

Injury Reform – A False Economy

George Osborne surprised insurers and lawyers alike with his recent announcement of reform to the personal injury market. The government intends to remove the right to recover general damages for minor soft tissue injuries, and to increase the small claims injury limit to £5,000. Ann Alister of Carpenters Solicitors outlines the consequences of the proposals...

It was reported in the Insurance Post that insurers met with government officials on 9th December 2015 at No 10, and the rumours are that the reforms are “a done deal”. Certainly the Gazette has reported that the consultation will be on how to implement the proposals, rather than whether to do so. If there is any degree of truth to those rumours, then we are looking at far reaching reforms without proper consideration of the consequences for the tax payer, or for those innocent individuals who suffer pain and discomfort and are denied redress.

The most recent consultation on the small claims limit, only two years ago, concluded the argument for change had not been made at that point. It is hard to see what has changed that could now justify a different view. Since that time there has been further change to the industry aimed at reducing costs and eliminating abuse of the system, such as the extension of the RTA Portal and the introduction of MedCo.

The removal of liability on a tortfeasor to compensate his victim goes beyond the previous proposals, and will clearly require statute. For the first time in English legal history there will be a non-actionable injury.

The Chancellor expects his reforms to save motorists an average of £40 to £50 per policy, which will feed back into the economy and support the

recovery. If the Chancellor’s focus is the economic benefits, there are a number of key points that he must consider:

1. Insurers are unlikely to pass on any saving in claims costs. There has been little evidence of any reduction in premiums following LASPO and the reduction in costs paid by insurers.

2. Damages are spent and recycled in the economy. If the ability to bring injury claims is reduced or removed, that economic benefit will be lost.

3. If fewer claims are brought, then CRU recoupment of benefits and NHS charges will be reduced.

4. The demands on the NHS will be increased. The reality is that many claimants receive rehabilitation paid for by the at-fault insurer under the current system, but if they are not brought within the claims process then the cost of that treatment will fall to the already stretched NHS.

5. If injury claims can be brought, but only in the small claims court, the Court Service will collapse under the weight of litigants in person.

6. The funds available to the Court Service to meet that burden will be reduced due to a significant drop in court fee income.

7. We are likely to see a parade of claims management companies

offering to help injured parties bring the claim themselves – undoing much of the recent good work in relation to fraudulent claims, and the exploitation of claimants. The government has failed to address malpractice in this area. We are all subject to nuisance texts and cold calls, and these changes will make the situation worse

8. Banning injury claims completely would inevitably mean job losses - not just for claimant and defendant lawyers, but also in support services, with the associated economic consequences.

9. Tax revenue will be reduced - income tax receipts for the Treasury will drop, not to mention VAT on legal and support services and IPT on motor policies.

It is hard to see the economic argument for the proposed changes.

Have the reforms really been thought through? What is a “minor” injury, and how and when is that established? Injury lawyers will tell you that many chronic and debilitating problems, that attract significant awards, begin as apparently minor injuries that persist and restrict working capacity. There is a real risk that an effort to ban minor injuries will have wide-ranging unexpected consequences.

If the Chancellor gets his way, then not only will the



consequences for the economy be dire, but tens of thousands of injured people will receive no compensation, and the insurer of the responsible person will avoid payment. In addition serious injury claims will inevitably be missed.

The author has a case concerning a family of four involved in a serious head on collision. The driver and youngest two children suffered orthopaedic brain injury. The oldest child, age 9, has minor whiplash injuries. Are we really saying that this child who has suffered a low value soft tissue injury should not receive damages? Is he not a genuine claimant with a genuine injury?

The proposed reforms will deny justice and damage the economy, and the government needs to think again.

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Liverpool City Apprenticeship To Be Launched



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LAW SCHOOL

A new initiative is being developed by Liverpool Law Society in conjunction with BPP University Law School called the “Liverpool City Apprenticeship”. The scheme is due to be launched in September 2016 and a key aim of the scheme is to train, but also to retain, talented youngsters within the city region. You are invited to take part in a meeting to hear what will be on offer and to contribute your thoughts on such things as the type of candidate firms might be looking for and the business areas firms would like to see dealt with through the City Talks. The meeting will take place at the Society’s offices (Bixteth Street) on 26th January 2016 from 12.45 until 2.30pm.

For further details and to book please visit: www.liverpoollawsociety.org.uk