

BRIEFING: CHILD ABUSE SIG MEETING 23 April 2019

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Civil Liability Act

Introduces:

- Rigid tariffs for whiplash
- Government definition of whiplash
- Uplift in exceptional circumstances
- Ban on pre-medical offers
- Changes to the discount rate
- Separate, but linked: small claims limit

Update

- Call for evidence on discount rate closed in January
- Discount rate review started 19 March – concludes by 5 August
- Whiplash tariffs and small claims reform still due to be introduced April 2020

What more can be done?

- MoJ stakeholder group
- Arguments about legal representation and impact on charities
- Arguments about fair compensation
- Briefings at committee stage

LASPO Part 2 Review

- Indemnity principle should be abrogated
- QOCS should be extended
- ATE premiums should remain recoverable
- DBAs must be reformed

- Part 36 – should be incentive for early acceptance of claimant offer
- Costs budgeting more consistent
- More guidance needed on fundamental dishonesty
- Fixed costs should be reviewed

Government Response

- Reforms are a success!
- Access to justice at proportionate cost
- Early settlement
- Reduction of unmeritorious cases
- No major changes to Part 36
- BUT: possibility of reform to DBAs

APIIL President Brett Dixon:

“We remain concerned about fundamental dishonesty being misused by, and not apply to, defendants.

“The Government’s assertion that the test of fundamental dishonesty is one of the things which ‘suggest there has been an overall decline in unmeritorious claims’ is incredibly short-sighted.

“Fairness should apply all round, and the whole defence should be able to be struck out if there is fundamental dishonesty in part of the claim.

“This issue is set to become a major concern when more and more people are forced to represent themselves and are at the mercy of a one-sided system where the defendant holds all the cards.”

BREXIT

- Health and safety standards must be maintained
- Rights conferred by the Motor Insurance Direct must be preserved
- UK consumer law must keep pace with EU law

- Consumer Protection Act should be maintained
- Judicial collaboration between the UK and the EU should continue
- UK residents should not lose the right to claim in the UK
- The rights of individuals should not be weakened by legislative changes arising from Brexit

- Motor Vehicles (Compulsory Insurance) (Amendment etc) (EU Exit) Regulations 2019 debated in Parliament;
- Government won the day, but important issues raised.

Transport minister Jesse Norman:

“If it turns out to be a material issue, the Government will of course look closely at how people claiming abroad can be supported in that environment.”

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