

Lord Young's report on health and safety and the compensation culture. We are all aware he had to resign for some rather injudicious remarks made over lunch. He commented that some people have never had it so good, notwithstanding that we are in the middle of the biggest recession since the Second World War. Whilst some may feel a degree of sympathy for the circumstances giving rise to his resignation, his remarks do rather call into question his judgment and do illustrate how some of the people who make decisions which have such a significant impact on our clients are so out of touch with what life is like for them.

What may appear at first blush to be simple claims for modest sums can have huge importance for those who are injured through the carelessness of others. A few thousand pounds may seem a trifling sum to a millionaire government adviser, or even an extremely well-paid Court of Appeal judge, but to someone on the minimum wage who isn't paid by their employers while they are off work and who may spend months recovering from the consequences of another's negligence, it can be the difference between getting back on their feet and personal bankruptcy.

For access to justice to mean anything, it must mean that our clients have the opportunity to obtain independent legal advice and to have their case decided by a court where the defendant either refuses to admit liability or to make sensible settlement proposals. It also requires that their reasonable legal costs be paid by those responsible for injuring them, so that their damages remain intact and are not used to subsidise insurers who have already received premium income carefully calculated to cover the risk of such a claim.

Insurers will always argue that damages and costs are too high and that too many claims are brought, but government needs to look beyond the vested interests of insurers and recognise the reality for those who are injured.

These proposals won't work and will serve simply to transfer part of the costs from negligent defendants to blameless injured claimants, while at the same time reducing access to justice. That is neither fair nor just.

It is with great sadness to note that the court stated that servicemen who have been exposed to radiation are entitled to war pension, which while not as financially beneficial as common-law damages "is some compensation". The firm representing the claimants is considering an appeal to the Supreme Court to overturn the decision.

Research undertaken for the British Nuclear Test Veterans Association found a marked increase of multiple myeloma in test veterans, as well as increased rates of male infertility and a high rate of spina bifida in veterans' children.

The Myth of Compensation Culture

I am often annoyed. I consider it to be an appropriate response to the modern world. In the 1960's the psychologist RD Lang advocated the view that that madness was an appropriate response to modernity and whilst I perhaps wouldn't go as far, anger most certainly is. One of the many triggers to my anger is two alliterated words which every politician and media commentator have recently adopted as short hand for

general societal malaise: Compensation Culture!! Having typed it, I am now annoyed again.

The use of this term is indicative of much of the modern media in that it is an ill considered sound bite employed to attack an aspect of society which is considered detrimental, when the truth of the matter is that if they actually considered the issue properly and adopted a sensible and knowledgeable approach, it would soon be apparent that the exact opposite is in fact the case. Yes it is true, far from being a bad thing per se, a compensation culture is good for a society.

Societies are governed by two categories of law, criminal and civil. Criminal law is required when societies breakdown and something or someone goes wrong. Utopian societies are often depicted as worlds without crime and punishment. Nobody in conceiving a good society would for one minute suggest it would be better if there was more crime and more criminals. Civil law is the complete opposite, it is the *sin qua non* of a modern civilised country and I would aver better societies have a populace who are aware of their civil obligations ensure they comply with them and seek redress when they suffer a loss as a consequence of another persons failure to comply with theirs. There are sixty two million people on this tiny island and all of us must interact with each other for the duration of our lives, we are social beings. Every person every day will necessarily be placed in numerous social relationships : husband/wife , parent/child , employer/employee , occupier/visitor , expert /client , doctor/patient , seller/consumer ,publisher/reader lender/borrower and friends and neighbours . Many of these relationships involve unequal power and by their very nature conflict can often arise. Civil law regulates these relationships for the good of those within them and society as a whole; it ensures that they are successfully concluded and people or not taken advantage off. It ensures public places, shops cafes are not dangerous. It ensures your neighbour must respect your right to silence and a good quality of life. It ensures your employer can not sack you for no reason and provide you with a safe working environment, whilst at the same time making sure you that employees must do the job they are employed to do. It ensures no one can say or publish untruths about anyone else , it ensures anybody who lends money must do so reasonably and anybody who borrows must pay it back , it ensures anybody who gives professional advise or treatment must do so competently and it ensures anything you buy must not be dangerous and must be fit of purpose . Without civil law all these relationships would become primitive and brutal and descend in to chaos. When conflict or dispute arises, without civil law nothing would be settled and when injury or loss arose it would be tough.

Compensation is an inevitable consequence of civil law, without it, individuals would have no right to restitution and breaches of civil law would go unpunished. Nobody would dream of suggesting a criminal go unpunished, but by using the term compensation culture in a derogatory manner, this is precisely what people are saying. It is suggested that too many people are claiming compensation. This is absurd, if you have suffered a financial loss or injury because of someone breaking the law, then it is not only reasonable for you to pursue a claim it is in fact desirable, without the system would breakdown. Once again, consider how this would sound in the realm of criminal law. Too many people are wanting criminals punished!!

In attacking compensation culture , advocates always concentrate on frivolous or fraudulent claims not only is this misguided it also gives a false impression of reality. Frivolous claim does not succeed. There are plenty of tabloid tales, but it is a fact that nobody in Great Britain as ever been successfully sued for serving coffee too hot and fanciful ridiculous claims simply do not succeed.

Frivolous claim and fraud.