

Legal Matters

Personal Injury and Insurance

Our quarterly newsletter aims to highlight developments and recent case law in the areas of personal injury and insurance in a concise and readable style. We hope that you find it informative and useful.

Reigning Supreme

The new UK Supreme Court opened its doors on 1 October and sat for the first time on 5 October in Middlesex Guildhall on Parliament Square, London.

The Supreme Court replaces the Appellate Committee of the House of Lords as the highest court in the United Kingdom and will hear appeals on points of law for the whole of the United Kingdom in civil cases and for England, Wales and Northern Ireland in criminal cases. It will also hear cases on devolution matters.

The new court has resulted in the physical separation of the judiciary from the legislature. This has been hailed by some as providing greater clarity in our constitutional arrangements by further separating the judiciary from the legislature but has led others to speculate on whether this will have implications for the future independence of the judiciary and the constitution

generally.

The former Law Lords became the 12 Justices of the Supreme Court and Lord Phillips, the former Lord Chief Justice, became the first President of the Supreme Court. In court the Justices are to be addressed as My Lord or My Lady.

A significant change the new court will bring is to allow greater access to proceedings. It is open to the public and anyone can visit during opening hours. Almost all the proceedings will be filmed and some broadcast. It is the only court in the United Kingdom to allow this.

The procedures are similar to those that used to apply in the House of Lords and judgments will be delivered in court and posted on the website with a short summary for the public.

For more information go to: www.supremecourt.gov.uk



Fixed fees announced by MOJ

The Ministry of Justice has announced the fixed fee structure for the new claims process due to be introduced in April 2010.

This structure applies to all RTA claims valued between £1,000 and £10,000 where there is an element of personal injury and the accident occurred in England and Wales after 1 April 2010.

The agreed fixed costs will be:

- £400 for Stage 1 (the claimant solicitor completes the claim notification form and sends it to the insurer who may admit/deny liability);
- £800 for Stage 2 (where liability is admitted, the claimant obtains a medical report and the process continues with offers and

negotiation of a settlement to a strict timetable);

- £250 paper hearing/£500 oral hearing for Stage 3 (where the parties cannot agree a settlement and the case goes to court).

Claims excluded from the process are fraud, certain procedures for claims involving children, claims where contributory negligence is alleged, claims where the value of the injury has no reasonable prospects of exceeding £1,000, claims involving employers' liability and/or public liability, MIB untraceable cases, claims where the claimant or defendant is deceased, claims where the claimant is bankrupt and claims

where the claimant or defendant is a protected party.

The Civil Procedure Rule Committee will work with officials to bring forward draft rules, practice directions and pre-action protocols to implement the new process with a view to its introduction in April 2010.

For more information contact Hilary Yeo - contact details on Page 8.

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No duty on occupier to bring the existence of a pond to the attention of parents

“in general, there will be no duty on an occupier to warn visitors of obvious hazards.”

During a family holiday at a caravan park a young boy, aged 2½, wandered away from his mother whose attention was momentarily drawn elsewhere. Tragically he drowned in a nearby pond. The parents were not aware of the precise location of the pond or of the path down which the little boy wandered. However, 3 days earlier, on arrival at the caravan site, they had been given a welcome pack which included a plan of the site showing various roads, lakes, ponds, the river and a beach. At first instance, the Judge held that the parents should have been specifically warned about the location and easy access to

the pond in question and, in failing to do so, the site owners were in breach of their duty of care under s 2 of the Occupiers' Liability Act 1957.

That decision was overturned on appeal to the Court of Appeal. Moses LJ, who gave the lead Judgment, said that small children could wander away from otherwise attentive parents within a moment. It may not be the parents' fault, but that does not mean it is necessarily someone else's fault. He held that there was no duty to bring to the attention of parents the existence of a pathway or precise location of the pond, when the danger they

presented to small unaccompanied children was obvious. Further, it was difficult to say that any more specific warnings would have prevented the accident.

This is the latest in a long line of Occupiers' Liability Act cases in which the courts have reiterated that, in general, there will be no duty on an occupier to warn visitors of obvious hazards.

Bourne Leisure Limited (T/A British Holidays) v Marsden (on behalf of M Marsden, Deceased) [2009] CA

For further information contact Simon Hills - contact details on Page 8.

Plexus success on balancing the risk of play activities



This case further highlights the willingness of the courts to take a pragmatic approach to assessing risk and balancing risk involved in activities with the benefits they bring to the participants.

A pupil, aged 7½ at the time of the accident, was injured during a gym lesson at school which took place in the large main hall. Mats had been placed around the hall to encourage the pupils to keep more to the centre. However, unfortunately during the cooling down period at the end of the lesson the Claimant tripped over another pupil, veered off and struck her head on one of a number of old fashioned cast radiators positioned on the walls of the hall. Whilst a risk assessment had been carried out which identified the radiators as a risk it was not clear for what reason.

The principal argument advanced on behalf of the Claimant was that the school should have ensured that the radiators were covered to provide protection to the young pupils and that it was

foreseeable that children may venture beyond the area marked for the exercise and into proximity to one of the radiators. However, the Judge held that there was no liability on the part of the school. He accepted the Defendant's arguments that in line with previous case law the courts accept there will be some risk in activities without there necessarily being liability if injury occurs and that a balancing act needs to be performed that takes into account when the benefits outweigh the risk, there being an especially strong case for a balanced approach in the context of children's play.

The well known "balancing test" in assessing what is reasonably practicable, as outlined in **Edwards v National Coal Board**, was cited together with **Simonds v Isle of Wight Council**, in which the court held that playing fields could not be made hazard free and it would be unreasonable to impose such a duty, together with **Tomlinson v Congleton Borough Council**, in which it

was held that there is no duty to warn of an obvious risk.

Also cited was another case we ran to a successful appeal, **Babbings v Kirklees Metropolitan Council**, in which the Judge commented how boring it would be if there were no risks and held that the courts would be doing gym teachers no service if they were to hold that they were in breach of their duty of care when an accident of the kind in question in that case occurred.

Kerswell v Durham County Council [2009]

Edwards v National Coal Board [1949] CA

Simonds v Isle of Wight Council [2003] CA,

Tomlinson v Congleton Borough Council [2003] HL

Babbings v Kirklees Metropolitan Council [2004]

For further information contact Stephen Boyce - contact information on Page 8.

Asbestos injury not foreseeable

The Claimant was 68 years old at Trial and had contracted malignant mesothelioma of the pleura allegedly as a result of exposure to asbestos during the course of his employment by the First Defendant between 1956 and 1962 and the Second Defendant from 1962 until 1965. The First Defendant was a small firm of general builders and the Second Defendant a small firm of plumbers. The Claimant was apprenticed with the First Defendant before qualifying as a plumber and moving to the Second Defendant.

The Claimant alleged that he was exposed to asbestos undertaking plumbing work for the First and Second Defendants. He used an asbestos scorch pad when welding pipe joints and would then use asbestos string for sealing the pipe joints. When

he worked for the Second Defendant the Claimant would occasionally have to cut asbestos flue pipes using a handsaw. The Claimant did not receive any warnings about the dangers of asbestos, nor were any precautions taken.

The Claimant alleged that the Defendants were negligent and in breach of the Building (Safety, Health and Welfare) Regulations 1948 and Construction (General Provisions) Regulations 1961.

The Judge accepted that the Claimant's mesothelioma was probably caused by exposure to asbestos during his employment with both Defendants. However, this exposure was light and occasional and injury was not reasonably foreseeable by the Defendants at the material time. Therefore, the First and Second Defendants

were not negligent, nor were they in breach of statutory duty because both Regulation 82 of the 1948 Regulations and Regulation 20 of the 1961 Regulations required precautions to be taken if exposure was "likely to be injurious" and this required a degree of foreseeability. Neither the First Defendant nor the Second Defendant knew and could not reasonably have been expected to know about the risk of injury arising from light and occasional exposure to asbestos at the material time.

Terrence Charles Abraham v (1) Ireson & Son (Properties) Ltd (2) Stanley Reynolds (t/a Reynolds & Spademan – a firm) [2009]

For further information contact Steve Philips - contact details on Page 8.

“The Defendants could not reasonably have been expected to know about the risk of injury arising from light and occasional exposure to asbestos at the material time.”

Funeral expenses cannot be recovered by a dying claimant

The court did not follow the earlier High Court decision of **Bateman v Hydro Agri [1995]** and rejected a claim for future funeral expenses made by a claimant who was still alive at the date of assessment.

The Claimant, who was 57 years old at the date of assessment, had been diagnosed with peritoneal mesothelioma. It was accepted that his condition was caused by exposure to asbestos during the course of his previous employment with the Defendant and the Court was asked to assess damages. His claim included a claim for the future funeral expenses which would be incurred on his death. The Claimant relied on the Bateman decision and argued that he could step into the shoes of his estate in order to pursue the claim. The Defendants disputed this claim

The Court held that such a claim

could only arise if the funeral expenses were incurred by his dependents and claimed under s 3 (5) Fatal Accidents Act 1976, or if the funeral expenses were incurred by the estate and claimed under s 1 (2) (c) Law Reform (Miscellaneous Provisions) Act 1934. There could be no claim for funeral expenses during the Claimant's lifetime, otherwise a claimant would be entitled to claim funeral expenses in any personal injury action where there was a reduction in life expectancy, irrespective of the extent of that reduction.

Claimant solicitors tend to fall into two camps; those that routinely claim funeral expenses during the claimant's lifetime, relying on the Bateman decision, and those that do not, accepting that such a claim cannot be pursued. We now have a reasoned judgment on the

recoverability of funeral expenses by a living claimant that confirms the position.

This decision should stand and is unlikely to be challenged although there is increasing lobbying from claimants solicitors for equality of the damages which can be recovered by mesothelioma victims during their lifetime with the damages which can be recovered by their estate and dependents after their death.

Loyola Lea Watson v Cakebread Robey Ltd [2009]

For further information contact Steve Philips - contact details on Page 8.

Claimant recovers damages for exposure to asbestos as a school pupil

In March 2007 the Claimant was diagnosed as suffering from malignant mesothelioma of the pleura and by the date of Trial her life expectancy was estimated to be less than 6 months. The Claimant alleged that she was exposed to asbestos during her time as a pupil at Bowring Comprehensive between 1972 and 1979.

The Claimant alleged that she was exposed to asbestos as a result of the completion of construction works when she first joined the school, ongoing work on the asbestos ceiling tiles in the school corridors, the installation of a suspended ceiling in the junior block, asbestos ceiling tiles in the girls toilets and the vandalism of ceiling tiles by pupils. Bowring School had been completed in September 1972 and the Defendant accepted that asbestos insulation boards and ceiling tiles had been used in its construction.

The Defendant disputed exposure and also argued that, as mesothelioma could be caused by very small quantities of asbestos dust, the Claimant's condition could have been caused by exposure in the general environment or from some other source. The Claimant had made a claim for a payment under the Pneumoconiosis (Workers Compensation) Act 1979 identifying exposure when she had worked in a shop between 1978 and 1981. The Defendant therefore argued that the Claimant had to prove that her exposure was regular otherwise any exposure at Bowring was de minimis in the context that her condition could have been caused by environmental exposure or exposure from another source.

The Judge held that the Claimant was exposed to asbestos as a result of work done to the asbestos ceiling tiles in the school corridors and damage to the ceiling tiles in the corridor and toilets in the junior block caused by misbehaving pupils. The Judge rejected the Defendant's argument that such exposure was de minimis and held that it materially increased the Claimant's risk of contracting mesothelioma. The Judge accepted that the Claimant had made a claim for payment under the Pneumoconiosis (Workers Compensation) Act 1979 identifying exposure when she had worked in a shop between 1978 and 1981, but held that she could still recover damages from the Defendant because of the **Fairchild decision** as exposure at Bowring comprehensive had materially increased her risk of contracting mesothelioma.



The Defendant had accepted that it knew or ought to have known that any more than minimal exposure to asbestos dust was foreseeably hazardous. There was no evidence that steps were taken to replace the asbestos ceiling tiles or that precautions were taken when work was carried out. Therefore the Defendant was negligent.

This was a case that turned on its facts and the Judge's acceptance of the evidence of the Claimant and her

witnesses regarding exposure. The Defendant appealed the decision on the grounds that the Claimant's exposure was de minimis and did not materially increase her risk of contracting mesothelioma. The appeal was dismissed by the Court of Appeal. We understand consideration is being given to an appeal to the Supreme Court.

The Claimant died on 15 October, the day after the Court of Appeal Judgement.

The case is a good illustration of the increasing number of Public Liability mesothelioma claims arising from the widespread use of asbestos products in the construction of public buildings in the 1960's and 1970's. Insurers are likely to see an increasing number of PL mesothelioma claims.

Dianne Willmore v Knowsley Metropolitan Borough Council [2009]

For further information contact Steve Philips - contact details on Page 8.

Calling time on limitation? Section 33 and the court's discretion post Nugent

The Court of Appeal recently took the opportunity to elaborate on the power to disapply the 3 year limitation period in personal injury claims, following the landmark House of Lords decision in **A v Hoare [2008] HL**.

The decision in Hoare overturned earlier authority, including **Stubbings v Webb**. That decision held that a deliberate assault was an action for intentional trespass to the person, and as such, a strict 6 year limitation period applied. The effect of the Hoare ruling allowed claims to be made much later by application of the personal injury principles of the Limitation Act.

One issue was the application of s 33 Limitation Act 1980. The Court of Appeal has now considered it in **AB v Nugent Care Society**, which involved four test cases arising from allegations of sexual abuse which occurred decades ago.

The Claimants in Nugent argued that the Court should disapply the standard 3 year limitation period on 2 grounds. They submitted that (a) the limitation period could not have expired as they had not had the requisite knowledge under s 14 to start the limitation clock running, and (b) if limitation had expired the Court should exercise its discretion under s 33.

Hoare held that inhibition (due to psychological trauma etc) was relevant to the exercise of the discretion to extend the limitation period, rather than to establishing when a claimant is to be regarded as having the requisite knowledge under s 14. The Court of Appeal took the opportunity in Nugent to reaffirm that (barring exceptional circumstances) the Claimant would have grasped the severity of the situation and would have been aware of the injury shortly after the incident.

The decision in Nugent therefore rested on whether the Court should exercise its discretion under s 33. Delivering the Judgment of the Court, Lord Clarke MR clarified 3 key factors which the Court will take into consideration. These are:

- the coherence of the Claimant's evidence;
- whether the delay has prejudiced the Defendant's ability to defend the claim; and
- evidence that the Claimant was inhibited from bringing his claim earlier.

The Court described the consideration of these elements as a balancing act in which the possible prejudice to the Defendant's ability to resist the claim (death of witnesses, the inability to produce documents etc) must be set against the injustice

to the Claimant were he banned from bringing an equitable and just claim.

In all but one of the four cases the Court of Appeal held that the claims should be allowed to proceed under s 33. The one decision in favour of the Defendant was based largely on the Claimant's lack of compelling evidence, rather than on any potential prejudice to the Defendant.

It appears that, for now at least, despite the passage of time, if claimants are able to show that they have been inhibited from bringing their claims the court will, according to Lord Clarke MR, continue to exercise its "wide and unfettered discretion".

AB (1) JPM (2) JB (3) DVB (4) v Nugent Care Society: GR v Wirral MBC [2009] CA

Stubbings v Webb [1993] HL.

For further information please contact Justin Collins - contact details on Page 8.

Possible reclassification of Periodical Payment Index

The Office for National Statistics (ONS) is currently considering a proposal to reclassify ASHE 6115 (annual survey of hours) index.

This could have huge implications not only for future cases involving periodical payments but also for existing cases as it is now established that ASHE rather than the Retail Prices Index is the appropriate measure of indexation for periodical payment orders in respect of future care/case management.

The original proposal was to split private home based carers from residential carers. For litigation purposes, claimants would either be in a domiciliary or residential care regime. However, what was recently proposed by the ONS is to separate out the "senior care workers" from the majority of care assistants and home carers. For Periodical Payments this would in effect create a 2 tier system, with the parties having to distinguish between senior and more junior carers and with future increases

being linked to the separate indices. Not only could this provide unnecessary complications in future cases but it could also necessitate settled cases being revisited for variations on existing orders.

This issue is under consideration by the ONS at present and will affect those acting for both claimants and defendants.

Contributory negligence of 40% for failing to sound police siren

On 22 October 2005 a woman was killed in a tragic accident when she proceeded onto the main road into the path of a police vehicle which was attending to an emergency call.

The Judge at first instance found that the deceased had pulled up to a junction and intended to turn right onto the A28. After looking right and then left she had pulled out into the main road. She had failed to see that there was a police vehicle travelling at speed on the A28 and the 2 vehicles collided leading to the death

of the woman. The police officers admitted to only using their flashing lights and not their siren.

It was held at first instance that the police officers had been negligent by failing to take account of the circumstances and the road lay out. If this had have been considered the police officers

would have sounded their siren and in all probability the deceased would have heard this and would not have proceeded into the main road. The claim therefore succeeded in full.

The Defendants appealed this decision and in the Court of Appeal Stanley Burton LJ concluded that in all probability the deceased pulled up to the junction and stopped. She then looked right and then left and on seeing that it was safe to proceed pulled out into the main road. The deceased failed to look right again, and if she had, she would have seen the police vehicle heading towards the junction at speed and would have re-evaluated the situation. It is therefore likely that had the deceased looked right again before proceeding the collision would have been avoided.

It was also held that the police vehicle must have been travelling at excessive speed for the collision to have occurred where it did and

therefore the police should have been sounding their siren. The fact that they did not was held to be negligent.

The appeal was allowed and responsibility for the accident was attributed as 40 percent to the police officers' negligence and 60 percent to the deceased's.

Although the appeal represented a partial success for the police force, it highlights the fact that courts will often apportion some blame to a police officer who drives at speed, particularly if all precautions, including use of all available emergency equipment, are not taken.

Armsden v Kent Police [2009] CA

For further information contact Simon Hills or Alex Colombo - contact details on Page 8.



First case relying on Section 1 Compensation Act 2006

The case of **Hopps v Mott Macdonald** is believed to be the first case in which a Judge has relied on s 1 of the Compensation Act 2006. The Court found expressly that s 1 applied to the claim despite the fact that the incident occurred nearly 3 years before the Act came into force. It is also the first reported decision by an English court in a claim by a civilian for personal injury suffered in an attack while working in Iraq after the 2003 war.

The Claimant was present in Iraq to assist in the emergency electricity network reconstruction programme for Southern Iraq. He was escorted to his various tasks by the Army. The Claimant was

injured when the Land Rover in which he was travelling in Basra, Iraq, in October 2003 was the target of a roadside bomb. He claimed damages against his employer and the Ministry of Defence for personal injuries suffered on the basis that there had been a failure to take reasonable care for his safety. He contended that there should have been a risk assessment to assess the suitability of the proposed transport arrangements and that he should have been moved around the Basra region in an armoured vehicle and/or have been confined to base during the relevant period.

The claim was dismissed on the basis that it was not negligent for the Army or a civilian

company to transport civilian employees in unarmoured Land Rovers in Basra in October 2003. The Judge held that, taking into account the level of risk and the urgency and desirability of the emergency infrastructure projects, it was not negligent to transport the Claimant in an ordinary Land Rover. The Court found that the emergency reconstruction of Iraq following the 2003 Iraq war was a "desirable activity" for the purpose of s 1 of the Compensation Act 2006, and took into account the possible deterrent effect a finding of liability might have on similar future activities.

Hopps v Mott Macdonald (1) Ministry of Defence (2) [2009] QB

MIB insurers' rights of recovery restricted

This decision is of significance to insurers participating in the Motor Insurers' Bureau (MIB) scheme as, subject to any appeal, a restrictive interpretation is to be applied to the statutory right of recovery under s 151(8) Road Traffic Act 1988.

The Claimant was not the owner of the vehicle but was authorised by the vehicle owner and principal insured to drive. He was named as an authorised driver on the policy. The Claimant took it upon himself to authorise a third party (the Defendant) to drive the vehicle. The Defendant had been drinking and lost control of the vehicle resulting in a significant injury to the Claimant.

Insurers accepted that they were liable to indemnify the driver in respect of the Claimant's claim but claimed to be entitled to be reimbursed by the Claimant.

S 151(8) is a key feature of the statutory framework surrounding the MIB scheme. It provides insurers with the right:

"to recover from any person who (a) is insured by the policy ... by the terms of which liability would be covered if the policy insured all persons ... and (b) caused or permitted the use of the vehicle".

Article 2 of the Second Motor Insurance Directive provides:

"Each member state shall take the necessary measures to ensure that any statutory provision or any contractual clause... which excludes from insurance ... persons who do not have express or implied authorisation thereto...shall...be deemed void in respect of claims by third parties."

S 151(8) Road Traffic Act 1988 was intended to implement the Second Motor Insurance Directive (84/51 EEC).

Although insurers had the right of recovery against the Defendant this was of no real value. The key issue was whether insurers could recover under s 151(8) against the Claimant. If so this would result in a 'circuitry' of action whereby (as it was put by the insurers in argument) the Claimant would be paid his compensation under the MIB scheme a "nanosecond" before insurers then exercised their right of recovery against him under s 151(8). It was therefore argued that the MIB insurer would have indemnified the Claimant, this being distinct from and immediately before the exercise of its statutory right to recover.



A preliminary issue was ordered to be tried to decide the extent to which (if any) the right of recovery under s 151(8) conflicted with the Second Motor Insurance Directive.

The insurers argued that to construe s 151(8) to achieve this end and effect "did violence" (sic) to primary UK legislation and therefore went beyond the permissible rules of statutory construction **Per Marleasing SA La Comercial Internacional de Alimentacion**. They argued that the Claimant's remedy lay against the UK Government for failing to properly implement the Second Motor Directive, known as a 'Francovich' claim **Francovich v Italian Republic**. The Claimant argued that the right of recovery under s 151(8) had to be interpreted so as to comply with the Second Motor Directive although recognising that to do so went

beyond conventional statutory construction.

It was held that if the insurer had a right of recovery against the Claimant under s 151(8) this would amount to a breach of an accident victim's rights under the Second Directive. Therefore s 151(8) would be construed so as not to achieve this effect.

The decision has significant ramifications for MIB insurers. It underlines what is now the subordinate nature of UK primary legislation in relation to an apparent conflict with an EU directive.

Wilkinson v Churchill Insurance [2009]

Per Marleasing SA La Comercial Internacional de Alimentacion SA C-106/89 [1990].

Francovich v Italian Republic [1991] ECR

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Partner Perspective

Jo Pizzala, a Partner at Plexus Law, talks about fraud and her recent success at the Insurance Times Counter Fraud Awards

2009 has been a busy year for those practitioners working in the fraud arena and it appears that the court's attitude towards personal injury fraud and exaggeration is now starting to turn.

With this in mind we were incredibly pleased to be nationally recognised for the impact of the recent decision in **Kirk v Walton**, in association with RBS, and named the winner of the '2009 Insurance Times Counter Fraud Award - Personal Lines'

The case of Kirk v Walton made very significant headlines and generated strong debate in the insurance industry and the PI market as to whether it was appropriate for insurers to take matters into their own hands upon conclusion of civil proceedings.

Joanne Kirk very significantly exaggerated the effects of a minor road traffic accident and sought damages touching £900,000. The litigation was expensive and lengthy for the insurers who endeavoured to prove that the Claimant was massively exaggerating her symptoms.

When the case finally settled in 2007, the insurance clients decided that the level of exaggeration that they were seeing in some cases was so offensive they wanted an alternative method to highlight this problem within the industry and within the court process. Permission was granted under the Civil Procedure Rule 32.14 to bring a private prosecution for contempt of court.

In this case we relied on the Schedule of Special Damage, which should always be signed with a Statement of Truth, and the assertions made in

witness statements and also made verbally to medico-legal experts. In June of this year Mr Justice Coulson found that the Claimant was in contempt of Court in respect of 2 of the allegations put forward and the Claimant was fined and ordered to pay 50% of the Defendant's costs. A successful prosecution for contempt of court can result in up to 2 years in prison.

The recent conviction of Mohammed Patel, who was found guilty of a number of offences including conspiracy to defraud and jailed for 4½ years at Manchester Crown Court last month, is further good news for the insurance industry. Between 2005 and 2008 it is believed that Mr Patel was a driver in at least 92 deliberately forced collisions. Mr Patel had admitted 17 charges and an additional 24 people are also due to be sentenced for their role in 'crash for cash' staged accidents. This ring alone is estimated to have cost the insurance industry £1,600,000.

As recently as June 2009 Toulson LJ said in **Shah v UI Haq** :

"Fraud is a scourge of our time. On the Judges findings the Claimants were guilty of serious criminal offences, including conspiracy to defraud and conspiracy to pervert the course of justice. If, as has been suggested, such fraudulent claims have reached epidemic proportions, it may be that prosecutions are needed as a deterrent to others"

With the support of the judiciary, and with both the public and private sectors working closely together in the battle against fraud, I expect to see a firmer line taken by the industry with a view to defeating any claims where there is an obvious element of fraud or clear excessive exaggeration.

Kirk v Walton [2009] QB

Shah v UI Haq and Others [2009] EWCA

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We hope you have enjoyed this issue of Legal Matters. However, if you do not wish to continue receiving the publication, please email : anna.pickles@parabis.co.uk, providing your name, company name and address.