

Feeding **Fat Cats**



What's changed?

The government has decided to:

- increase the small claims track limit from £1,000 to £5,000 in road accident claims; and
- increase the small claims track limit from £1,000 to £2,000 in all other claims.



So what? That doesn't sound so bad.

What looks like a minor legal change will actually have major implications for hundreds of thousands of people every year.



What exactly will the changes mean for the majority of injured victims?

The changes will leave hundreds of thousands of injured people every year having to decide whether to:

- represent themselves against insurance company lawyers, on their own in their own time, whilst they are injured or are recovering from injury;
- pay for legal advice out of money meant to be for their injuries, losses, expenses; or
- not make a claim at all (the dramatic fall off on employment tribunal claims after the introduction of fees suggests that many people will suffer in silence).

The changes mean that over 90% of everyone who is injured – whether that's on the road or at work – will lose out on free or affordable representation from an independent lawyer: injury victims will either have to pay or fight alone.

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That sounds bad, why would the government do this?

The excuse is whiplash claims, but it goes far wider than that.

The insurance industry has lobbied long and hard to change the way personal injury claims are run. They want to control the market – providing the insurance, running the compensation claims and paying out the damages. Insurers know people with proper representation from independent lawyers typically recover more compensation than if they fight alone.

These changes mean insurers will pay out in less cases, leaving more money for their shareholders in profits and dividends (although they're already raking in millions of pounds each year).

By letting insurers get away with these changes, the government is ending a basic principle of the law in England and Wales namely, that those who injure someone should pay for all the consequences of having done so.

Meanwhile, fat cats in the insurance industry will get (according to the government's own figures) up to £200million in extra profits each year.



Why exactly does changing the small claims limit hurt accident victims?

If the estimated value of compensation for a case falls below the small claims limit, legal costs are not recoverable. By raising the small claims limit by 400% in road accident cases and 100% in all other injury cases, the government is forcing people, at their most vulnerable after an injury, to make an impossible choice.

Either you can fight on alone and probably get under-compensated by insurers who take advantage of your lack of legal knowledge, or get less than what your claim is worth because you've paid a lawyer out of your compensation.



It can't be all bad, doesn't this mean I'll stop getting cold calls?

Actually, no.

Lawyers can't cold call. It's Claims Management Companies (CMC) who are calling.

The government could have banned CMCs altogether, or at least banned them from cold calling, but didn't. In fact, by removing independent professional, reputable lawyers from the process, all the government is doing is leaving CMCs to fill that gap, pestering injured people and giving inadequate advice.

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But insurers say this will save me money on my car insurance – is that true?

The chancellor said that motorists 'could see' savings of 'about' £40 per policy, but there is no evidence to back this up. The government is on record saying that they won't force the insurance industry to pass on any savings to motorists and the excuses that insurers are lining up as to why they can't and won't are growing by the day!



What about the 'discount rate'?

Separately from small claims, the government has also announced they will update the 'discount rate' used to calculate the level of compensation paid out to victims of life changing injuries. This is a long overdue change ordered by the High Court: for 10 years the insurers have accumulated a £30bn windfall due to the courts assuming a return on investments that bore no relation to what injured people would get at the bank.

Insurers are using this as an excuse to put up premium prices yet again, but it should not come as a surprise to them.



What do the experts say about all this?

The Transport Select Committee in the House of Commons and top legal experts Lord Justice Jackson and Lord Justice Briggs, as well as committees representing all the judges in England and Wales, are all on record as saying that the odds are already skewed against accident victims - in favour of big insurance companies - in personal injury cases. And that's as things stand now, when victims have their own lawyer!

When similar issues were raised in Scotland they REJECTED any change that harmed injured people's access to justice, based on research which showed that unrepresented personal injury victims were at a significant disadvantage.

Even the government has conceded in their response to the consultation that "the majority...argued that any increase should be limited to road traffic accident claims". They also admit that personal injury claims not involving road traffic accidents "are more complex".

Despite all the evidence, the government seem dead set on increasing the small claims limit.

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Shouldn't the small claims limit go up anyway? Everything else does

The small claims limit was set at £1,000 in 1991. It was then effectively increased again in 1999 when the basis for valuation of whether a claim falls within the small claims limit was changed from the whole value of the claim (including losses such as wages and expenses e.g. medications) to the value of the injury alone.

If inflation was applied from 1999 it would go up to £1,500, not £2,000 and certainly not £5,000 in 2017. And, according to the experts, and Scotland's parliament, an exception should be made for injury claims altogether.



When will these changes happen?

In theory, the government could increase the small claims limit at any time— they don't need to pass any new legislation to do it.

However, they have said that they'll include them in the package of legal changes covered by the Prisons and Courts Bill (PACB) which they anticipate will be introduced in October 2018.



What can I do to stop this?

There are lots of ways to get involved. Visit www.feedingfatcats.co.uk for more information about how to get involved in the campaign and make sure that those looking for your vote on 8 June oppose raising the small claims limit.

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