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Insult to injury

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What will happen to personal injury claims in the Coalition's war on 'compensation culture'?

At his first public question-and-answer session of the year Prime Minister David Cameron spoke out against what he described as the "health and safety monster" and pledged to cap the costs of personal injury (PI) claims up to £25,000.

Talk of a "health and safety monster" was unfortunate given the culture of fear identified as a problem by the PM; rather like telling a child afraid of the dark that monsters do not live under the bed... probably.

Elsewhere, Cameron claimed credit for "waging war against the excessive health and safety culture that has become an albatross around the neck of British businesses". Other intemperate language included a sideswipe at "speculative health and safety chancers and those who leech off good businesses".

Professor Ragnar Löfstedt, the author of a review of health and safety legislation for the Minister for Work and Pensions, would not approve.

The rhetoric of the announcement was not matched by its content. Cameron's comments were, however, the first indication of the Government's reaction to the Solving disputes in the County Courts consultation that closed in June 2011.

The formal response, scheduled for October 2011, was postponed pending "ongoing discussions within - government".

Cameron's pre-announcement confirmed that Lord Young's 2010 report into the so-called 'compensation culture' had been favourably received. Among other things, Young recommended extending the scope of a procedure for PI claims along the lines of the road traffic accident (RTA) claims process, as well as examining an extension of the upper limit for RTA claims. It appears that the Government now intends to do both at once: the portal will be broadened to cover public liability and employers' liability claims, and deepened to cover all claims with a value of up to £25,000.

The Government has already announced several other reforms including the intention to water down regulations imposing strict liability so businesses are no longer automatically responsible if something goes wrong. That would appear to set a collision course with the European Court of Justice, immune to the British veto.

All the above measures will be implemented simultaneously with the Jackson civil costs reforms. It is not clear whether the Government intends to introduce fixed fees for fast-track RTA and employers' liability cases, whether liability is admitted or not, which was also a recommendation of Lord Justice Jackson.

Reaction was divided between claimants' and insurers' representatives along traditional lines. The - disincentives for defendants to fight small claims are understood. Even so, in my experience it is employees who require protection rather than insured employers. Claims of up to £25,000 are not small-value to injured people and require an irreducible minimum of lawyers' time.

In his announcement, Cameron declared that one of the Coalition's New Year resolutions was to "kill off the health and safety culture for good". Those injured as a result of another's negligence would be well advised to make a resolution of their own: instruct a specialist lawyer before the reforms take effect.

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