

Personal Injury Compensation

Summary

The existing personal injury compensation system is failing people. It takes too long to indemnify claimants who have been injured by the negligent acts of others, legal costs are very high and attempts at using rehabilitation services are often frustrated. The system is disproportionately expensive to bring a low-value civil claim and a fundamental change to the whole civil litigation system is needed.

AXA favours greater transparency around claims payments and how they are made up. Furthermore, AXA advocates a complete ban on referral fees – amounts paid by firms of solicitors to gain access to cases involving an injury claim.

AXA would further welcome the early implementation of the reform package proposed by Lord Justice Jackson in his report to Government of January 2010, including the extra obligations these would impose on insurers and lawyers.

Other background

The existing rules and processes for dealing with civil litigation came about through the enactment in 1999 of a system proposed by then Master of the Rolls, Lord Woolf. These were designed to be just in the results they delivered, fair in the way they treated litigants, offer appropriate procedures at a reasonable cost, deal with cases at a reasonable speed, be understandable and responsive to the needs of those who use the civil law, provide as much certainty as to the nature of particular cases allowed and be effective, adequately resourced and organised.

'Pre-action protocols' (or defined processes that place obligations on both sides in a dispute) to agree liability, ensure exchange of early and full information to enable parties to avoid litigation, were a core element of the reforms which for personal injury cases were introduced in April 1999.

In recognising the fact that the Woolf reforms, as they became colloquially known, have been in place for over ten years and are now in need of updating to reflect modern thinking, Lord Justice Jackson was asked by the then Master of the Rolls, Sir Anthony Clarke, to conduct a further review of civil litigation rules in November 2008. Among many far-reaching proposals, Lord Justice Jackson proposed an extension to the fixed costs regime up to £25,000, the abolition of referral fees, a 10% increase in general damages, the idea that success fees (for lawyers who are successful in obtaining damages for a client) and 'After the Event' premiums (insurance premiums paid after an accident and designed to provide an indemnity to fund claims and to cover the other side's costs in the event of an unsuccessful case) should be payable by a claimant from their damages amount. Taken as a whole package, AXA supports the introduction of the Jackson reform proposals.

The Labour Government had earlier consulted on potential reform proposals which have culminated (only) in new arrangements for dealing with injuries caused in motor vehicle accidents where damages are between £1,000 and £10,000 being introduced from April 2010. Early results from this amendment are encouraging and lead AXA to believe that further reform should be introduced at the earliest opportunity.