

MARTIN COYNE

Charlotte Parkinson, Modern Claims, spoke to the Managing Director of Ralli Ltd and Chair of Access to Justice (A2J) (the lobbying group formed in response to the Chancellor, George Osborne's proposals), about the potential ramifications of increasing the small claims limit and scrapping general damages for soft tissue injuries, and what could happen to the personal injury sector if the reforms are implemented.

Q What could the proposed increase to the small claims limit - from £1,000 to £5,000, as proposed by the government - mean for claimants and claimant solicitors?

A In one word, catastrophe. It would forever erase the legal rights to recover the costs for recovering injury losses for 60 million voters in England and Wales, whose injuries are caused by another's negligence. These established legal rights can be traced back to King Ethelbert in the 7th century. For the injured, if their injuries are valued at less than £5,000, then they have unpalatable choices:

- To engage a solicitor or a Claims Management Company to help them pursue the claim by navigating the Small Claims Track of the crumbling courts system. The cost of this is estimated to exceed 50% of the client's compensation, as the client's would no longer recover their legal costs from insurers, as they do now. The client may also be obliged to fund the disbursement's in advance. This option may be very unattractive, and the client may choose not to proceed. So the winners again here are the insurers and the losers are the public.
- Bring a claim themselves and risk dealing with insurers directly, which is a David v Goliath situation, where David (the client) is unarmed. It is an inequality of arms and no doubt this will involve insurers using pre-med offers to tempt the injured to accept a lower settlement, than they are entitled to receive under the law. Losers: the general public, winners, again the insurers.
- Bring a claim themselves, a process they are unfamiliar with, and try to use the Small Claims Track of the courts system. They will be Litigants in Person and will demand more of the courts time. Additionally, they have to pay eye-watering court fees and disbursements in advance, which in a small claim will exceed £2,000, just to get to trial. Then they then have to conduct a trial unassisted. An understandable nightmare for the judiciary, and with less courts, perhaps miles away from the injured persons home - a singularly unattractive proposition for the client. Few will take this path, resulting in a bonanza of non-pursued legitimate claims by insurers. Bingo in savings for insurers, a big loss for the injured, usually including loss of earnings.
- The client decides it is all too much faced with paying a law firm or CMC up front for disbursements, dealing with insurers on the telephone, or alone pursuing a claim through the Small Claims court. The injured person abandons the claim, which is then classified as fraud by the insurer. More wins and savings for the insurer, injury and irrecoverable financial loss for the person not at fault.

Personal Injury solicitors will have great difficulty surviving in business if the Autumn Statement proposals are imposed. Almost 90% of most PI firm's work is fast track, and as the options available for clients are so draconian, they are unlikely to claim. The client's legal costs are only recovered from insurers when injury damages exceed £5,000. But as most claims pay less than £5,000, the numbers of client's pursuing legitimate claims will plummet. This will mean a Dutch auction on fees in some cases. It will also mean a dramatic reduction in the numbers of clients who



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will claim. Since the introduction of LASPO, solicitor's fees in some cases have dropped by up to 60%. These proposals will put firms (which advise on mainly motor accident claims) out of business immediately. Those firms that manage a mixed bag of business may lose a further 40% of turnover, which inevitably means they will go in to run-off and close down. This will seriously affect the Chancellor's Northern Powerhouse of Liverpool, Manchester, Leeds and Sheffield very badly.

Q What are the key areas of uncertainty that have arisen out of the Autumn Statement announcement made by the Chancellor, George Osborne?

A Presently, as the Consultation Process following the 2015 Autumn Statement, has not yet commenced, there is uncertainty whether the government will realise that the insurers are hoodwinking them, and uncertainty as to whether they will steer a fairer middle course to achieve, in a different way, some of their objectives. So, to remove the right to compensation for minor soft tissue injuries in road traffic accidents will involve a mission impossible definition in primary legislation. This will occupy far too much parliamentary time, when in fact simpler, less complicated alternatives are possible.

Whether the government intends to follow the Prime Minister's and Lord Chancellor's proposed policy is uncertain. Currently, many Conservative and opposition MP's to whom Access to Justice has spoken, believe as one very senior Tory commented, "this has not been thought out properly".

What is certain, is that the virtual closure of the PI sector, including law firms, barristers, medical agencies, doctors, experts, landlords, council tax etc., will cause a significant loss to HM Treasury in taxes, estimated at up to £1,000,000,000 per annum, forever! The winners here are the Insurers. The losers are 60 million citizens per annum, HM Treasury and the PI sector. There is no tangible benefit to the public or the government for these proposals.

Q The government has stated that the savings brought about by the potential increase will be 'passed on to consumers'; do you think this is likely to be the case?

A Not at all. It will never happen, although there may be the odd insurer that may pay lip service. But, review matters in 5 years time and this will all be forgotten. Andy Slaughter MP in the Commons asked the Chancellor this year whether the government intends to police the insurers, to ensure that any insurance savings are passed on to the public. He said "no". Therefore, the government intends to leave it to the insurance industry to play the nice guy and reduce premiums. They will never do this, and have not done so since LASPO was introduced, as they refuse to disclose details of the billions they have saved since 1st April 2013. Insurance Premium Tax was increased by 3.5% to 9.5% in November 2015 and insurers promptly increased premiums to 10%, profiteering at the expense of the public. So just this stroke, is a clear indication of the insurance industry's arrogance, as essentially they think they are untouchable with this government.

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Q Do you think the government listens equally to insurers and solicitors?

A I'm not sure. Up to now, the government has had cosy reported secret meetings with insurance big wigs preceding the Autumn Statement announcement. The understanding is that the Statement was modeled on Aviva's 2014 "Road to Reform" document. However, the political fallout and ramifications of the proposals, far exceed the recent concern surrounding Tata Steel and BHS. Job losses at this stage are predicted to be at least exceeding 45,000, with resultant benefit claims, unemployment and hemorrhaging of tax from HM Treasury's coffers. Add to this the unemployment causing enormous damage to the Chancellor's Northern Powerhouse project, and the uncertainty of the EU Referendum. Furthermore, the legislation on tissue injuries will be tricky to draft and get through Parliament.

Access to Justice and the other representative organisations, hope to persuade the government to look at other options to combat fraud and eliminate those pesky nuisance calls, which are CMC driven, and drive us all bananas!

Q Can you tell me more about the re-branded Access to Justice (A2J), why it was established, and the type of work it does?

A Access to Justice (A2J) is now a company limited by guarantee, which is highly motivated, organised and structured. As it is not a membership organisation, it is able to receive contributions from non-member bodies. That is the reason why it was established, as The Strategic Alliance (The Law Society, APIL and MASS) can only receive member donations. We have also recently rebranded to A2J, and are generating a significant war chest to fund the campaign, to enable us to persuade the government to think again. A2J has a Strategic Plan, which is published on the website www.ajag.co.uk. This website is the only site dedicated to the Autumn Statement proposals. We are naturally working very closely with the Strategic Alliance and with Thompsons who largely represent the Unions. We have a massive presence on Twitter @ccesstojustice.

Q Where will personal injury solicitors go from here – do you expect consolidation in the market, or to see solicitors moving into different areas of work?

A If the proposals are imposed as suggested, then the impact will be seismic and there will be economic and social ruin. Defence solicitors and claims handlers in the insurance sector will also perish in the fall out. FOIL opposes the proposals.

Many people in the sector have the usual family commitments and will suffer loss of income and or unemployment. Loyal staff employed in the PI sector will have money problems and worries, which all fuel misery and family fallouts about money. There are 2,777 firms practicing PI law and over 12,700 solicitors registered to practice PI law. Multiply this figure by 3 or 4 to include paralegals, admin and support staff and you have over 50,000 affected. This does not include people employed in the sector outside of the law firms, which can be added to this number. There will be increased numbers in the job market and many may have to try to retrain, doing what I do not know. The impact will be cataclysmic.

The only winners in all of this are the insurers. There is another way, and Access to Justice is determined, with the other representative organisations, to put the best case forward to persuade the government to steer a fairer and sensible course, for the benefit of all injured persons and the economy. ●