

McKay Norwell

Legal Update

Edition Number 3

Personal Injury Claims – Richard Godden Demolishes a Popular Myth

Nowadays there is considerable media comment about the so-called “Compensation Culture”. In the good old days, we are told, people who had been injured just got on with it. They didn’t go crying to a lawyer demanding money. But these days people can’t even graze their knees without going to court screaming for compensation. Lawyers are making a packet, insurance premiums are skyrocketing, schools don’t dare take the kids on outings any more, etc. etc.

Actually, none of this is true. A recent study has shown that the amount of money being paid out in compensation claims has hardly changed in twenty years, allowing for inflation. So who’s spreading these stories? The answer is, quite simply, insurance companies. They have to pay out millions every year to people who have been injured in accidents. They don’t like it. But they are a powerful lobby in Parliament, and hope that by fostering the impression that there is a runaway compensation culture, legislation will be brought in making it more difficult for the victims of accidents to claim damages. They have already been successful in the Republic of Ireland, where claims for damages are decided by a state-run board controlled to a great extent by themselves.

The example most frequently quoted of the horrors of the “compensation culture” is that of the American lady who spilled a cup of coffee in her lap and received a million dollar award. What is never mentioned about this case is that the restaurant had deliberately heated the coffee to well above boiling point to disguise the inferior taste, and when she spilled it she suffered serious burns and scarring to her legs.

Fortunately, in this country damages are still decided by a judge who has had the benefit of a full presentation from both sides of the case. And

also, almost uniquely, in Scotland a claimant has the option of applying for a jury to decide the case and fix damages. Juries are usually only found in high-value cases, and have the reputation of being extremely generous. A few years ago Richard Godden, a personal injury specialist and partner in this firm, was acting for a client who wanted a jury to decide his claim, and the insurance company on the other side fought it tooth and nail, eventually trying to argue that juries should be abolished. Their argument was not successful, and thanks to this case it looks as if juries will be with us for many years to come.

It should not be forgotten that court cases aren’t just about getting money for the claimant. They play a valuable role in driving the constant improvements which we see year on year to Health and Safety in the workplace. If it wasn’t for people claiming damages, many employers would just not bother with the rigorous inspections and protective measures which they are now obliged to have.

Obviously, if you have suffered a very minor injury it is not worth claiming. The damages will be insignificant. But if there has been a real injury with genuine pain and loss, compensation is there for a good reason – to place you in the position you would have been in had you not been injured by somebody else’s carelessness.

If you think you may fall into that category, don’t let any talk about a “compensation culture” put you off. We at McKay Norwell have a highly experienced team of personal injury lawyers in Richard Godden, John Mitchell, and Ann Scott, and we are all happy to give you a half-hour free no-obligation meeting or chat over the phone.

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Same Again Please?

There have been some recent important changes in Licensing Law. Our senior partner John Mitchell fell foul of the legislation recently at Murrayfield Golf Club. When it was his round he asked the barmaid for the “Same again, please” to be told this was verboten and that he would have to spell out the order for fear of the barmaid making rash assumptions and encouraging him to drink more than he was inclined to. He was also asked if he would like a glass of water with his drink. He said “only if you are putting a large whisky in it”.

Seriously, Nick Hooke and Robert Forman are our resident specialists in relation to all Licensing Matters, and will be happy to help with any licensing issues you may have.

