Written evidence from the Motor Accident Solicitors Society (MASS)

Introduction

1. This response is prepared on behalf of the Motor Accident Solicitors Society (MASS). MASS is a Society of solicitors acting for the victims of motor accidents, including those involving personal injury (PI). MASS has 140 solicitor firm Members, representing over 2000 claims handlers. We estimate that member firms conduct upwards of 500,000 PI motor accident claims annually on behalf of the victims of those accidents. The Society’s membership is spread throughout the United Kingdom.

2. The objective of the Society is to promote the best interests of the motor accident victim. This is central, and core to our activity. We seek to promote only those policy and other objectives which are consistent with the best interests of the accident victim. We seek to set aside any self interest in promoting these arguments, recognising that we are in a position of trust, and best placed to observe the best interests of motor accident PI victims first hand. We are a not for profit organisation, which requires specialism in motor accident claimant work as a pre-requisite for membership. We also have a Code of Conduct which member firms are required to abide by, which is directed to the best interests of the motor accident victim.

Q1. How have the increased court fees and the introduction of employment tribunal fees affected access to justice? How have they affected the volume and quality of cases brought?

3. MASS has considerable concerns at the impact on our members and their clients of the proposed further increase in court fees on top of the massive increase in fees earlier this year. That increase is already putting considerable pressure on personal injury law firms, who are being required to do considerable additional work, for which they are not paid, in making applications for fee exemptions where appropriate for clients. Many firms are also funding the greatly increased court fees on behalf of their clients. The increase in fees for general applications will simply increase the strain on firms.

4. If court fees continue to increase in the way they have in recent years, we believe many firms will no longer be able to fund the court fees and will either have to look to clients to pay them themselves, or seek disbursement funding for their clients, which in turn will make further inroads into personal injury claimants’ compensatory damages, on top of the success fees and ATE premiums claimants are paying from their damages.

5. We believe that this is totally unacceptable as this contravenes the principle that damages are restorative and that the accident victim should always be returned to the position they were in before being involved in an accident through no fault of their own. In addition if court fees continue to rise, then this could have a significant impact on the innocent victims’ right to access to justice as they simply may not be able to fund and therefore pursue their claim.

6. With profitability levels for PI claims having already dramatically fallen in recent years as a result of Government reforms, the further proposed increase in court fees may tip the balance about whether court proceedings are issued by some firms. This
potentially could mean that perfectly valid cases seeking justice are not considered in
court, restricting access to justice for some victims.

7. In high value PI claims, the issue is about the ability of smaller firms without external
capital being able to afford the higher court fees. This may potentially drive smaller
firms away from undertaking high value PI claims and limit such cases to larger firms
only. This possible reduction in freedom of choice for victims also has the potential to
restrict access to justice.

8. For these reasons we have strongly urged the Government to reconsider its policy on
Court and Tribunal Fees and would hope that the Justice Committee do likewise.

(We have no further comments on Q2 and Q3.)

30 September 2015