

Ministry Of Justice Reforms 2013

This document explains the key elements of the Lord Justice Jackson review on civil litigation costs and the Ministry of Justice's (MoJ) claims reforms, and details how these changes will impact you and your customers.

Introduction

The reforms represent the largest overhaul to the personal injuries legal framework in England and Wales in over a decade. They are intended to bring more balance to the civil litigation system by:

- making lawyers costs proportionate
- combating the compensation culture
- creating an environment where insurers can pass on savings to customers through lower premiums.

What exactly are the reforms?

In April 2010, the government introduced a system which requires solicitors to report all RTA Motor personal injury claims with a value between £1,000 and £10,000 via an online portal. The portal and associated claims management process is designed to speed up the settlement of claims by introducing strict timescales and fixed legal fees for the various stages of the process.

The main changes

Extension of MoJ portal limit

The upper financial limit will be increased to £25,000 for all Motor personal injury claims. The ABI estimate that raising the upper limit of RTA Motor personal injury claims to £25,000 will result in an increase of around 5% in claims volumes, which will lead to faster compensation payouts for an additional 55,000 people injured in RTAs every year.

Extension of MoJ portal process to include EL and PL injury claims

The portal will extend to Public and Employers' Liability personal injury claims up to a value of £25,000. If contributory negligence is alleged the claim will not be processed via the portal. Other examples of claims that will not be processed via the portal are:

- EL disease claims where there is more than one defendant
- Mesothelioma claims
- Clinical negligence.

Timescales for decisions on liability

Cover class	Number of working days to admit or dispute liability
RTA (Motor)	15 days (no change)
EL	30 days (currently 90 days)
PL	40 days (currently 90 days)



The strict deadlines to admit or dispute liability will mean that brokers and customers will need to quickly supply us with all relevant information relating to an incident. This will help streamline the flow of information on liability and quantum, enabling us to agree settlement faster.

Fixed and reduced solicitors fees

The reforms introduce revised fixed costs under a two tier approach for cases that settle within the portal.

Cover Class	Claim value £1k - £10k		
	Stage 1	Stage 2	Stage 3
RTA (Motor)	£200	£300	£250/£500*
EL/PL	£300	£600	£250/£500*

Cover Class	Claim value £10k - £25k		
	Stage 1	Stage 2	Stage 3
RTA (Motor)	£200	£600	£250/£500*
EL/PL	£300	£1,300	£250/£500*

*£250 applies to paper hearing, £500 applies to oral hearing.

Prior to the reforms a typical whiplash claim settling at £3,000 would incur a fixed fee of £1,200 within the portal if settled at stage 2. With the revised changes the proposed fixed recoverable cost would be £500.

In addition, solicitor fees outside the MoJ process have been revised. This will help remove financial incentives for solicitors to drive claims outside the portal.

Introduction of qualified one way cost shifting

The introduction of qualified one way cost shifting will mean defendants whether they win or lose at trial will have to pay their own costs. There will be exceptions to this including:

- claims that are found to be fraudulent
- where there is found to be no reasonable cause of action
- where the claimant fails to beat the defendants pre-trial offer.

Banning of success fees

The Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) states that, with effect from 1st April 2013, success fees will no longer be recoverable from the losing party. Instead the successful party will have to pay their own success fee from the awarded damage, but this will be capped at 25%.

After the Event (ATE) legal expense premiums will no longer be recoverable

ATE insurance premiums will no longer be recoverable from the defendant in the event that a claim succeeds.

Banning referral fees

Solicitors will no longer be able to pay claims management companies, insurance firms and trade unions etc, for personal injury details. This does not include banning referral fees on items such as credit hire and medical reports.

This is designed to make claimants think harder about whether to sue and to give insurers an incentive to pass on likely savings.

10% Increase on general damages awards

In order to compensate for the abolition of success fees, general damages awards for pain and suffering will be increased by 10%.

For parties that entered into a conditional fee agreement (CFA) before the 1st April, the 10% increase to general damages will not apply.

When do the reforms go live?

The timetable for implementation of the reforms will be staggered:

- The introduction of the reforms of legal costs will apply to RTA, Employers' and Public Liability claims and will be implemented from **1st April**.

This includes:

1. The introduction of qualified one way costing
 2. Banning of success fees
 3. After the Event (ATE) legal expense premiums will no longer be recoverable
 4. Banning referral fees
 5. 10% increase on general damages awards
- The introduction of reduced fixed recoverable costs in the portal will apply to RTA claims between £1,000 and £10,000 notified after the end of **April 2013**.
 - The extension of the portal for RTA claims between £10,000 and £25,000 and fixed costs both inside and outside the portal will apply to all accidents occurring **on or after 31st July 2013**.
 - The extension of the portal for Employers' and Public Liability claims between £1,000 and £25,000 will apply for accidents occurring **on or after 31st July 2013**.

What is the impact on the customer?

The proposals will have both an operational and financial impact on customers. Savings are driven by fixed and reduced legal costs. The timeframes for accepting claims and making decisions on liability are reduced.

To ensure that personal injury claims stay within the timescales, we will need to work smarter with customers and guarantee that claims notification is efficient and the information provided is accurate.

What are we doing?

We have used our experience and expertise gained from using the RTA Portal to streamline our processes and have identified solutions to ensure that we are consistently able to comply with the new rules and timescales applicable to Employers' and Public Liability claims.

We will continue to take a pro-active approach to claims management and will make further improvements through early and extensive information gathering. Communication via the telephone will be further promoted for efficiency, and where appropriate we will make direct contact with the insured. This will enable early decision making on liability and provide detail that can be utilised to better equip our Claims Investigators.

From March all our Claims Handlers will receive training on the new processes, enabling them to answer any questions you may have.

What your customer needs to know

To maximise the potential benefits from these changes we need your help to educate customers about the importance of fast and accurate notification

In the event of a claim, customers will be required to:

- Notify actual or potential claims immediately
- Ensure information provided is accurate and complete
- Provide all relevant documentation within the shorter timescales

- Provide immediate assistance with liability investigation
- Support quick decisions on liability
- If we receive claims notification via the portal and have not had an incident report from the broker/customer, we will make telephone contact.

In the event that a customer receives a EL or PL MoJ Claims Notification Form (CNF) (i.e. in the event that notification direct to the insurer is not possible), the customer needs to send the CNF direct to Allianz on the same day. This will allow us to contact the claimant's solicitor and comply with the strict timescales to keep the claim within the MoJ process. The customer must also acknowledge receipt of the CNF to the solicitor on the same day. However, in doing so they should not comment on liability.

Please ensure all your relevant employees are aware of the changes and are in a position to explain them to our customers.

Key message to customers

The key message to customers is that **actual** or **potential claims** need to be **notified** as **quickly** as **possible** to give us as much time as possible to investigate and respond within the MoJ timelines

Further Information

If you require further information, please contact your local Allianz Commercial representative.

For additional information on the reforms, please see the RTA portal site: www.rtapicclaimsprocess.org.uk/