

COMPENSATION BILL

Will it achieve it's aim?

Following the General Election last year, the Government announced plans for a “Compensation Bill”. It is intended to reassure volunteers and activity organisers that they will not face legal claims where a genuine accident occurs. Leading experts in the Personal Injury arena argue that we need education, and not legislation.

An all-party parliamentary group on insurance and financial services reviewed the issues that will be included in the Bill. Experts in this area, Colin Ettinger and David Marshall explained to the Group that the Government’s plans to clarify the law through legislation are misguided.

Colin Ettinger said that if the purpose of this bill is to reassure volunteers and teachers that they cannot be sued for a genuine ‘accident’ then the Government has chosen the “wrong tool for the job...teachers and other volunteers need to understand that, before they take children on excursions, they need to assess any potential hazards before they go, and then take appropriate measures to prevent them becoming reality,” he said. “It’s simply a matter of applying common sense, which is surely not too much to ask of those who take responsibility for our children”. “Legislation can’t change a perception or an attitude – perceptions can only be changed through education and awareness, and we hope the Government will instigate an education programme which will clarify the situation and finally lay a lot of unfounded myths to rest.”. Statistics show that the fear of a claim is far higher than the actual risk, as the number of claims has fallen in recent years.

There appear to be concerns that this attempt to re-assure people, will just cause more confusion and further drawn out costly court cases with the courts interpreting the changes. If someone acts dangerously or recklessly, under the bill, liability for any injury caused will depend on whether the persons actions was in connection with a desirable activity. This could mean in the same road accident, a van driver may be liable when the driver of a boy scout mini-bus would not be. This will generate confusion and is likely to lead to more expensive and lengthy court cases.

The main focus of the bill is to regulate “Claims Management Companies” and is universally welcomed. Over the past decade these companies have grown up and with cast advertising budgets encouraged millions to pursue compensation claims via their schemes. Unfortunately the schemes were not always to the benefit of claimants and many were left out of pocket when their compensation had to be used to repay loans and excessive insurance premiums.

The government intends to bring these companies under compulsory regulation to ensure best practice and to protect those using such companies in the future.

A draft bill was published in November 2005 and is currently at the committee stage in Parliament, with consultation ongoing.

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