

From the President

Helen Grant MP
Parliamentary Under-Secretary of State
Ministry of Justice
102 Petty France
London
SW1H 9AJ



29 November 2012

Dear Helen,

Extension of the RTA PI Scheme: proposals on Fixed Recoverable Costs

I refer to your letter of 19 November 2012 in which you seek the views of stakeholders on the proposals for fixed costs in the RTA personal injury scheme from April 2013. The Society will be submitting a formal response in due course, but in light of the gravity of the proposed changes I wanted to write to you now to highlight some of our most serious concerns and request an urgent meeting to discuss the views of the profession in more detail.

We are very concerned that the proposed level of fees will have consequences for access to justice that will be little short of disastrous. It is likely that such rates will result in many solicitors simply being unable to carry out the work if these proposals are adopted. The consequence of this will be that many people will be unable to secure legal help or advice to advance their legitimate claims for personal injury.

Changes of this gravity must be justified by solid evidence. We are extremely disappointed that the Government is yet to produce any data which shows a proper rational basis for the new levels of fixed costs that have been suggested. Indeed, a decision to reduce costs ostensibly because of the ban on referral fees, is fundamentally flawed for two reasons:

First, referral fees were never built into the recoverable fixed costs system when they were initially formulated, so it would be quite wrong to now use their removal as a basis for re-calculation. The current fixed costs are based upon guideline hourly rates which were introduced in 2000, at a time when referral fees were prohibited, and which have only increased by inflation since the prohibition was lifted in 2005.

Second, once referral fees are again prohibited solicitors will have to look to other methods of marketing. This is likely to cost most firms just as much, if not more, as the amount they have been paying in referral fees but will not, unlike referral fees, guarantee any return on that investment. The data that we have from firms suggests that those which do not pay referral fees pay very similar, if not greater amounts, for other forms of marketing. We have never heard the Government suggest that marketing is, of itself, wrong.

It is important to note that the current portal fees were set following a significant debate and consultation process involving extensive research and negotiation between experts from all sides of the personal injury field. Of course, we recognise that fees must be reviewed, but the lack of a similar exercise of consultation and negotiation in this instance is deeply disappointing.

It would help us engage properly in responding to the document to see the evidence by which the Government is seeking to justify its proposals. Without this information, our submissions will

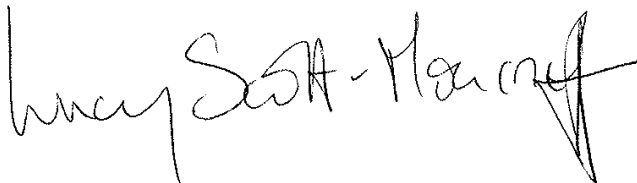
inevitably be less helpful. We would, therefore, find it very helpful if you could provide us with a copy of all reports and advice received from Professor Fenn who, I understand, was requested by the MoJ to undertake a review of the costs in personal injury cases, together with any other research or information that has been used by Government in determining these costs.

It would also be very helpful if you could provide more detailed reasoning as to why the Government believes that these figures represent reasonable costs for the amount of work involved.

This information will enable us to make our own assessment of the evidential basis for the Ministry's decision and therefore to provide an appropriately informed response to the consultation. This is particularly important because of the very short time that exists to get this right and the fact that the failure to do so may well be catastrophic for people with legitimate claims.

I hope that we can arrange a meeting very soon to discuss this further.

Yours sincerely,

A handwritten signature in black ink, reading 'Lucy Scott-Moncrieff'. The signature is written in a cursive, flowing style with a large initial 'L' and a prominent flourish at the end.

Lucy Scott - Moncrieff
President