

Jackson Costs Review: The Times

It is only just over 10 years ago that radical changes were made to the civil justice system and less than a decade since the last major reform to funding, when legal aid was withdrawn for personal injury claims.

No sooner had these changes been implemented than calls began for yet further change. Over the last year or so work has been done on developing a new procedure for lower-value claims arising out of road traffic accident and now a review of costs is being carried out by Lord Justice Jackson.

Lawyers acting for injured people are concerned that in the never-ending drive for reform it is easy to forget why we have a system which allows those who have been injured to recover compensation. Over 100 years ago the purpose of compensation, in personal injury claims, was identified as being to put the injured person, as far as money can do, into the position that person would have been in if the injury had never happened. This means that personal injury claims are about people, all of whom are unique individuals, not just process. Big business, however, seems more at ease with an impersonal approach.

Whilst readily embracing any genuine improvements to the current system the Association of Personal Injury Lawyers (APIL) is determined to keep the focus on injured individuals. We must remember that these people have not chosen to suffer what has happened to them but are forced into seeking redress simply because of the misfortune of suffering needless injury.

Putting the needs of the injured person is, therefore, at the forefront of APIL's response to the ideas canvassed by Lord Justice Jackson in his preliminary report. Some topics are of particular importance.

- The small claims court is not the place for the injured individual. It is right that the small claims limit, in personal injury claims, should remain at £1,000, not least when the new scheme for dealing with lower-value road traffic accident claims is to be rolled out from April 2010.
- Fixed costs are not appropriate for personal injury claims. Predictable costs need a predictable process, such as the new scheme for road traffic claims.
- Damages should continue to be assessed, on a case by case basis, by judges, reflecting the losses and needs of the individuals involved. There is no room for the "computer says no" method of assessment.
- There is much to be gained, in effective management of cases and control of costs, by ensuring that cases are allocated to suitably "ticketed" specialist judges, ideally with an individual judge keeping control of particular cases through a system of "docketing".

- The focus must be kept on justice and not simply process and cost.

The report suggests some excellent ideas which could improve our system of justice but it is essential that system remains open to, and provides for, the individual.