

## Panel to deform law of negligence

**A**PLA's policy and lobbying work has never been more important than in the current reformist climate.

Politicians are determined to rewrite the law of negligence with unprecedented haste. The common law is under threat in all states and territories in Australia, as well as being under attack at a national level.

In July the Commonwealth, state and territory governments established the Negligence Review Panel following agreement to review the current law at the Ministerial Meeting on Public Liability Insurance on 30 May.

Meanwhile, most state and territory governments wait for the outcome of the panel process before they each turn their minds to reform at a local level. New South Wales, however, seems loath to wait for the outcome of the panel process and will forge ahead with their second stage reforms regardless, in the spring session of parliament.

Despite the careful and considered development of Australia's negligence laws by our most senior judges over almost a century, governments are now convinced that judges



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have consistently got it wrong. Pressure is mounting for urgent reform to slash individual rights in favour of lower insurance premiums. Premium savings have not been promised, however, much less guaranteed.

The well-packaged message from the insurance camp has dictated government agendas around the country. Blaming the injured and the people who represent them for premium blowouts has seen insurers' arguments find favour with the media and our politicians.

Consequently, four 'eminent' persons, two of whom lack any legal qualification, will dissect our common law system as members of the Negligence Review Panel. They will do so with less than two months to consult, consider and report.

If the panel's recommendations affirm the call in their Terms of Reference to restrict and limit individual civil rights, we will begin to see the value of what we lose almost immediately.

Any interference with the common law by the legislature will be socially counterproductive. The injured will not be compensated by those responsible for their injuries and will become reliant on taxpayer funded medical and welfare services, while safety standards drop and responsibility to care for one's neighbour diminishes. If limits are imposed, it will soon become evident that the current system rightly provides to compensate the injured for their losses, and deter the negligent behaviour of

tortfeasors.

APLA is therefore working tirelessly to return good judgment to the debate. APLA has provided detailed submissions to a variety of bodies and governmental departments on a wide range of issues. Research into key areas continues, so that our principles are supported in fact and good public policy. We are educating the community, the media and the decision-makers in our governments. This work will continue as long as the individual rights of people injured due to the fault of someone else are in jeopardy.

The insurers are well organised, amply funded and accustomed to having all the right doors opened for them. The strength and capital of those who occupy all the glass towers in our capital cities however, will not intimidate APLA. APLA will continue to throw punches and assert the truth about our common law system and how it creates a balance between compensation and deterrence. Any threat to individual rights will be opposed, and reform will be vigorously resisted.

It is unjustifiable that governments should legislate away the fundamental civil rights of ordinary Australians for no good reason. With no Bill of Rights to protect us, and inadequate legal education in our schools, it is left to plaintiff lawyers to defend individual rights. APLA will continue to demonstrate that its members are lawyers for the people, so long as governments continue to be the representatives of big business. **PL**