

Editorial

Two articles in this issue of the Journal focus on the importance of information in the insurance underwriting and claims settlement process. That focus is timely, not least because the Law Commission has announced, in their Ninth Law Reform Programme, published on 21 March 2005, that they are to look again at insurance contract law. The report presents the list of topics approved by the Lord Chancellor for the Commission to work on over the next few years. The Commission's report refers to strong representations that the underlying law of insurance contracts is in need of reform and makes specific reference to the report of the BILA sub-committee on insurance contract law reform, prepared in 2002 after much hard work by the distinguished members of that sub-committee, including Derrick Cole, its secretary.

The Law Commission is scheduled to start work on this topic in April 2005. BILA will watch the development of that work with interest. The Law Commission notes that many of the problems it has identified as requiring review are long standing, but also makes reference to the fact that the landscape of insurance and its regulation has changed significantly since the reform of insurance law was last proposed in 1980: the ABI's codes of practice on claims handling have been subsumed to some extent by FSA rules, insurers are now subject to an explicit obligation (in Principle 6 of the FSA's Principles for Business) to have due regard to the interests of their customers and to treat them fairly. In addition, the industry is under pressure from the FSA and others to tackle issues of, for example, contract certainty and conflicts of interest. It will be intriguing to see how the Law Commission assesses the need for reform of the substantive law in the light of these developments.

We are very grateful for permission from Justice McLure of the Supreme Court of Western Australia, to publish her paper entitled "The Risk of Litigation – A Review of Recent Court Findings". Justice McClure's paper, presented at an AILA Conference in Perth in September 2004, is a cogent look at the law and policy of claims in negligence.

We note with regret the death of Sir Maurice Bathurst QC, President of BILA from 1971 to 1975.

Robert Purves, April 2005