

# **BBC News - 9 September 2011**

## **Injury claim referral fees to be banned**

Despite a fall in road accidents involving personal injury, claims have doubled in the past decade

The government is to ban referral fees in personal injury claims in an attempt to curb the "compensation culture".

It says the current system in which personal injury details are sold on by insurance companies to lawyers has led to rising insurance costs.

Justice Minister Jonathan Djanogly said honest motorists were seeing their premiums hiked as insurers covered the costs of ever more compensation claims.

The Association of British Insurers said the ban must be "watertight".

## **'Whiplash'**

Mr Djanogly said: "Many of the claims are spurious and only happen because the current system allows too many people to profit from minor accidents and incidents.

"Referral fees are one symptom of the compensation culture problem and too much money sloshing through the system.

"People are being encouraged to sue, at no risk to themselves."

He said the ban, applied in England and Wales, of referral fees would make claimants think harder about whether to sue, and give insurers an incentive to pass the savings on to customers.

Nick Starling, of the Association of British Insurers: "Everyone has seen their premiums rise"

"It's certainly a racket. It's a sick culture that we have to turn round.

"I say culture because it's not just a question of insurance companies, it's small businesses being afraid of litigation, of being put out of business by litigation, it's larger companies who are often self-insured having to put up their prices... and then it goes [wider] to schools not wanting to send children on school trips because they are afraid of litigation."

There is no current timescale for implementing a ban.

The government wants to stop losing defendants having to pay a "success fee" to reimburse the claimant's lawyer for unconnected cases he may have lost.

It says the proposals before Parliament mean people making the claim will have to pay the success fee - which will be capped - rather than the defendant.

Legal costs overall will fall which means lower costs to pass on to customers, it adds.

The Association of British Insurers - which speaks on behalf of leading insurers - said it welcomed the announcement.

## **Underground fears**

Director General Otto Thoresen said: "We are very pleased that the government has listened to the insurance industry's campaign for a ban on referral fees.

"They add no value and encourage spurious and exaggerated personal injury claims.

"It is important that the ban must be watertight and apply across the board.

"Banning referral fees is an important first step in tackling our dysfunctional compensation system, and needs to be accompanied by a reduction in legal costs and action to tackle whiplash if honest customers are to benefit from these reforms."

The Association of Personal Injury Lawyers vice-president Karl Tonks said there was a concern that a blanket ban could push the transactions underground.

"The really important thing is for there to be transparency, so that the injured person, the consumer knows what's happening and their details are only passed on to anybody with their express consent."

He said his members would welcome a ban on accident victims being approached to make claims by cold-callers.

"Solicitors are robustly regulated in this, we simply cannot and do not do it.

"Others are not so well regulated and we would welcome an effective ban of those text messages and unsolicited phone calls - I've received them, nobody wants to have them, and we would very much welcome action by the government and others to get rid of those."

## **Universal definition 'lacking'**

Shadow justice minister Andy Slaughter said Labour supported the ban, particularly when applied to road accidents, but had some reservations.

"It is strange that the Ministry of Justice is seeking to ban all referral fees when the government themselves admit that there is no universal definition of what constitutes a referral fee.

"It is also not clear how organisations such as those campaigning for people with spinal injuries and asbestos-related illnesses, who refer people to experienced lawyers in return for help with funding their activities, will be able to continue their important work if all referral fees are simply outlawed."

Mr Djanogly said finding a definition was "challenge" for him, but he was hoping to get it included in the legal aid bill, possibly by Easter next year.

Meanwhile, the Office of Fair Trading said it was putting motor insurance under the spotlight after drivers had seen premiums rise by 40% on average in a year.

The watchdog said it would examine whether any competition or consumer issues needed to be addressed.

In 2009, the number of road accidents involving personal injury was 31% down on the average for 1994-98.

But the cost of personal injury claims has doubled from £7bn to £14bn in the past decade and motor insurance premiums have risen at least 30% in the last year.