

Dear Sirs

Please find below the response of the Spinal Injuries Association (SIA) to the proposals for reform of civil litigation funding and costs in England and Wales with the implementation of Lord Justice Jackson's recommendations.

Government Consultation on Reform to Legal Aid and Civil Litigation Funding

Spinal Injuries Association

SIA is a national organisation of spinal cord injured people, offering support, information and training. Since our foundation in 1974 we have been working towards our goal; the full integration and participation in society of the 40,000 spinal cord injured people in the UK. We also work to empower paralysed people to achieve their own goals and to ensure that the best medical care and rehabilitation is available to all.

Spinal Cord Injury

Every day three people in the UK are permanently paralysed by a spinal cord injury. This is one of the most devastating things that can happen to an individual, resulting in complete or partial paralysis and the loss of bowel, bladder and sexual function. Common causes of traumatic injuries are road traffic accidents, falls and sporting accidents such as diving into shallow water or horse-riding accidents. Injury can also be sustained through non-traumatic means such as spinal tumours, complications during surgery or disease to the spinal cord.

Access to justice for spinal cord injured people

For those spinal cord injured people who have sustained their injury through some form of accident where there is someone or organisation who is seen as being part or wholly responsible the 'No Win No Fee' system has allowed successful claimants to recover their reasonable costs, keep all of the compensation they are awarded and pay nothing if they lose. For a great many people whose lives have been devastated through their injury this system has opened up the opportunity, irrespective of means, to submit a legitimate claim. Not only does it enable the claim to be made, but when successful the claimant keeps all of the compensation which is intended to help them make the most of their lives in these new circumstances, not just overcoming the physical issues but also the mental adjustment.

SIA believe that access to justice should be a fundamental right to protect the vulnerable and as such government should have access to justice as one of their highest priorities.

Government reforms of Civil Litigation Funding

The proposed reforms to the existing system based on recommendations from Lord Justice Jackson are of concern to the SIA in particular in relation to conditional fee agreements. We believe that we will be going back in time if the proposals are implemented as they will restrict access to justice for victims of personal injury. We wish to put forward the following points:

- * A newly injured person should be entitled to obtain good quality legal advice which is independent and without financial pressure being brought to bear on their decision to progress a claim.
- * If 'no win no fee agreements' are abolished the right to recover some components of the legal costs incurred (success fees and ATE insurance premiums) from the losing party would go which would mean they would have to be paid out of claimants compensation. If a claim is successful then the claimant should receive all of the compensation they are awarded in full.
- * If the proposals go ahead the principle of the entitlement of injured people to 'full compensation' based on a proper assessment of their past losses and future needs would disappear.
- * Having to meet some of their cost liabilities from their compensation would mean that claimants would be left with insufficient funds that have been assessed to meet their future needs. Spinal cord injured people with the most serious of injuries have their compensation awarded against a calculation of their ongoing care needs and other losses. Under the proposals these are the ones who are most likely to be affected to the greatest extent.
- * When considering the possibility of making a claim a newly injured person will have to consider any personal liability for legal costs they may incur which may create a significant deterrent to pursue legitimate claims for compensation in particular if they are from a lower income group

Proposed Reform of Legal Aid

Each year there are significant numbers of people who become spinal cord injured as a result of medical accidents. If the government were to remove their support of people to gain their right to redress a medical accident, which they have suffered through no fault of their own at the hands of the NHS, they would be denying some of these potential claimants access to justice. Removing legal aid from people seeking to claim the cost of care packages will mean that those who do not get damages awarded will have to get support from the state anyway - the need does not go away. If claimants turn to the 'No Win No Fee' system it is likely to be more expensive for the NHS than legal aid so there will be no overall cost savings but spinal cord injured people and others suffering medical

accidents will be put through further anguish which is the last thing they should have to endure following a devastating change in their life.

Yours faithfully

Paul Smith
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