

Deep impact

19 years ago **Richard Barr** thought the government was bowing to pressure from the insurance lobby, and he doesn't mind repeating himself



Just over 19 years ago I had a rant on these pages under the title 'Time to be Angry'. I was younger then (19 years younger to be precise) and I moaned about the government's attitude to justice. I quoted a veteran US Attorney Ed Kellogg: "If you make a claim to be a civilised place, your people must have access to the courts. And right now the majority do not."

I suggested that the government was bowing to pressure from the insurance lobby and ended with a call to arms, encouraging readers to "become judges, make loud noises in the right places about injustices and show our public that we care deeply for them. We must think in 3D to find ways of winning cases even when we are starved of finances."

Between my last rant and this one we, as a profession, have been exceedingly successful in making the system work to give access to justice to countless people. We did it using the procedures and devices introduced and permitted by government. We showed that we could do without legal aid and still bring claims before the courts. The challenge we now face could well stem from all of you responding so well to my 19-year-old plea.

We are now about to face an even graver assault on justice aimed specifically at saving insurance companies money, with the vague and unlikely promise that as a consequence premiums will reduce. This time don't take it from me.

Des Hudson, Chief Executive of the Law Society put it this way: "The government's sensible objective to reduce fraudulent or exaggerated accident claims will simply not work if the government simply adopts the insurance industries' plans. Different costs limits for some types of personal injury claim and other steps to place obstacles in the way of claimants will increase shareholder profits for insurers, while victims who have been injured in an accident are faced with little or no hope for justice. Anyone who doubts this should read the E-Sure flotation prospectus.

"These proposals risk penalising genuine

accident victims. Restrictions on recoverable costs are simply intended to make it harder to claim and obtain justice."

"We showed that we could do without legal aid and still bring claims before the courts"

'Minor' injuries

I don't know about you, but I am sick of sleazy politicians adding the tags 'ambulance chasing' or 'greedy' to every reference to a personal injury lawyer. If they are not doing that, they are referring repeatedly to the compensation culture (which does not exist) or to whiplash claimants as though anyone who claims to have suffered a whiplash injury must by definition be fraudulent. Yes I know I added a tag myself, but politicians who label us deserve to be called sleazy – and worse.

We once acted for a traffic policeman. He, like the sleazy politicians (another trick is to keep repeating the tag until it appears to become a truth of its own), had little sympathy for the people who were involved in accidents and claimed to have suffered whiplash injury.

He believed that all such people were jumping on bandwagons, until one day someone ran into the back of his car when he was stationary at a traffic light. The pain that he suffered for months afterwards took him completely by surprise and from then onwards he treated accident victims with much more respect.

Any injury, even one that might be regarded as "minor" is a life changing experience for many people – often with consequences that last far longer than the physical pain.

I was once hit by an uninsured motorcyclist who drove into the side of the car. I was not injured at all, but for

months afterwards, driving was an anxious experience and every loud bang sent my pulse rate into orbit.

Following a different tune

The Guardian reported a few months back that financial firms with insurance interests have given the conservatives £5.4m in the last decade, £4.9m of that since David Cameron became leader of the party and included, according to the *Guardian* article, Peter Wood, founder of Direct Line insurance giving Chris Grayling – then shadow home secretary – £71,000 to run his office.

I am sure it would be outrageous to suggest that such contributions of petty cash have anything to do with the changes to civil justice, but some might think that the piper is no longer playing to a tune called by members of the public.

What government is now doing is sweeping all cases up into a sleazy (there, got it in again) blancmange of so-called reform, justifying its actions by blaming lawyers for charging too much, accident victims for claiming too much and those with whiplash injuries for claiming at all. The fact that huge savings have been announced by the changes gives the lie to any pretence that they are for the public good.

So, ladies and gentlemen, get out there and, at the risk of repetition (like a comet who comes round every 19 years) get out there and make loud noises in the right places about injustices and show our public that we care deeply for them.

Watch out – because if you don't, I will be writing another article on this theme in 2032.



Richard Barr is a consultant with Scott-Moncrieff & Associates LLP (www.scomo.com)