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The tariff of damages must be reviewed

It was always abundantly clear that the purpose of the Civil Liability Act was to reduce the number - and cost - of motor accident claims. Indeed, the claimant sector was predicting the outcome long before the new process was implemented. There has never been a denial of the intention, but rather the scale of the outcome.

No-one promoting the reforms – Ministers, officials or insurers – argued that the fall in claims would be as dramatic as the data has now confirmed. There are clearly multiple reasons for this, but attempts to excuse the fall entirely due to COVID-19 and changing travel behaviours look increasingly desperate.

There are still many problems with both the complexity and operation of the OIC Portal, conceived and designed for self-litigants, but which largely remains unused by self-litigants. Principal amongst the continuing problems is the low level of compensation. Defenders of the process will say that 90% of claims still have professional representation. Given that damages are now only several hundred pounds, the biggest surprise is how many claimants can still find legal support at such levels. It is clear that when faced with a complex legal process, hundreds of thousands of potential claimants are unable to retain legal support to pursue the compensation to which they may be entitled.

This makes the recent MoJ dismissal of an early review of the tariff of damages, as recommended by the Lord Chief Justice, all the more of a slap down, particularly with inflation topping 10% or more.

Can we anticipate a proportionate fall in motor insurance premiums to match the fall in claims? Of course not. Insurers will no doubt successfully argue with the Financial Conduct Authority to say that their costs have risen in almost direct correlation with the savings made from a reduced number of claims.

That is the point. Why should insurers' "costs" be more important than a fair settlement of compensation for injured motor accident victims? We now have plenty of hard data on the impact of the reforms. It's not about denial of the legislation's policy objectives, but about a better balancing of the system to preserve access to justice. The tariff of damages should be reviewed without further delay. ●

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