



THOMPSONS  
S O L I C I T O R S


# 1. Health & Safety with the coalition - Young

- Lord Young's report "Common Sense, Common Safety" published on 15 October 2010.
- Offers no new evidence or research. Appears to be based entirely on opinion which at times is confused and contradictory.
- Terms of reference were:  
"To investigate and report back to the Prime Minister on the rise of the compensation culture over the last decade coupled with the current low standing that health and safety legislation now enjoys and to suggest solutions."

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- Young refers to “compensation culture” as if a fact but then concedes it is “perception rather than reality”:

“We have all read countless media stories blaming health and safety regulations for all manner of restrictions on our everyday life... there is no end to the constant stream of misinformation in the media. Again and again ‘health and safety’ is blamed for a variety of decisions, few of which actually have any basis in health and safety legislation at all.”

- Even though Young identifies the insurance industry as having encouraged the myth of the compensation culture and caused organisations to be overly risk averse, they are the main beneficiaries of his proposed reforms.

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- Recommendations not limited to ones that would dispel compensation culture myth (which would be welcome) but hits injury victims.
  - Young says the EU has overburdened business with H&S 'red tape' but plans to tear up regulations have largely been thwarted.
  - Suggests a simplified risk assessment for “low risk” workplaces such as shops, classrooms and offices. Will condemn a significant sector of the working population to a second rate health and safety regime.

- Accepts that individuals cannot be liable for the consequences of a voluntary act unless negligence can be proved but suggests legislating to achieve 'clarity' on the issue. Legislating against a perception is impossible and pointless when the existing law and the common sense of the Judiciary mean that desirable and good faith activities are already protected.
- For no reason that appears to make sense from his terms of reference (more ideology from the coalition?) Young recommends that EL claims should be brought into a new claims process for RTA cases worth less than £10,000.

- The RTA process has flaws and changes are still needed. It is far too early to say the process is working effectively and should be extended. The recommendation ignores an MoJ review of the PI claims process completed this year which considered and rejected the idea on the basis that workplace accident claims are more complex than RTA's and the relationship between employers and employees is very different to that between two drivers. An extension would also give employers the opportunity to pressure workers who may be witnesses, before their evidence can be recorded accurately.


## 2. Personal injury with the coalition – Jackson

- Young recommends introducing the Jackson Report recommendations:
  - Fixed costs for workplace injury and other PI cases not settled in RTA claims process with a value up to £25k

Aim: gives insurers certainty which they like.

Impact: a gradual squeeze as inflation eats into costs.

Timescale: not know. Could be introduced in 2011.


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- Success fees no longer recoverable from defendants. In theory a capped amount recoverable from claimants but in reality there will be.

Aim: insurers don't like recoverable success fees and this removes them.

Impact: either cuts in claimant's compensation to pay lawyers or a race to the bottom with lawyers offering no deduction but cherry picking only safe cases to run.

Timescale: consultation due late 2010 with implementation expected in 2012.




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- Injury victims recover an extra 10% in general damages (pain and suffering).

Aim: part compensate claimants for success fee deductions from damages.

Impact: hard for claimants to work out if they get their 10%

Timescale: consultation due late 2010 with implementation expected in 2012.

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- After the Event (ATE) insurance premiums no longer recoverable.

Aim: judiciary think claimants should have a financial stake in the outcome of their case.

Impact: injured people will have to pay.


Timescale: consultation due late 2010 with implementation expected in 2012.

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- Qualified one way costs shifting.

Aim: part compensate for non-recovery of ATE premiums.

Impact: members may not have to pay defendant's costs if the case is lost.

Timescale: consultation due late 2010 with implementation expected in 2012.

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- The proposals will save no money.
  - They need primary legislation.
  - They will impact on union legal schemes and whilst the Conservatives may not like the unions they ensure at least 25k individuals and couples in the UK get free wills and tens of thousands of members get free legal advice and none of that costs the state anything.
  - The people most likely to be adversely affected by the reforms will be those on the lowest incomes that the coalition says it cares about.

### 3. So why would the coalition want to do any of this?

- Ideology over principle?























































