'Discuss the extent to which there is a compensation culture in the UK’ – 

The law relating to compensation has been notoriously complex, particularly at the margins where there are disputes as to the limitations imposed on fraudulent, unmeritorious, exaggerated and non-existent claims. Arguably, the broken civil litigation system contributed to a compensation culture, impacting on consumers and taxpayers. To a significant extent, I believe that the Government reforms are successful. Accordingly, I aim to discuss the extent to which the compensation culture prevails in reality. Thus, carefully balancing the competing views held by the public, the Government, the media and academics.

Proponents such as Professor Richard Lewis, assert that the tort system is overly dependent on liability insurance and the welfare state. Social security provides welfare benefits for injured victims and “any action for damages wouldn’t have survived if the benefit system didn’t support the victims”. However, Person’s Committee implied that only 6.5% of victims receive damages, limiting the role of tort in compensating victims. Conversely, the courts aim to ‘achieve compensation for claimants rather than any other principles of justice’. In Nettleship v Weston, Lord Denning increased the standard of care to spread the costs of accidents via insurance. Proponents submit that the tort system exploits social security because benefit payments exceed the amount of damages received to accident victims.

High insurance premiums reflect a compensation culture. It follows that the media’s exaggerated headlines and CMC’s aggressive marketing tactics persuades individuals to access heavy sums. Although CFAs shifted risk on lawyers and Claims Management Companies, a risk review will assess the merits of the case before proceeding any further. Thus, consideration of ADR is necessary. Lord Dyson argues that there is a rise in unmeritorious claims due to pressure of settlements. By contrast, I have no hesitation in concluding that the Jackson Reforms eradicated the pressure to settle fraudulent claims. In Halsey, the claimants’ lawyers fiercely forced the opposition to settle. Overall, judges’ case management powers abolished incentives on settling spurious claims and examine the abuse of ADR.

Respondents defend that the Government continues to intervene and reduce the “compensation culture”. Future legislation such as the Financial Guidance and Claims Bill will control the ‘widespread malpractice of CMCs’. The Civil Liability Bill will reduce motorists’ insurance premiums and there is a “forthcoming ban on cold calling”. Such reforms will ensure an impartial compensation system. Notably, the SRA’s warning on ‘unmeritorious holiday sickness claims’ reinforces the robust approach in eliminating compensation culture. This is supported by ABTA’s