

OVERSEAS NEWS
COMPENSATION BONANZA
Could this happen here?
(Mar 06)



Two items of legal news hit the British media this week which both concern Legal Aid and how it is administered. The administration of Legal Aid is quite different in England though it is designed to deliver the same outcome. There, as here, the costs are spiralling and currently run at over NZ\$5.5 Billion/Au\$5 Billion per annum.

The first item covered some 515 firms of solicitors who have been written to by the Law Society requesting millions of Pounds of compensation, deducted from miners' compensation awards, be repaid. The whole miners' compensation claim was tragic for the miners and a bonanza for the profession as some £7.5 Billion was involved. Thousands of complaints were received despite the compensation scheme providing for a fixed fee for every settled case. The problems started when firms added a 'success' fee as well. Some firms earned millions. To indicate the scale of the alleged malfeasance £3.5 Million has already been returned voluntarily out of an estimated £50 Million.

To say the Law Society is in 'damage control mode' is an understatement.

The second news story also involves Legal Aid and covers requests for a claw-back of Aid moneys from cases that were won. By way of explanation the English system requires winning clients in damages cases to refund Legal Aid from their award. The problem that seems to have arisen concerns a number of firms who have allegedly not notified Legal Aid of the successful outcome of a case and fees have not been refunded as a result. This has been compounded by Legal Aid going back through 30 years of cases when firms are only obliged to keep records for 6. At the time of writing the likelihood of fee repayment is low unless the matter is less than 6 years old. Either way any resolution is likely to be considered inequitable by some.

Whilst neither set of circumstances is directly replicated here in Australasia the possibility of similar problems arising should not be discounted.