mrs Cooper is still receiving physiotherapy for her injuries.



“People like Mrs Cooper are not the problem here, yet she is a perfect example of the kind of vulnerable person who could be forced into the small claims court under the Government’s proposals,” said Tonks. “This proposal will do nothing to stop the real problem, which is fraud. That is why we have developed a ten point plan for tackling fraud which addresses some of the real problems in the system, without undermining the right of people with genuine injuries to claim the compensation they need.”

- Ends -

Notes to editors:

* Independent survey of 4,000 people conducted by Canadean Consumer research, via its online omnibus panel between June and August 2012.

- To see a copy of the ten point plan, visit www.apil.org.uk/whiplash
- For more information, please contact Chris Birkle, press and communications officer, t: 0115 943 5409, e: chris.birkle@apil.org.uk, or Jane Hartwell, press and communications officer, t: 0115 943 5416, e: jane.hartwell@apil.org.uk.
- APIL (Association of Personal Injury Lawyers) is a not-for-profit organisation, whose members are dedicated to campaigning for improvements in the law to help people who are injured or become ill through no fault of their own.
- Further information can also be found at the organisation’s website - www.apil.org.uk.
- Follow APIL on Twitter: search @APIL