

The Legal Compensation Scandal.

One of the banes of our present-day society is the compensation culture which has developed in relatively recent years, partially with the active help of avaricious members of the legal profession and recently it has become apparent that the trend to claim compensation for a variety of extremely dubious reasons is very much on the increase. Nowhere is this more evident than in the compensation being granted in so many cases of alleged sexual abuse. Compensation being awarded to proven victims of abuse may be justifiable although, even then, non-financial compensation might be felt more appropriate but, when actual financial compensation is awarded, or when financial payment is promised, before any trial that is surely tantamount to bribery. There are primarily two forms of compensation being offered to alleged victims of such abuse.

Firstly, some alleged victims are offered large sums of money by the media for their stories after the trial of the accused abuser is completed. Although the money is apparently paid after the conclusion of any trial, the confirmed promise of such payment is present long before that trial. Some years ago judges would have deemed evidence from people on the receiving end of such payment as inadmissible and that is how it should be today. Obviously the promise of such payment places extra pressure on the alleged victim to continue with their story, however untrue, at all costs. As a result of such a situation people have been given lengthy jail sentences, with some sentences resulting in a person's death in prison.

The second form is more important in some ways because, largely unknown to the general public, it is money coming out of the public purse and is a source being actively advocated by some legal firms. As may be seen on the internet by Googling 'Sexual Assault Compensation', several legal firms openly offer advice on this avenue, even going so far as to suggest estimates of the value of such compensation online for a person's specific case. It is a worrying trend that these so-called 'victims' are encouraged by no-win-no-fee solicitors, who promise on their websites to be able to obtain compensation whether or not there ends up being a conviction. This is an obvious open invitation to corruption. This public money is paid out by the Criminal Injuries Compensation Authority (CICA) and they guarantee lifetime anonymity to claimants. This means, of course, that no-one knows a person has been paid that 'compensation' or how much. This surely means that any defence of an accused would be carried out without knowledge of the bribe that had been paid. It is also interesting to wonder if the actual Judge in a relevant court case is aware of any such payment having been paid; if not, it raises even more worrying queries about our once-envied legal system. It should also worry everyone that, according to the CICA itself, in any case brought before it,

its "decision will be based on the 'balance of probabilities'. This is different from a criminal court which decides on the basis of 'beyond reasonable doubt'. We do not need to wait for the outcome of a criminal trial if there is already enough information to make a decision on your case, so you should never make that a reason for delaying your application."

Hence, this official body is handing out public money after effectively prejudging a legal issue but using totally different criteria from the courts. The CICA does acknowledge that it can retrieve money given as compensation if the original claim is found to be fraudulent but how does it do this? It is almost impossible to believe it ever retrieves such money because the accused being found 'Not Guilty' certainly does not lead to money being taken back. In any case, if total lifetime anonymity of an alleged victim is ensured, no-one outside the CICA and the alleged victim's immediate circle would ever know such money had been paid out.

No; it seems this claim by the CICA must be dubious. It has emerged that the CICA has, in fact, retrieved money from eight recipients in the last ten years but one must wonder how this has come about and just how evidence of fraud on the part of those concerned was discovered given the seemingly total anonymity afforded alleged ‘victims’ by the CICA itself?

It might be noted also that, as revealed via a freedom of information request, the CICA has paid out in excess of 302 million pounds in compensation to people under the age of 18 between 1996 and May 2017. In that time, the number of successful claims has increased quite dramatically, increasing threefold to almost two thousand in 1972 compared with the previous year and increasing to well over three thousand in 2009 and 2012. The CICA claims the average payment was just in excess of £11,000 but this is a somewhat meaningless average. It seems likely that the amounts awarded have increased in more recent years if one goes by the possible payments mentioned on the various legal web sites, some of which claim payments of £30,000 and more are being awarded now. If there has been a dramatic increase in the size of payments, it is not known when that occurred, although the increases in numbers from 2008 onwards would seem to suggest the increase occurred around that time. The figure of £30,000 would seem to bring such compensation into line with the amount supposedly promised before a trial by a newspaper to an accuser in a fairly recent high profile case.

In response to a more recent request filed under freedom of information, it is revealed by the CICA that the total amount of compensation paid to all claimants of sexual abuse over the last ten financial years is as follows:

2008-09	£40,239,919
2009-10	£37,996,599
2010-11	£44,424,549
2011-12	£39,328,782
2012-13	£41,393,937
2013-14	£35,576,193
2014-15	£35,672,107
2015-16	£42,274,226
2016-17	£54,801,643
2017-18	£71,376,780

leading to a grand total over the entire period mentioned of £443,084,735. It might be noticed that there is a definite increase in total payment during the last two years listed. However, there is no indication of the size of individual payments or of the number of claimants concerned. The increase in total payment does, though, raise again the question of how appropriate the payment of financial compensation is in cases where it is claimed that psychological stress has been suffered, rather than genuine physical harm. It would seem the free counselling would be a far more appropriate compensation and such a course of action would remove the obvious temptation to lie to gain financial reward – especially financial reward from a body which, by its own admission, adopts extremely lax methods of evaluation of individual cases.

Again the claim by the CICA to judge each case on a balance of probabilities argument must be regarded as extremely dubious and dangerous. What does ‘balance of probabilities’ really mean? If someone makes an allegation, that is all it is – an allegation! There is not really any such thing as a balance of probabilities involved here. The CICA argument is totally fallacious and steps must be taken immediately to put an end to this practice. It is dangerous

also because a recent Director of Public Prosecutions advocates use of a ‘balance of probabilities’ argument to decide cases in court, rather than the accepted ‘beyond reasonable doubt’ approach. This second approach can, and does, lead to miscarriages of justice but the new proposal, which is obviously aimed at securing more convictions for rape, would lead to an untold number of such miscarriages as is clearly evident after a moment’s thought – If there are several hundred allegations must we assume someone guilty? If there are only one hundred, are they still guilty? If only fifty...? Where is the break-even point here? All the indications are that one allegation would be sufficient, in the eyes of some, to obtain a conviction and one wonders if production of actual evidence would play any part in this proposed new regime? (In passing it might be noted that, at least in most cases of historical sexual abuse, the presence of genuine hard evidence must be in short supply, with none present in many cases.) Would the next step be to dispense with a trial in cases of sexual assault? All would throw up their hands in horror that anyone could make such a suggestion but that is the logical conclusion to the trend of thought now being adopted by some who seem more concerned with the low number of convictions for rape than in sticking closely to proving a case ‘beyond reasonable doubt’!

It should be noted further that, in many recent cases which have come before the courts, the alleged offences have occurred many years ago – as many as forty or more years in many cases – and it follows that no truly concrete evidence can exist in at least the vast majority of such cases. Certainly, it is extremely doubtful that any forensic evidence still exists. Hence, any argument put forward by the prosecution must – unless the defendant has pleaded guilty – be on a ‘balance of probabilities’ argument. It follows that ‘guilty’ or ‘innocent’ depends not on the production of actual evidence but on how silky tongued and persuasive a barrister can be. In such cases it is a blatant mockery to claim, even by implication, that a verdict has been reached on a ‘beyond reasonable doubt’ basis. It must be remembered at this point also that, at least in some cases, a plea of ‘guilty’ is entered purely because the police and the CPS have pressured the accused with a deal in which a lighter sentence is promised if such a plea is entered. There is little doubt that this approach has led, in some cases at least, to the gaoling of innocent people.

All of this serves to raise extremely serious questions about our entire legal establishment. It is found that names of potential targets are passed around in prisons, police and lawyers are thought to combine in doing this and, in the 90’s, a leaflet was produced for potential accusers stating that they would receive a pay-out, whatever the outcome of any criminal proceedings. FACT has compiled actual evidence of this. This latter point, of course, is supported by the known present policy of CICA. One great danger of this scenario is that this sort of approach will be to people who, in the main, are totally devoid of conscience and have no thought for the consequences of their actions – the effect on the accused and the accused’s family and friends simply will not be a matter of concern or interest, all that will matter will be money! It is highly likely that, if the lure of financial payment was totally removed, the number of accusations would fall dramatically. In the relatively few genuine cases, any compensation should be in the form of therapy to enable recovery from any trauma experienced.

In most of the really high-profile cases of recent years, uppermost in the minds of many the real reason for the accusation was the thought of how much money could be squeezed out of the accused. However, these people have been compensated for their trauma, although probably not adequately, but there are huge numbers who have suffered similarly but have received no recompense from our corrupt system; they are just lucky to have been found ‘not

guilty'. Not being high profile, these people have merely been grateful not to have been unjustly and incorrectly incarcerated but have received nothing to compensate them for the anguish caused to them, their families and friends by vicious, money motivated accusers backed up and supported by an increasingly corrupt legal system. This evil system is being extended nowadays to the introduction of a second wave of compensation where no-win, no-fee solicitors pick up on past cases and make private claims for damages against individuals whether or not anyone has been found guilty of an offence. In one extreme case, the accused man was a widow and he died before his case even came to court. This did not prevent lawyers making a claim on his estate, which probably wasn't very large, even though he left three orphaned children, one of whom was severely mentally disabled. The eventual outcome in this case is not known but the fact that such a claim took place at all surely indicates just how low some members of our legal profession are prepared to sink in the search for filthy lucre! However, in some other cases, people are being pursued for all their assets including homes, savings and even pensions but the situation is often more extreme because of a trial which found them guilty but possibly guilty only because of financial inducement paid out by the CICA.

Quite recently, it has been noted that the country does, in fact, have a Victims' Commissioner – Baroness Newlove – but who are the 'victims' under consideration? If someone has been physically attacked and has the scars and bruises to prove it, there is little doubt but, in many cases the person erroneously termed the 'victim' is merely someone who has made an allegation. In these latter cases, the situation is just not clear cut! However, the police routinely say that, if an allegation is made against someone, the accuser will be *believed* and the accused arrested – the police here blatantly ignoring their sworn duty to listen and investigate in an unbiased way! In her latest annual review, Baroness Newlove makes specific mention of child abuse. She may be referring to the high profile cases where gangs of offenders have been involved but, given the present climate, any remarks will be taken to include any case of alleged sexual assault. It is correct to ensure that compensation is paid immediately following a trial in cases of, for example, physical assault but it must be remembered that, in the cases of main concern here – dubiously founded cases of alleged sexual assault – compensation is often paid before any trial, often if not always paid by CICA, a publicly funded body which, by its own admission, operates under its own set of rules which are far less stringent than those of any court. This is nonsensical and possibly effectively leads to illegal activities by the Crown in that such payment could very reasonably be seen as a bribe. Baroness Newlove also advocates involving Police and Crime Commissioners in the process of handing out compensation but can they be trusted to act correctly? Also and crucially, these well-meaning people must ask the vital question – who is the victim? - the lying girl who receives huge compensation for her lies or the poor unfortunate accused whose life and reputation are forever sullied and all for a hand-out of filthy lucre distributed by an organisation that cannot distinguish fact from fiction? Before anything further is proposed by any of these well-meaning bodies, the people concerned should study Sir Richard Henriques recent report in minute detail, learn from it and then – and only then – proceed with making suggestions for tackling the various issues concerned.

Police and Crime Commissioners must be independent of both the police – particularly senior officers – and their local CPS. In the past there have been examples where senior police and the local CPS seem to have almost colluded to gain a decision both wanted; there has been at least one example where a Chief Constable and his local CPS counterpart in replying to an important query used identical sentences – was this pure chance or collusion? The trouble is the doubt is there and will remain until this entire area is cleared up openly and effectively.

Never again must people like Lord Bramall and Sir Cliff Richard, or the families of such as Lord Brittan and Lord Janner be put through the sort of living hell they must have experienced and never again must the like of the late Sir Edward Heath have their names dragged through the mud by senior police officers who display on national television their lack of understanding of simple words like 'believe' and openly trawl for more 'witnesses'; it is especially nauseating when the likes of Sir Edward are in no position to defend themselves. Equally, all those unknown people without high profile names must not be forgotten because, once you consider that category, the numbers increase enormously and these are all people who have received *NO* compensation even though, in most cases, their lying accusers have. One course of action which could reasonably be pursued as far as some very senior police officers are concerned is for them to be dismissed sine die; after one or two such dismissals, it is quite likely that this vicious pursuit of innocent people would drop drastically.

The situation will not improve though if ludicrously dangerous initiatives, such as that in Lambeth, are pursued – the so-called Lambeth Children's Homes Redress Scheme. This scheme deals with applications for compensation payments to people who, as children, were abused or feared abuse at a Lambeth Children's Home and/or Shirley Oaks Primary School and will be open to applications from 2 January 2018 until 1 January 2020. Seemingly the present council has been clear in taking responsibility for a historic failure to protect children in council care from the 1930s until the 1980s and 1990s. The Lambeth Children's Homes Redress Scheme is the first of its kind in the country. The scheme was developed in consultation with survivor's representatives and their legal advisors. It is estimated that the possible number of applications under the scheme could reach 3,000, so it must be wondered how much money has been put aside for all the probable payments? The predicted number of applicants is based on an independent actuarial assessment – whatever that may mean! Since the scheme opened in January 2, 2018 there have been more than 700 applications for compensation made, as of August. The dangers of this scheme are surely immediately apparent to all – 'abused or feared abuse', for example, promptly opens a huge can of worms; referring to a period starting in the 1930's opens another, since there is actual talk of 'survivor's representatives' being involved. Also, if people apply, what real hard evidence – other than a possibly unfounded allegation – is to be provided? How much is to go into the cavernous pockets of the legal advisers? No, it may be well meaning but this scheme can only serve to exacerbate an already explosive situation where people, especially men, will be targets more and more for those in search of easy money aided and abetted by unscrupulous lawyers. In all of these cases of alleged sexual abuse, if there is damage to a person, it will be psychological. As such, free counselling should be made available but financial compensation should never be on offer. Financial compensation is an immediate invitation for false claims backed by lawyers out to make large sums of money easily and so, should never be made available. In any case, logically, financial compensation can do nothing to ease genuine psychological trauma but proper professional counselling can!

The real underlying truth, though, is quite simply that significant parts of our criminal justice system are unfit for purpose. Senior people do not even know the exact meaning of English words they use routinely – for example, believe, victim, bribe, etc. Remember, for example, that the Chief Constable for Norfolk was supposedly drawing up new guidelines for the police but he didn't know the meaning of the word 'believe'! This is how dangerously ludicrous the present situation is. The sooner real attention is paid to the recent report by Sir Richard Henriques the better, although little has been heard of this detailed, erudite report

recently, making one wonder if its content is too embarrassing to be allowed a full public airing. In his report, Sir Richard may use slightly different language but he affirms the correctness of criticisms voiced for years by people, many of whom are not lawyers, concerned at the current state of our judicial system, especially at the conduct of police, CPS, magistrates' courts and even the crown court – for example, he lays great stress on the totally incorrect use of the word 'victim' by all the above collections of people. This whole matter should be one of great concern to all interested in justice and should be addressed as a matter of extreme urgency by all senior members of the legal profession from the Lord Chief Justice down. Compensation is a huge part of this unfit for purpose system and it must be changed for the better now with the Law Society itself, together with the Bar Council, leading the way by putting an effective stop to the unhealthy practice of some legal firms advertising, as they do, means of gaining compensation for mere allegations. These two bodies should be concerned also with the moral standing of many of their members and this is something the controllers of our judiciary should examine also. If people behave in a totally immoral fashion in one area of their lives, why should they be assumed to behave totally morally in another? This is not a simple straightforward question which can be brushed under the carpet but is one which needs to be considered as a matter of extreme urgency if our legal system is to have any hope of living up to the reputation it once enjoyed. It goes without saying almost that the CICA must be reformed also because it too is clearly unfit for purpose but it may be wondered if it is a necessary body at all if its present mode of behaviour is any guide. Also, if Baroness Newlove has her way and more power is given to Police and Crime Commissioners, this would raise a further query about the need for this publicly funded body (the CICA) which seems to be handing compensation at will, whether it is correct to do so in individual cases or not and, since in its own words, it operates on a different set of rules as compared with our court system, it seems the need for this body has disappeared, if it ever did have any real place in the corrupt system.

As a pure afterthought, it might be remembered that at a recent awards night, the actor, Laurence Fox, sported a tee-shirt with the slogan 'Menism' printed across its front. Menism was obviously meant to be the male equivalent of 'Feminism' but to exactly which aspect, or aspects, of that newly proposed ideology Mr. Fox was referring is not at issue. In the present context, however, it is a slogan which has very obvious meaning and relevance and could well be adopted as an antidote to the extremes of feminism which are helping fuel the topic under discussion here because, let's be totally honest and admit that much of the fuel keeping this debate burning is the desire, promoted by extreme feminists, to have all men accused of rape convicted. To be clear, those guilty of rape should be punished but they must be proved guilty first and by a system which seeks a verdict of guilty beyond reasonable doubt, *not* guilty on the balance of probabilities. Indeed, there must be at least some suspicion that this latter notion was put forward by a recent Director of Public Prosecutions merely to pander to those extreme feminists and gather for himself a little more personal support for any future career moves. It is, though, something which this country cannot afford to proceed any further.

Written for FACT by Jeremy Dunning-Davies,