[Press release: Justice Secretary unveils new bill to cut car insurance premiums]

- Clampdown on whiplash claims to save motorists about £35 per year
- The whiplash changes are part of government's wider programme to tackle the compensation culture which is driving up costs to consumers and taxpayers
- Bill includes changes to the way the personal injury discount rate is calculated to bring certainty and transparency to the system, and savings for the NHS

The legislation sets in law measures which will reduce the unacceptably high number of whiplash claims and allow insurers to cut premiums, with motorists anticipated to save on average about £35 per year.

The whiplash measures form a major plank of the Government's wider work to tackle the country's compensation culture, ensuring a more balanced and fair system for all concerned. They follow earlier reforms including the forthcoming ban on cold calling, tougher regulation of claims management companies, and a clampdown on spiralling holiday sickness claims.

The high number of whiplash claims has contributed to increased insurance premiums but these measures will mean about £1 billion in savings which insurers have pledged to pass on to drivers.

Justice Secretary David Gauke said:

> The number of whiplash claims has been too high for too long, and is symptomatic of a wider compensation culture.
>
> We are putting this right through this important legislation, ensuring whiplash claims are no longer an easy payday and that money can be put back in the pockets of millions of law-abiding motorists.

Road traffic accident related personal injury claims are 50% higher than a decade ago, despite the fall in the number of reported accidents and the UK having some of the safest roads in Europe.

This rise has been fuelled by predatory parts of the claims industry that encourage minor, exaggerated and fraudulent claims, driving up the costs of insurance premiums for ordinary motorists.

The whiplash measures are aimed at cracking down on these claims. The measures will ensure fairness to both motorists and claimants by:

Also contained in the Bill are changes to the way the personal injury discount rate for serious injuries is calculated.

The changes, first mooted in September, will provide a more balanced approach to compensation that fully compensates victims of catastrophic accidents, including the most vulnerable, while addressing issues around overpayment which could have a knock-on effect on public services with large personal injury liabilities – particularly the NHS.

The discount rate is the percentage used to adjust compensation awards for victims of serious personal injury, according to the amount they could expect to earn by investing it. Its application is an important part of the calculation of awards. It only relates to compensation for future loss.

The adjusted awards should put claimants in the same financial position they would have been in had they not been injured – they should receive neither more nor less than full compensation.

In February last year the discount rate was reviewed as required by the law and reduced from 2.5% to minus 0.75%. This dramatically increased the size of awards of damages to individuals.

At the time, the government acknowledged that this move was likely to have a significant impact, launching a consultation on the way the discount rate is calculated in March, followed by the publication of draft legislation in September.

We have also carefully considered the report of the Justice Committee on the draft legislation and accepted the majority of its recommendations.

The changes to the discount rate now being introduced through the Civil Liability Bill will create a fairer and better system of setting the discount rate, which will still provide full compensation. To ensure this happens we will:

- set the rate with reference to ‘low risk’ rather than ‘very low risk’ investments as at present, better reflecting evidence of the actual investment habits of claimants;
- establish a regular review of the rate, the first within 90 days of the legislation coming into force and at least every three years thereafter;
- establish an independent expert panel Chaired by the Government Actuary to advise the Lord Chancellor on the setting of the rate.

Notes to editors

The Government’s commitment to tackle the whiplash epidemic has previously been welcomed by the Association of British Insurers (ABI), with leading insurance firms including Aviva and LV= pledging to pass 100% of savings onto motorists.

In February 2017 the discount rate was reduced from 2.5% to minus 0.75%, which has led to larger awards and concerns in some quarters that the current law provides more compensation than needed to claimants. The consultation, launched in March, sought to address those concerns by collecting views on how to make the system better and fairer.

It is a well-established principle of law that individuals should receive full compensation for losses suffered as a result of personal injuries that are not their fault. The personal injury discount rate is a percentage used to adjust the lump sum awards for future losses, costs and expenses received by victims of life-changing injuries to account for the amount victims can expect to earn by investing their awards. The discount rate applied to the compensation for future financial loss (such as loss of future earnings and care costs) should ensure that people receive the full compensation that they were awarded – no more or less – by taking into account what they are likely to earn on that money before they are expected to have spent it.

The current framework for setting the discount rate uses real yields from Index Linked Gilts as a proxy for the returns that can be expected from a very low risk investment strategy. However, drawing on expertise from financial advisers, the Government has found strong evidence that in practice claimants are advised to and invest in low risk diversified portfolios.

At the time the discount rate was lowered, a number of pledges were made, including a consultation to consider whether there is a better and fairer way of setting the rate in future. That framework is contained in the legislation published today.