

BRIEFING NOTE

Cost of Compensation Culture

This paper has been prepared by the General Insurance Communications Committee of the UK Actuarial Profession.

Compensation culture is defined as a trait in society by which an individual who suffers as a result of an incident which could have been avoided has an increased desire to sue a body which could have prevented the incident if the body had done its job in a proper manner.

A working party established by the profession's GIRO conference published research in 2002 which showed the growing compensation culture in the UK was then costing around £10bn per annum or 1.0% of GDP ('The Cost of Compensation Culture'). The above amount included compensation from insurance, the National Health Service, police and education authorities and other national and local Government departments, plus the associated legal and administrative costs, and had been increasing at a rate of 15% per annum. It was projected to continue to increase at an annual rate of at least 10%. Included within the overall total, the cost of criminal injury compensation in the UK in 2000 was £341m to 75,000 victims. This criminal injury compensation was more than for all the other member states of the EU combined.

According to the working party's research, over a third of the total cost of compensation goes in legal and administrative expenses, which is a fundamentally inefficient way of delivering compensation. However, it should remain a matter for society as a whole to decide what level of compensation is appropriate, and how this should be funded. One of the reasons for the dramatic cost increase is the absence of a central focus within government on the cost of compensation to society or how the compensation regime should work. Compensation is being determined in the courts in a series of test cases, which creates delays and uncertainty for compensators and accident victims.

Following publication of this research, a good deal of reaction was received from a range of different bodies. Those who claimed that the existence of a compensation culture in the UK was no more than a media myth included the Trades Union Congress. Additionally, they asserted that 90% of the workers injured or made ill by their employment in UK received no compensation whatsoever and that the UK pays less compensation as a proportion of GDP than most other countries in Europe.

Unsurprisingly, employer organisations such as the Confederation of British Industries took a different line, supporting the findings of the Profession's research and indicating the problems that arose in terms of increasing premiums for insurances such as Employers' Liability, and restriction in the normal activities of business such as the unwillingness to carry out certain more risky procedures, particularly in the area of healthcare, for risk of being sued.

The Government expressed concern about the issue and stated that they intended to act to reduce any unrealistic expectations of compensation on the part of injured parties, and to ensure that the fear of being sued did not stifle normal business activities.

Some argue that the move towards an individual's right to compensation has forced big business and public authorities to behave more responsibly. The working party contended that a more litigious society would be a bad thing because the costs, both financial and in terms of restricting activities, would outweigh the benefits of providing better compensation to accident victims.

Since the GIRO working party research the government has introduced the Compensation Act 2006, which provides for the regulation of claims management services, amongst other things. Subsequently, the Ministry of Justice made an initial assessment of the effectiveness of the regulation of claims management services in August 2007. The assessment concluded that the regulatory regime of claims management activities has had a significant effect in less than one year, noting in particular that:

- cold calling in person has been significantly reduced,
- unauthorised marketing in hospitals has been reduced by about 90%,
- the misleading use of the expression "no win, no fee" has been largely eliminated, and
- misleading claims on web-sites have been almost entirely removed.

So perhaps the tide has been stemmed on some of the worst excesses of the so called 'compensation culture'.

The working party report is on the Profession's web-site under "General Insurance Convention papers 2002".
at:

http://www.actuaries.org.uk/_data/assets/pdf_file/0007/18736/Lowe.pdf