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The Ineffective 'Inflationary Buffer'

In effect, the current MoJ three-year review of the tariff of damages for RTA claims was constructed solely to consider an inflation-only increase.

Rejecting this approach, we have long believed that the tariff of damages is fundamentally and deeply flawed from its conception to implementation, and cannot be extricated from the impacts of the wider reforms.

Since we have to work within the Civil Liability Act, the tariff is far too low and detrimentally impacts a potential claimant's ability to engage legal advice. The tariff should be uplifted beyond a CPI increase to better reflect equivalent judicial awards for the same injuries suffered outside of a motor accident. Rather than using CPI, RPI is a more representative measurement of the impact of price increases on consumers, as it reflects a wider range of real-life price increases. Of course, no public expenditure is involved. The compensation is paid entirely through the insurance system, covered by compulsory motor insurance premiums paid by consumers.

The three-year 'inflationary buffer' has proven to be ineffective, highly damaging, and no longer viable as a process in an uncertain world. Insurers can increase their premiums to account for economic factors and other circumstances, yet injured consumers cannot.

The fundamental principles of access to justice and equality of arms have been damaged by the tariff and wider reforms. Whether by design, the current tariff levels make deductions from client damages difficult or unworkable, ensuring that fewer lawyers are able to support litigants. Whilst we shall continue to call for a fundamental review of the operation and impacts of the reforms, the Act should be amended at the earliest opportunity with the introduction of an annual review, one which better reflects inflationary increases.

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