

COLmedia Podcast Transcript: JACKSON REVIEW PODCAST

INTERVIEW WITH AMANDA STEVENS, HEAD OF PERSONAL INJURY, CHARLES RUSSELL AND ANDREW PARKER, PARTNER, BEACHCROFT

Interviewer

Welcome to this PODCAST from the College of Law Media. In this programme we'll be looking at some of the package of interlocking reforms proposed by Lord Justice Jackson in his epic final Report on civil litigation costs. We'll be talking to leading figures from both sides of the profession and in the next half hour we'll be covering the key issues in the Report, including proportionality and reasonableness in regard to costs. The generic recommendations including ATE and CFA's and finally we'll be discussing the Report impact on PI practice specifically focusing on details such as the changes to fast track, software generated assessment of damages, referral fees and how the smart PI lawyer can gear up for the changes that lie ahead. With me to discuss the Reports recommendations and their potential impact on the profession is Amanda Stevens and Andrew Parker. Amanda is a leading claimant lawyer as well as a former president of the Association of Injury Lawyers. And has recently taken a position on the civil procedure rule committee to assist Lord Justice Jackson with his reforms. Andrew is a former president of the Forum of insurance lawyers and according to Chambers Legal Directory is seen by claimant solicitors as a vigorous and testing opponent. Andrew is also one of Sir Rupert assessors. Welcome to you both, Andrew this Report has been described in some quarters as the biggest shake up in civil litigation costs since the introduction of the Civil Procedural Rules. How significant is this Report?

Andrew Parker, Partner, Beachcroft

It's very significant Len. I think there are two striking features about the Report which mean that we should give it our full attention. The first is that it is objectively data led. Sir Rupert has spent a whole year gathering as much data as you can to produce this Report and he's done his best to have that analysed by the assessors. The second is that although he's had representation from all manner of vested interests, he's done his best to cut through that objectively and to come up with something that he believes is balanced in the public interest.

Interviewer

Amanda do you agree with that, have you got any further comments?

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes it's a massive work which has been thoroughly researched. I totally agree with that. There is still a lot of opinions about how or when or if the recommendations will be implemented. So I think practitioners have got to gear up now but none of us quite knows what the landscape will be in the future.

Interviewer

In terms of the landscape concern has been expressed among the claimant community that far from promoting access to justice the average person may in fact end up worse of when it comes to accessing justice. What are your two thoughts on this?

Amanda Stevens, Head of Personal Injury, Charles Russell

Well clearly the Report has a lot to say about funding by conditional fee agreements and those were introduced when legal aid was being abolished. And they were to give Middle England a chance of access to justice. And by and large claimant practitioners believe that CFA's are working well now but Sir Rupert would like to radically alter the landscape, he'd like a lot more BTE which should promote access to justice if its taken up but we don't know what the terms of such policies will be or how much more widely available they'll be. And some of his reforms around CFA's are thought by claimant practitioners to actually work in the opposite direction to access to justice because they'll involve a cap on success fees that are recoverable and also the removal of ATE which puts expenditure back onto the claimant rather than being paid for by insurance.

Interviewer

Andrew we're going to drill down a little bit further into the whole ATE and CFA situation. But in general terms do you think claimants are going to be disadvantaged by these proposals?

Andrew Parker, Partner, Beachcroft

I think what we're hearing and perhaps predictably because it's a report mainly addressed to lawyers is that we're hearing the lawyers' view of that, we're not hearing the claimants view or representatives from claimant organisation, organisations representing claimants. So I'm not sure that it actually restricts the access of claimants to the system at all. Sir Rupert was very clear that his terms of reference included and had paramount in them ensuring that access to

justice is maintained but I think we will still have access, the price for that may change and the revenue that is generated for lawyers may change but we'll still have access.

Interviewer

And he talks about access to justice in terms of proportionality doesn't he, so how is it that he's talking about proportionality and the ways in which he's going to make cost proportionality now, we've got a situation where he's made some recommendations but the law as it stands deals with proportionality and reasonableness, how does the law currently treat those two issues?

Andrew Parker, Partner, Beachcroft

It's very important first of all to understand that access to justice is for both sides, he makes this point very strongly. Its access for claimants who have a genuine claim but it's also access for defendants who have a valid defence to a claim. So that has to be remembered. Proportionality, yes we've had for 10 years, I think, I suspect Amanda will agree with me, I don't think anybody really understands exactly what it means and how it works and we've had a couple of Court of Appeal decisions, particularly the lands and Home Office decision. But all they've done is give us some words, proportionate means reasonably and necessary, that can be interpreted as saying that you have to pass the threshold if necessary in order for it to be reasonable or it can be interpreted as if its unreasonable but necessary you still get it, so you can work it both ways. What Sir Rupert has tried to do is to give us a clearer set of words focused much more on cost benefit, more on the value of the amount in dispute. It's not the only issue to be considered but it has been brought more to the by his proposals.

Interviewer

Some of these issues can become more important depending whether you're a claimant or a defendant, Amanda what do you think?

Amanda Stevens, Head of Personal Injury, Charles Russell

Well I've looked carefully at what Sir Rupert is proposing, I agree with Andrew it is a quite difficult test at the moment and of course the Lownds decision was a Lord Woolf decision building on what he put in the original CPR Reforms. I'm still a little perplexed as to how Sir Rupert's new set of words will assist. He wants the courts still to look at 4 main factors when

looking at proportionality which are pretty much a re-run of what we had before, so what are the issues?, what is the value?, what's the public importance?

Interviewer

It's the 4 pillars of wisdom again.

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes but what he says is that you can then go through your assessment looking at the cost but if at the end of the day you end up with a figure that still looks disproportionate it can be reduced again. So I feel that there's a sort, we're moving in a way to a further test at the end of the case rather in Lownds we've got the additional test of necessity at the beginning if the cost reasonable. And I'm really not at all sure how this is going to assist in the final analyse but certainly something needed to be done and that there will be a lot more work done around this before any changes are implemented.

Andrew Parker, Partner, Beachcroft

I guess the other point is that along side these recommendations he has a proposal for fixed costs throughout the fast track. A lot of the issues around proportionality not exclusively but a lot of the issues are around the lower value cases. And if we do have fixed costs throughout all stages of all fast track cases a lot of the problems with proportionality may disappear.

Interviewer

We'll drill down to that in a minute. He uses this intriguing expression tucked away in the Report that proportionality trumps reasonableness. What do you think that is likely to look like going forward if these proposals are adopted?

Andrew Parker, Partner, Beachcroft

I think the intention is that its what I said about cost benefit is there will come a point at which the costs incurred are disproportionate to the amount in dispute whether they can be considered reasonable or not.

Amanda Stevens, Head of Personal Injury, Charles Russell

I think actually there are two major things which Lord Woolf's original reforms didn't tackle, one was cost which are now being picked up but the other was case management, he envisaged a much stronger case management rule by the judiciary than has actually evolved. And Sir Rupert very much sees that as essential tenet of his reforms. So where as I said you

know at the end of the day you'll be looking at well is it proportionate at the end of an assessment. I think we've also got to bear in mind that he is envisaging that judges will be introducing costs, budgeting cost, estimating throughout the life span of the litigated case. So it's a very different landscape altogether, they'll be much more awareness between the parties and with the involvement of the court at all key stages as to what the cost of both sides are.

Interviewer

Because obviously when we first saw the Civil Procedure Rules and we understood about case management that has to some extent worked perhaps not in other areas and this seems to be revisiting that and to bolster the whole case management process, does it?

Andrew Parker, Partner, Beachcroft

Yes I mean I can dimly remember back to 1999 when we saw that CPR for the first time and that certainly I expected fairly radical and active case management and we did get it from some pockets. We get particularly from Senior Master Whitaker and Master Eastman in the Asbestos List in the RCJ. We get it in the technology and the construction court but those are pockets of what Sir Rupert would see it as good behaviour rather than it being across the board. And I think where he comes over very strongly in his message on this is that this has to be uniform and active.

Interviewer

And it's interesting that these reforms aren't just directed at lawyers are they because right across the board whether its judges excetera that there's got to be training and an understanding of the realities of proportionality from everyone.

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes I think one of my major concerns is that people in private practice have to adapt their business models but we're actually part of a bigger landscape with the MOJ controlling the courts budget and obviously if we can amend all our business models but if we don't have judges who are trained in the new ways, committed to the new ways and with the adequate resourcing both in terms of court timetabling, information technology, then I think that major part of the reforms will fall flat on their face. So it is key to me that they are buying into the new whole landscape as much as private practitioners do.

Interviewer

And also, sorry you were going to say.....

Andrew Parker, Partner, Beachcroft

I was just going to say that I'm hopeful about this because the big problem with the CPR was that it was presented to a set of judges who knew nothing of its practice by definition they were already judges when it came in. We've now had 10 or 11 years of that and by the time Sir Rupert's proposals come in maybe you know a couple of years more we will have judges who have spent part of their time in practice using the CPR, understanding it much better, understand the concept of active case management and will apply it. So I am hopeful.

Interviewer

We might have had 10 or 11 years of the CPR but the indemnity principle has been with us, I mean I can remember it when I was at law school. But what is it about it that is considered worthy of change because tucked away deep in the Report there's a reference to it?

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes I think it's been a bug bear of practitioners for a long while, what the Rule actually says is that you can't recover more from your unsuccessful opponent than your client is contractually bound to pay you. And with the advent of fixed fees then some of that Rule seems to go out of the window. They've been lot of technology challenges brought by defendants, I'm looking at retainer letters and if there are technology breaches these have been seen to result in a windfall to losing defendants who then have had no liability for the cost whatsoever which doesn't seem fair. I mean clearly we don't want to encourage any form of breach of retainer letters but it does seem rather wrong that one side could have such a great windfall from a breach. So I think most people agree that it's an old rule that long since served its purpose and should be out of the way and I'm very grateful for Sir Rupert for giving it another push on its way.

Interviewer

Andrew I suspect somehow you might have been involved in some of those technical challenges, well how do you feel about this going/

Andrew Parker, Partner, Beachcroft

I think it should go, I mean I'm encouraged to think it was around when you were at law school, I think it might have been around a little longer than that actually. No I think it should

go, it's a reminder that costs belong to the client and that is something that we should always bear in mind. So it's simply the concept that the solicitor cannot recover more than his client is liable to pay him or her. But with the passage of time with the advent of fixed costs and provided that we have much greater control it's a very strong caveat in that report provided that we get better control of costs, then the indemnity principle should go, the control mechanism is already there.

Interviewer

So moving on from the general principles of proportionality and reasonableness in the indemnity principle much of the Report effects civil litigation in whatever area you happen to specialise, whether its clinical negligence or in the technology in construction courts. So lets look at some of these generic recommendations starting with no win no fee agreements, what the good, the bad and the ugly about CFA's?

Andrew Parker, Partner, Beachcroft

I think first of all CFA's of themselves stay, whilst Sir Rupert says that they have resulted in disproportionate costs being incurred. He's very quick to say that CFA's as a whole for the client should remain as an option. The problem he focuses on is the recoverability of the success fee element for the lawyer and the after event insurance premium and its that recoverability that he says should go.

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes I have a problem is that claimant practitioner with end in the recoverability of the success fee because I believe that if a claimant proves that a defendant has rolled them into tort, then they'll should receive a hundred per cent of their damages. Their damages are their to put them back in the same position as closely as possible as they were but for the tort. And I don't think its right that part of those damages should be diverted to pay lawyers fees. We've had these arrangements now for 10 years, the insurance industry does have to pay out on cases they lose, the additional success fee and ATE premium which under legal aid route they didn't have to pay but that was a public policy decision not pushed by claimant lawyers. The insurance hasn't gone out of business in the last 10 years; they assure us that they've passed the cost on through premiums. We haven't seen the consumer robustly contending that premiums are far too high. I think the system works and I think for the protection of the

innocent party they should receive a 100% of the damages and this change should not be brought through.

Interviewer

Andrew you've been involved in some of the leading Court of Appeal decisions that have shaped the CFA in ATE market, what are your views?

Andrew Parker, Partner, Beachcroft

I've always believed that there shouldn't be recoverable. So my view has not changed over the last 11 years. And I think you know there are a number of issues around that. Amanda talked about the principle of full cost recovery, I'm not sure where this principle has come from, although I've seen a lot written and said about it in the last few years. Now if you go back before the introduction of CFA's altogether and look at the legal aid system, the legal aid system always had a potential cost to the winning party that was not recoverable from the losing party, that hasn't changed in my view. We still have a system of assessment which says that there is a difference between what a lawyer may be owed by the client and what the client maybe able to recover in litigation. Secondly I think that the whilst the system is now working, it's had to work in the last 10, there's been no alternative. The number of technical challenges that Amanda's referred to that we've seen have been a product not of the indemnity principle, that's simply been the means to an end. They've been a product of a real feeling that the costs that defendants have to pay are disproportionate to the cover that they get in return, either by way of insurance or the mechanism by which claimant solicitors recoup the cost of cases they lose. They've been all sorts of issues around cherry picking or other problems within the sectors of the market. But fundamentally if you look at the numbers in Sir Rupert's Report it confirms that. The amount that is paid out by way of ATE premiums is nothing like the amount that defendants can get back by way of recoveries on those cases that are insured. Now there's something not right there, not quite clear what it is but you know the solution is to address the problem of cover ability in the first place.

Amanda Stevens, Head of Personal Injury, Charles Russell

I'd like to come back on a couple of points if I may, having been involved in legal aid assessments the amount that the client ever had to pay under the old statutory charge principle was pretty dam minimus, it was restricted to costs which had been incurred by the

claimant behaving unreasonably. And the minimal costs associated with the solicitors work in administering the legal aid process, so nothing like the level of success fee which Sir Rupert is recommend be non recoverable or the cost of the ATE premium. And then secondly just dealing with the technical challenges and whether they sort of actually point the finger at the system be wrong because of the sheer number and complexity of those challenges. I would say having invested all that work over 10 years and Andrew and I have been on opposing sides in one of the test cases. We've now got a level of certainty and I wouldn't want to see all that hard work down the drain. It was a revolution bringing in CFA's and getting rid of legal aid for most these type of cases but we've done the hard work, lets now use the good results and allow injured people to continue to receive the 100% damages which they should have under our system of tort law.

Interviewer

In the Report there's quite a lot referred to on the subject of one way cost shifting which most lawyers probably wouldn't be totally be familiar with that, what's it's about, what are the proposals driving at?

Andrew Parker, Partner, Beachcroft

I think the idea is to move very much back to the sort of system we had with legal aided cases. A legal aided claimant would not find themselves having to pay the opponents costs if they lost except in very rare circumstances, usually around behaviour as Amanda's alluded to. So there's a dual test proposed and both have to be satisfied. One is that the relative financial resources of the parties would permit a situation where the claimant should pay something towards the defendants' costs. And the other is that there is some behaviour element and the obvious example is that a Part 36 Offer has been rejected and was later found to be reasonable. But obviously likely to be other examples once the rules are developed. But it's meant to be a very narrow restrictive right to recover for defendants; effectively defendants will not get their costs back that will avoid the need for claimants to ensure by and large. It shouldn't restrict access to justice, why would it, if anything it might increase access to justice because claimants don't need to worry about getting ATE.

Amanda Stevens, Head of Personal Injury, Charles Russell

I think just to pick up on that the was described the exceptions to the Rule, so generally the defendant would not be able to recover their costs from the claimant, the unsuccessful claimant. But there are those two exceptions but of course there's already the hint there in what Andrew speaking about. These are the two exceptions that he's mentioned referred to in Sir Rupert's Report but others may evolve and that to me as a claimant practitioner 10 years down the is a sort of a little bit of a warning bell and this isn't the first time the warning bell has been sounded, you know they've been a number of commentators in the press were saying this could just lead to another raft of satellite litigation.

Interviewer

Well in terms of warning bells obviously there are different views here but Sir Rupert and indeed as you alluded to is of the view that CFA's of themselves are good and something that should continue. What do you think is the way forward to ensuring that this state of affairs continues and that damages are there to pay say for future care don't get eroded by legal fees, I'm thinking about the proposal to increase damages to hopefully take that into account in some way?

Andrew Parker, Partner, Beachcroft

Can I just come back very quickly on the point that Amanda just made around the propensity or the possibility that the definition around one way cost shifting will cause problems further down the line. I absolutely agree that, yeah there could be problems if the definition is not right. What I think you have to remember with the Report despite its size and its comprehensive coverage is that it is a concept, you cannot within that sort of Report and within a year draft a comprehensive new CPR. So this is down to the fine drafting around how that concept is put into practice, I absolutely agree that we should keep it tight and that it does what it's intended to achieve which is to allow people to bring claims. Going back to your question this is a package of reforms, particularly the but not exclusively in the personal injuries and clinical negligence fields. So just as we have a proposal for qualified one way cost shifting, we also have proposals for an increase in the level of general damages; we have proposals for restricting the amount of the success fee which can still be paid as between client and lawyer restricting that by reference to the amount of damages at stake. And we also have a proposal that with a well targeted Part 36 Offer a claimant can in fact recover a further 10% of their entire claim.

Interviewer

But the proposal of a damaged based award, a contingency fee that's going to be limited to 25% that doesn't seem to bear a huge amount of relationship to a 10% increase in general damages?

Amanda Stevens, Head of Personal Injury, Charles Russell

Sir Rupert has had some help with some maths and he clearly believes that it's a workable formula. I throughout my presidency and beyond I have been very concerned that law commissions Report of 1996 still hasn't been implemented which recommended at that time that general damages awards were far too low and for any award over £3,000 should be increased by a fact of somewhere between 50 and 100%. And although we've had the *Heal and Rankin* decision the court of Appeal that's gone very small way indeed towards those reforms that were recommended by the Law Commission. So I can't square in my own mind to how a 10% increase is going to end up with general damages at the appropriate level, both in terms of what the value of the injury is as it is now and to offset this cap on the recoverable level of the success fee. I can't work those maths, Sir Rupert has some who believe that the maths do work but I think they would merit further investigation.

Interviewer

Andrew can you square that one for us?

Andrew Parker, Partner, Beachcroft

The maths weren't mine first of all and the views I expressed are my personal views and not Sir Rupert's who was responsible for the Report. But I understand you know that the maths had been done. I think this demonstrates one of the underlying problems with recoverable success fees and one of the reasons why I've been so against them for so many years. It's very difficult to make the maths stake up on its face. You're told that personal injury claims are predominantly successful, we don't know the exact percentage but by far the majority of them are successful. And yet if you assess the risks on each individual case you can make them look high. Well that's what's got to change. There's been some control of them through fixed success fees but it's at a level that neither side is necessarily entirely happy with. The only real force that should apply here is a market force. And that's what the proposals introduce.

Interviewer

Well as well as ATE and success fees another layer of costs that gets looked at is referral fees which some see as necessary and controllable by tight regulation but to others the process of buying and selling claims of injured people is just plain offensive. What does the Report have to say about these and why?

Amanda Stevens, Head of Personal Injury, Charles Russell

In the personal injury markets Sir Rupert's recommending that they be abolished and if that can't be achieved then at a maximum there's a £200 cap. He believes that the current system doesn't deliver for the consumer either in terms of quality or price and therefore there's no real purpose in it staying. There are a number of difficulties around, Office of Fair Trading, Competition Laws, what interference can take place to bring the market place back again to how it was before the referral fees were allowed. But that is his very strong recommendation that they should be abolished in this sector of the market as a starting point.

Interviewer

Andrews there's, you've talked about the maths in other areas in referral fees there seems to be a broad range of referral fees from £250 to £900 or even more, how does that have to get factored into a lawyers costs and why is this something that Sir Rupert is concerned about?

Andrew Parker, Partner, Beachcroft

Well it comes off the top as I understand it. I mean these aren't arrangements I get involved in so I can't talk from experience but only from what I see. So you've got a solicitor who is recovering say £1,500 worth of costs on a routine low value case. They've already had to pay out, maybe up to £900 of that by way of referral fees so you can see immediately that the margin is very narrow for them, obviously they've got overheads of their own as well as the referral fee to pay. I think you know going back to the concept and I suspect Amanda and I will agree on this, the idea that someone with a claim is traded as a commodity is offensive and Sir Rupert feels very strongly. Comes across very strongly in the Report but he finds it offensive. So I can see why his suggesting they should be banned and I'm whole heartedly agree with that. As a concept I think in practice it's going to be quite difficult to achieve.

Interviewer

But if it is to happen, what are the problems that that's going to create for people who are trying to run personal injury practices if they're referral dries up, what are they going to do?

Amanda Stevens, Head of Personal Injury, Charles Russell

I think we're got to be very careful before passing judgement on different business models. The important thing is that the consumer has a transparent relationship with their preferred solicitor of choice who is competent to carry out the specialist piece of litigation that they're instructed to undertake. They're all sorts of acquisition costs for new business from both claimant and defendant firms and it is intriguing that on one hand the insurance industry is calling for referral fees to be scrapped because they see them as cost but on the other hand they're selling claims to claimant lawyers. So it's quite a complex situation, I think what we've got to keep in mind is that the core objective that the amount of a referral fee should be something that is reasonable, should be transparency and that the individual is able to access the right level of advice, right skill in their practitioner and without any dirty deals behind their back.

Andrew Parker, Partner, Beachcroft

Well I think you know just on the point of insurers selling claims, insurer sell claims because they have to balance the books. They have to pay costs which are inflated by referral fees on the one side, so naturally they will look to acquire revenue where they can on the other side. It hasn't stopped every insurer I've spoken to who admits that they pay referral fees and that's a number of them from saying that absolutely they would like to see it go off both sides but it has to go off both sides, they can't simply find themselves not being able to receive them but still having to pay them. It's a simple enough mathematical equation.

Interviewer

And in terms of the maths which obviously plays a huge part in proportionality in reasonableness, we've got the fact that in fast track cases which is the claims can take a day and it's up to £25,000. The Report has got quite a lot to say about the costs, fast track costs in personal injury, can you just unpack a little bit for us.

Andrew Parker, Partner, Beachcroft

Yes certainly, this is Lord Woolf's unfinished business if you like when you go back to his original interim report in 1995 he recommended a fast track and he recommended fixed costs

within it. We have the fast track but we don't have the fixed costs, in certain limited circumstances, certain pre-litigation costs only up to £10,000. And at the other end of the process the trial costs themselves also fixed, everything in the middle and types of case outside low value motor are not fixed. So what Sir Rupert has proposed is to certainly for personal injury cases initially is to fill in the gaps, so we have a comprehensive matrix of fees payable for cases that settle at all finish, at all points in the process. The proposals are broadly based on the same model that we have for RTA cases up to date, although that's about to change which is a percentage of damages plus an element of fixed cost on top of that. So its damages based, it will increase with the value of the claim, it will encourage practitioners to make sure that they get the value of the claim right. It will permit a case to have a fixed cost at any stage at which it settles, so there's an incentives for both sides to resolve cases quickly.

Amanda Stevens, Head of Personal Injury, Charles Russell

Yes so two matrices, these are for EL, PL and RTA cases only, so we haven't got employers disease for example or claims outside the personal injury sector with a fixed matrix yet but there's a separate matrix for where there's an earlier admission of liability in the protocol period, so there's a deduction then in that matrix because you're getting the issues resolved much swifter.

Interviewer

Another striking point particularly.

Andrew Parker, Partner, Beachcroft

I just wanted to say as a defendant practitioner I've lived with fixed fees for ten years and they do work, they do drive a streamlining of your process. Yes of course they restrict the amount of income you ultimately generate from those individual cases. But they enable you to fashion your business in a way that works.

Interviewer

There's well as costs another thing that gets looked at in some detail is the possibilities that there might some computer based system currently sometimes have a situation where a claimant puts a value on it. The defendant says well the computer says no, I can't do anything about it, how's this proposed to be dealt with?

Amanda Stevens, Head of Personal Injury, Charles Russell

Sir Rupert's given a lot of encouragement to setting up a new type of computer generated software system which will value damages in a way that both parties will want to access the software and he hopes therefore remove the cost of people going to trial because one sides computer system has given a different answer to perhaps the books which perhaps the claimant lawyer is using. So it would be more like the computerised Kemp and Butterworth's and all the various directories that we currently have for valuing damages on to one system. And he set up a working group to develop the idea. There's been some debate as I understand it about whether settlement value should be included at any software or only judicially approved settlements because that can bring a whole new raft of uncertainty into the correct valuation for an injury. So I can they'll be some merit if its technologically possible to come up with a database that can be continued updated that's got enough evidence in it for both sides to have confidence, then it could save time and frictional costs but we're not at that stage yet, we're at very early stage in the investigation.

Interviewer

Andrew we've all been to court with bundles of precedents and from all sorts of esoteric journals, how are we going to avoid the same type for thing getting into a computerised system?

Andrew Parker, Partner, Beachcroft

Well I think I mean as Amanda says its work in progress first of all the concept is a good idea, I have had a view for some years that we shouldn't have to argue about the value of low value cases. It's fair enough to argue about liability for them but not about valuation. And I think it's particularly this low value end, the proposal is to look at damages up to £10,000 which of course is the large majority of cases. But we have to remember a lot of cases settle now before litigation and they do so largely on the basis of computer based models. Certainly used on one side but an agreement is reached, so I don't think those should be ignored but that's work still to be developed.

Interviewer

Indeed OK we'll have to finish this discussion, now we're running out of time but any last remarks from either of you?

Andrew Parker, Partner, Beachcroft

And I go back to what the Master of the Rolls said at the launch of the Report in January which is that the time for debate and discussion is over. Absolutely we can look at the detail but as a concept this has been delivered.

Amanda Stevens, Head of Personal Injury, Charles Russell

I don't think we're at delivery just yet but I think it is an exciting opportunity to put right the things which are wrong and are clogging up our system. I think we shouldn't see this as a threat, we should see it as an exciting time of change, we all can see still be involved in making the change happen and we should treat it as a great new opportunity.

Interviewer

Whether these proposals are close to being implemented or not I'm sure we will be hearing a great deal on this subject as the Reports recommendations gradually become implemented and analysed by the key policy makers of which ever political.. My thanks to Amanda Stevens and Andrew Parker and thanks for listening. Goodbye.

END OF INTERVIEW