

Under siege

Richard Barr reports from the frontline of the compensation culture war

The venue for APIL's 21st annual conference was the Celtic Manor Resort in Newport (pictured), a place with as many escalators and corridors as the average London underground station, surrounded by golf courses that are so immaculate that they appear to have been manicured with nail clippers.

More than 250 lawyers showed up for the event, which had the 'under siege' tone set from the word go: the profession, and personal injury lawyers in particular, are being punched about by an onslaught of changes and proposals. The list seems endless: the SRA's outcomes-based regulation. Jackson. The government's response to Jackson. The government's consultation paper on solving disputes in the county court. More Jackson. The recession. And finally, of course, alternative business structures (ABSs). ABS is the cherry on the fear cake, providing the feeling that this is the end of life as we know it, that firms will close down in droves and we will all end up stacking shelves – and giving legal advice – in Tesco.

Tough talking

Against this backdrop we heard some fighting talk. The incoming president of APIL, David Bott, gave an address very much in the Obama style, with his face towering down on us from giant screens and those perspex autocues which enable people to talk seemingly without notes.

He gave some interesting biographical snippets. At the age of 16 he was sent to a careers adviser who recommended that he should go into the restaurant trade. He was the first in his family to earn a degree – breaking the family tradition of working in a factory and dying of cancer. His father, grandfather and greatgrandfather all died of cancer. He hopes to buck that trend.

He (like the rest of us) has found that his worklife has been "an ever-tightening



"I managed to avoid eye contact with most exhibitors, but to stock up with a year's supply of pens was in itself worth the visit to Wales"

screw" with each year bringing fundamental changes to the way things have to be done. His speech was a call to arms. Essentially his view was that the government had ignored the representations that had been made on behalf of injured people about the Jackson report. This was not the time to ignore the views of injured people but this was what was happening – with government proposals that would inevitably deprive injured people of a significant proportion of their damages.

"The only party to benefit from the government reform proposals is the negligent defendant who has caused needless injury; or moreover his insurance company which has collected a premium to pay out in the event of a claim," said Bott. "At the heart of these proposals is a movement of costs away from the negligent defendant and onto the innocent claimant."

Bott vowed to do all he can to all he can to disabuse Ken Clarke and his little helper Jonathan Djanogly of the view that it is OK to undercompensate people, but he stressed that we must all become involved: we need the voice of every injured person to be heard.

Then came the first break of the day; alongside the conference there was a vast exhibition hall brimming with stands

staffed by experts in every conceivable discipline useful to lawyers. With the exhibitions came the pens, fluffy toys, umbrellas and even the opportunity to have your cartoon drawn. I managed to avoid eye contact with most exhibitors, but to stock up with a year's supply of pens was in itself worth the visit to Wales.

Back in the conference, there were updates on all aspects of our practice, ranging from a panel of district judges giving you the lowdown on how best to charm them for the benefit of your clients, to a fascinating presentation on how to make your website sing and dance for you without paying through the nose.

The final word

I leave the final word to a lispy and slippery barrister who is also the shadow justice minister, Andy Slaughter. I can use

that description because he used it himself – repeating the words from a parliamentary sketch about him written by Quentin Letts. Not surprisingly, Slaughter was highly critical of the government, though he did concede that if Labour had still been in power there would still have been cuts.

He was able to highlight a serious piece of misinformation which was repeated on the day that the government announced its response to the Jackson consultation. "Three ministers separately – Clarke, Djanogly and McNally – quoted the following figures," lisped Slaughter. "They said: 'In 2008/09 the NHS paid out £312m in damages and it paid out far more to lawyers in fees – £456m.'

"The only problem was that the numbers were wrong," continued Slaughter. "In fact the government's own figures – those from the NHSLA – showed that the £456m included the costs and damages and defence legal costs of £40m and claimants' legal costs of £104m."

He concluded that it was worrying that fundamental changes are being made to our legal system on the back of such shoddy analysis. So, all you personal injury lawyers, time to get off your backsides and fight for the rights of your clients.

Richard Barr is a consultant with Scott-Moncrieff & Associates LLP. Contact: richard.barr@paston.co.uk