

# Allianz Commercial's Motor Newsletter

June 2014

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One year on

*Have you considered a RIO?*



Bringing Reporting and Investigating Officers (RIO's) into the workplace



## Recording accidents in the workplace

A structured approach to recording accidents will ensure an organisation's RIO can provide the necessary information quickly when reporting a claim. For example, when an accident occurs in the workplace, the following documentation may be required:

- Accident book entry.
- First aider report.
- Surgery record.
- Foreman/supervisor accident report.
- Safety representative's accident report.
- RIDDOR report.
- Communications between defendants and HSE.
- Minutes of Health and Safety meetings where accident is considered.
- Report to DWP where required.
- Documents listed above relative to any previous incident identified by the claimant and relied upon as proof of negligence.
- Evidence of claimant's earnings information where defendant is the employer (typically 13 weeks pre-accident and for the period they are off post-accident).
- Contact details of witnesses or witness statements.

More information can be found in Allianz's Risk Director at [www.riskdirector.co.uk](http://www.riskdirector.co.uk)

The Ministry of Justice (MoJ) reforms, which were introduced in 2013, are designed to benefit both policyholders and claimants. Through a series of reforms, including the extension of the MoJ portal limit and scope, it will make it easier to report claims, and reduce the time it takes to settle them. Ultimately aiming to reduce the costs of handling these types of claims.

One of the key reforms is a shortening of the timescales for processing claims (see box). As an example, employers' liability claims must now be processed within 30 days compared with the 90 day window that was previously in place. Similarly, the timescale for public liability claims drops from 90 days to 40 days.

While these stricter deadlines will help to reduce the time it takes to settle a claim by streamlining the flow of information required to investigate liability, it could also put additional pressure on an organisation to collect and report the necessary information to their insurer. To overcome this, at Allianz, we recommend appointing a Reporting and Investigations Officer (RIO) to coordinate the recording, reporting and investigation of all incidents.

Although many large organisations will already have someone with responsibility for overseeing insurance claims, it is a model that can work well in any size business. As well as ensuring that accidents/incidents are reported promptly, having a RIO oversee claims gives the organisation the reassurance that the correct procedures are being followed. This can greatly reduce the stress associated with workplace accidents.

The person who is appointed RIO will vary from business to business but it could be a supervisor, manager, director, business owner or another trusted and diligent employee who has the skills to carry out the duties associated with the role.

Information to help you carry out this responsibility can be found in **Allianz's Risk Director**. This includes free risk management advice to RIO's helping them implement the correct reporting procedures in the workplace and create a health and safety management programme.

### MoJ reforms - Timescales for making liability decisions

Insurance class	Number of working days to admit or dispute liability
Motor - RTA	15 days (no change)
Employers' liability	30 days (previously 90 days)
Public liability	40 days (previously 90 days)

# Keep an eye on your driving

Almost 150,000 road traffic accidents were reported to the police in 2012, with estimates suggesting that as many as 730,000 went unreported. As 95% of these involve an element of human error, according to the Royal Society for the Prevention of Accidents, finding ways to improve driver behaviour and reduce this risk is essential.

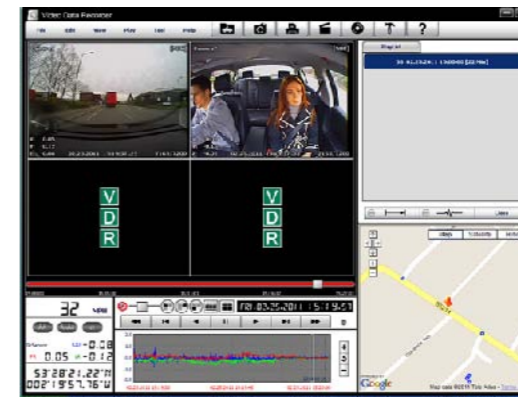


**Research by VUE CCTV, a vehicle CCTV company, found that the presence of a camera device and data recorder can have a positive effect on driver behaviour, reducing the frequency of inappropriate behaviours that can lead to accidents.**

As well as helping to cut the number of accidents on the roads, better driver behaviour can also reduce the number of insurance claims and, due to factors such as safer driving and vehicles less likely to be off the road for repairs, help to drive down the cost of running a vehicle. Furthermore, vehicle technology can also help to combat

the growing problem of fraudulent insurance claims, inflated personal injury claims and staged accidents.

To enable our customers to take advantage of the latest vehicle technology, Allianz has partnered with VUE CCTV. Regarded as one of the UK's market leaders, VUE has more than 15 years' experience in the vehicle technology market and its clients include the Emergency Services and the Vehicle & Operator Services Agency (VOSA) as well as many organisations within the commercial vehicle industry and fleet operators.



It offers a range of bespoke CCTV and tracking solutions to suit a company's requirements. These range from a simple forward facing or reversing camera system to a fully integrated vehicle system that includes cameras, tracking, telematics, screens and digital recording.

As an example, its VUETrak product is a comprehensive tracking and telematics system that provides live monitoring of vehicles. This can highlight factors such as harsh acceleration and braking; speeding; engine idling; fuel consumption; poor driving behaviour and journey efficiency.

Another option is its Video Data Recorder System, which can include up to eight cameras. These can be positioned anywhere on the vehicle including externally

for close proximity manoeuvres and to eliminate vehicle blind spots, and internally for driver, passenger and load monitoring.

It can also provide evidence based driver intervention training through its risk management arm, reVUE. This uses data from its CCTV system to identify areas of poor driver behaviour, then works with the individual to make improvements to their driving technique.

**For more information about how VUE CCTV can help improve driver safety contact your broker..**

## Road traffic accidents and human error

In its White Paper, combining technology and coaching to reduce risk on the roads, VUE CCTV highlights the importance of taking steps to improve driver behaviour.

- At work road crashes are estimated to cost UK employers more than £2.7bn a year.
- Up to a third of road traffic accidents involve someone who is at work at the time - this equates to 20 fatalities and 250 serious injuries a week.
- 20% of businesses have had more than one accident in the last year.
- 95% of all road traffic accidents involve an element of human error, with 76% solely down to human error.
- In 42% of accidents, a driver failed to look properly.
- In 12% of accidents, a driver exceeded the speed limit.
- 25% of fatalities occurred where a driver was travelling too fast for the conditions.
- Nearly a quarter of all deaths involving vehicles at work occur during reversing.
- 39.6% fewer incidents were recorded among van drivers who had received coaching.

# Identify your risks

A competitive marketplace means it is essential for businesses to manage risk effectively and avoid unnecessary expense and associated insurance claims costs. Failure to do this can impact profits and also lead to reputational damage.

To support businesses in better managing risk, Allianz is launching our new [Claims Analysis Report](#). This provides a detailed, tailored analysis of claims information, demonstrating the claims picture and assist in understanding the risks impacting your business.

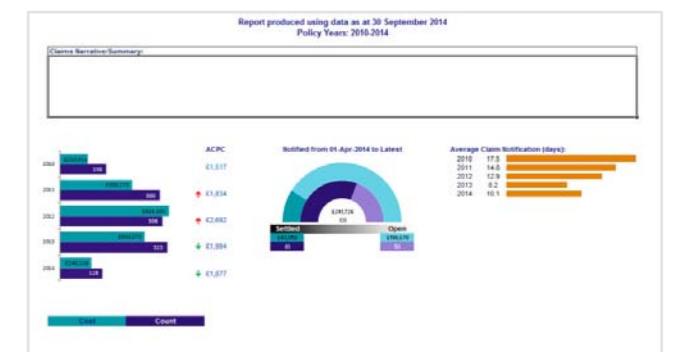
By providing a more detailed breakdown and analysis of insurance losses, it is easier to identify trends quickly and pinpoint where a business is most at risk. Knowing the risks supports proactive risk management, making it easier for a business to introduce a targeted and effective programme of risk control and drive down claims costs and associated expenses.

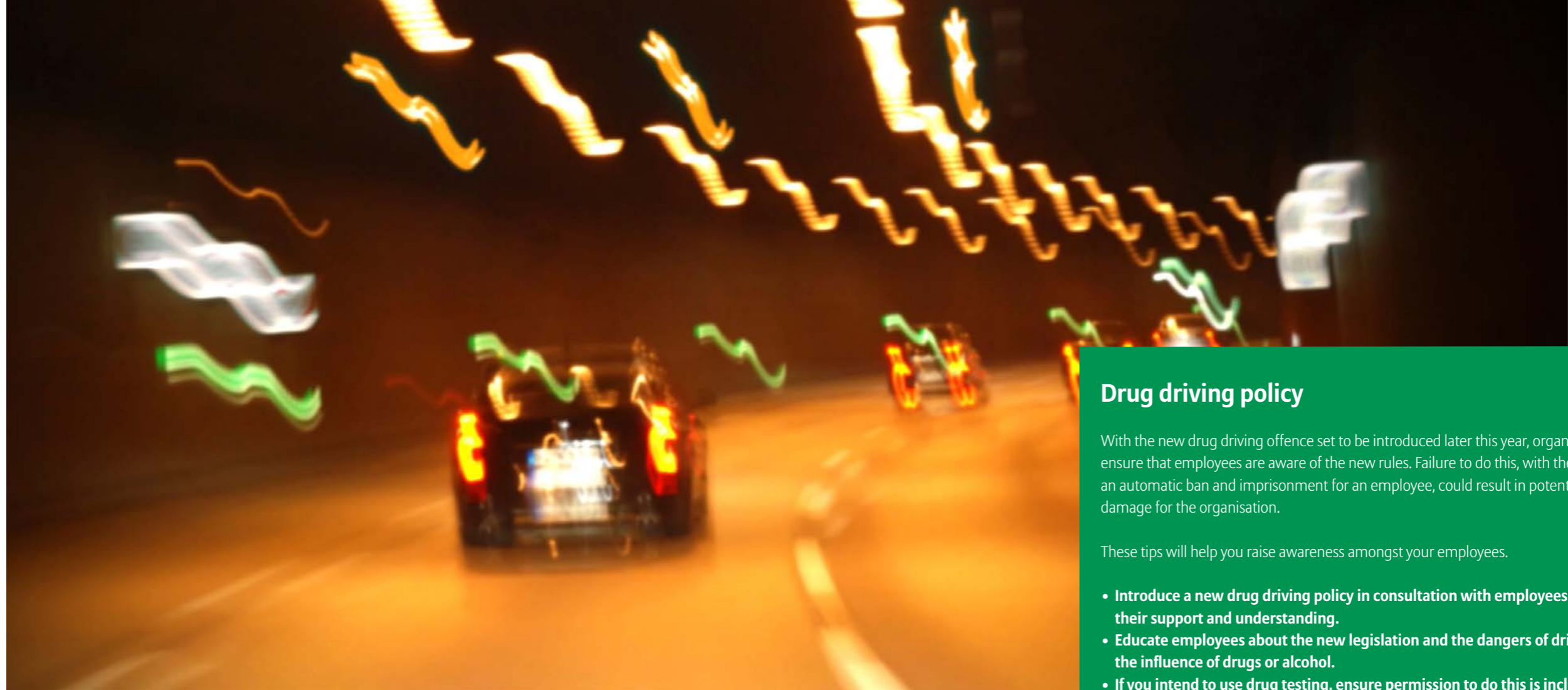
With an in-depth level of understanding of the risks a company is being impacted by, you can take steps to reduce exposure, save money and help create long-term security and stability for your business.

Reports can be tailored to your needs, providing breakdown of claims by circumstance, policy section, notification period, driver age and multiple claimants.



For more information on Allianz's new Claims Analysis Report, please contact your broker.





# Drug drive limit gets the **green light**

A new offence of drug driving is set to be introduced in Autumn 2014 after the government gained approval for the drug limits that will be included in the legislation.

Following two consultations the limits for 16 different drugs - eight prescription drugs and eight illicit drugs - have now been agreed. The limits are not set at zero, as drugs taken for medical conditions can be absorbed in the body to produce trace effects, but they are in line with the government's 'zero tolerance' approach to drug driving. The limits also vary to reflect the different speeds at which drugs are broken down within the body.

The illicit drugs covered by the legislation include: cocaine, cannabis, ketamine, ecstasy, heroin and morphine. The prescription drugs include; diazepam, methadone, morphine and temazepam. A full list can be found on <https://www.gov.uk/government/news/public-approval-for-driving-limits-for-16-drugs>

The eight prescription drugs are clonazepam (50µg/L), diazepam (550µg/L), flunitrazepam (300µg/L), lorazepam (100µg/L), methadone (500µg/L), morphine (80µg/L), oxazepam (300µg/L) and temazepam (1000µg/L). In addition the government is still consulting on limits for amphetamine, expecting to add a limit for this drug after the legislation is introduced.

Penalties for those caught driving above the limit for these drugs will be a maximum of six months' imprisonment and / or a fine up to £5,000 and an automatic driving ban of at least 12 months.

More information can be found in [Allianz's Safer Driving for Work handbook](#) or on the [Royal Society for the Prevention of Accidents website](#).



## Drug driving policy

With the new drug driving offence set to be introduced later this year, organisations must ensure that employees are aware of the new rules. Failure to do this, with the possibility of an automatic ban and imprisonment for an employee, could result in potential reputational damage for the organisation.

These tips will help you raise awareness amongst your employees.

- Introduce a new drug driving policy in consultation with employees to gain their support and understanding.
- Educate employees about the new legislation and the dangers of driving under the influence of drugs or alcohol.
- If you intend to use drug testing, ensure permission to do this is included in employees' contracts.
- Provide awareness training to help managers identify signs of possible alcohol or drug abuse.
- Regularly refresh and repeat training and awareness programmes for both employees and managers to reduce the risks.
- Offer a support mechanism such as an employee assistance programme for employees who may need help or advice on drug or drink related problems.



## Avoid the potholes

Hitting a pothole can do serious damage to your vehicle and increase the risk of an accident. These driving tips will help keep you safe whatever the state of the road surface:

- LOOK OUT FOR POTHOLES**  
Keep an eye on the road for potholes to protect your vehicle. Allow plenty of distance between your vehicle and the one in front so you can spot any problems and be especially careful on wet days as deep potholes can be hard to spot when they're full of water.
- DRIVE CAREFULLY**  
If you can't avoid a pothole, slow down and try to avoid swerving round it as this could put you in danger of a more serious accident. Avoid braking as you go over the pothole as this can cause more damage and look out for other road users and pedestrians.
- GET YOUR VEHICLE CHECKED IF YOU DO HIT A POTHOLE**  
Damage may not be immediately obvious, especially to tyres, steering and wheel alignment, but could result in expense or even an accident.
- CHECK TYRES AND TYRE PRESSURES REGULARLY**  
Look out for any bulges, nicks or unusual wear and if in any doubt get them checked at a garage or tyre specialist. This will also ensure they are in the best possible condition to deal with poor quality road surfaces.
- REPORT ANY POTHOLES**  
Make the local highway authority aware of any defects in the road surface so they can repair it. Details can be found on the council's website and some even include an online defect reporting form or special telephone number.



# Prepare for **potholes**

**This winter's record rainfall has left the UK's road in a pitiful state, with potholes and damaged road surfaces the bane of many drivers. And, while the weather may be improving, the roads aren't likely to get any better.**

Although councils filled more than two million potholes last year and the government has pledged a further £200m to help local authorities battle the bumps, the latest Annual Local Authority Road Maintenance (ALARM) survey from the Asphalt Industry Alliance shows greater investment is required.

It estimates that it would take a cash injection of £12bn to get the roads in England and Wales back into reasonable condition - equivalent to an average spend of £90m per authority in England - and it would take as many as 12 years to clear the backlog.

With this level of investment unlikely, drivers need to be aware of the risks associated with potholes. At low speed, hitting a deep pothole can cause damage to tyres, wheels and steering alignment. Left unchecked, this damage could increase the risk of further problems and even an accident.

At higher speeds, the same pothole can cause serious damage to a vehicle, even potentially causing a driver to lose control of it, risking collision with other road users, property or pedestrians.

In these scenarios there's also a danger that the employee has been injured and the vehicle will be off the road for some time being repaired. This could have ramifications for your business.

While you can submit a claim for the cost of any repairs to the local highway authority, it's not always possible for a claim to be successful. Highway authorities have a statutory defence that they cannot be held liable for a defect, such as a pothole, if they were not aware because it hadn't been reported or picked up in their own road surveys.

As a result the best strategy to reduce the risks associated with hitting a pothole is to drive sensibly and maintain your vehicle so it is less susceptible to damage. If you are unlucky enough to hit a pothole, then make sure the vehicle is checked out and any damage is repaired as quickly as possible.

## 2,010,749

Number of potholes filled in England and Wales in 2013 (ALARM)

# Rehabilitation Act confusion

**Reforms to the Rehabilitation of Offenders Act 1974 are designed to cut reoffending and enable offenders to turn their back on crime for good. But the new rules are causing some confusion, especially when it comes to motoring offences.**

The reforms to the Act came into effect in March 2014 as a result of amendments to the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The effect of the reforms is to reduce the amount of time some offenders will need to disclose details of any low level convictions, for both custodial and non-custodial sentences.

For example, under the old rules a custodial sentence of between 6 and 30 months was considered spent ten years after the date of conviction. Under the reforms, the rehabilitation period ends four years after the period of sentence. Similarly, while the rehabilitation period for a fine used to be five years, this has now dropped to one year from the date of conviction. These periods are also halved for anyone aged under 18.

But there is some confusion around the reforms. Although the rehabilitation period for a fine is shown as having fallen from five years to just one year, this does not apply to all fines. In particular it does not apply to driving convictions which retain a five year rehabilitation period.

The Ministry of Justice (MoJ) has clarified this. In its guidance it states that endorsements for road traffic offences, which are imposed either by the court or through a fixed penalty notice, may become spent after five years, or two and a half years where the offender is under 18.

Penalty points and driving disqualifications are spent when they cease to have effect, with penalty points typically lasting three years unless a court imposes more than one sentence or penalty for the offence. In this case the longest rehabilitation period will stand.



In addition, and to add further confusion, the DVLA will remove an endorsement from a driver's licence after four years so a driver could have a clean licence but still hold a conviction.

From a motor insurance perspective, the fact there have been no changes to the way driving convictions are treated is important. Anyone applying for insurance must disclose material facts, including convictions that are not yet spent, when asked by their insurer. This enables the insurer to determine a fair price for cover. Failure to do so could result in the policy being cancelled or voided.



**Are you worried someone is driving one of your vehicles and might not be disclosing all convictions or have a valid licence?**

Allianz offers a licence verification service, Licence Check, through The Royal Society for the Prevention of Accidents. This allows you to check someone is legally licensed to drive.

**Contact your broker to find out more.**

# LASPO one year on



It's just over a year since the Legal Aid Sentencing and Punishment of Offenders (LASPO) Act was introduced which along with the extension of the portal to include motor claims up to £25k and EL/PL claims, reformed the personal injury compensation process in England and Wales. Representing the most significant overhaul in more than a decade, the Act implemented the following changes:

- **Fixed fees for all injury claims up to £25k both inside and outside the portal. In addition the fees for motor claims up to £10k reduced from £1200 to £500.**
- **Recovery of success fees and ATE premium from the defendant was barred, representing an average saving of £550 for an RTA whiplash claim.**
- **Referral fees for personal injury claims were banned.**
- **Costs budgeting was introduced.**
- **General damages increased by 10%.**
- **Qualified one way costs shifting; requiring the defendant to pay the cost of litigation even if they won the case (except where fraud was proven or a part 36 offer was not beaten)**
- **Strict timescales for making liability decisions within the portal were introduced at 15 days for motor, 30 days for EL and 40 days for PL. If not met the claim exits the portal with cost consequences.**

## Legal shake-up

Although it is difficult to determine any permanent effects as the number of claims that have settled is still relatively low, the reforms are already having an influence on the market and claims costs.

As expected, the reforms have had a significant effect on the legal market. Although claims farming continues, with an increase in late notified claims, the impact of the reforms on their business model means that around a third of claims management companies have closed.

The claimant legal market is consolidating, with small personal injury firms exiting the market (136 closed due to an inability to get professional indemnity insurance in 2013) and the emergence of large claimant "legal supermarkets". These firms not only provide legal services, but replacement vehicles, rehab and medicolegal reporting. The aim being for each part of the organisation to offer services to the claimant in order to maximise revenue.

In terms of claims numbers, in 2013/2014 the number of motor claims submitted to the portal is down 14% on 2012/2013 however this was an untypical year as it was the year the reforms were introduced, compared to 2011/2012 the reduction is a more modest 4%.

## Claims cost change

The reforms are also affecting claims costs. General damages for motor claims within the portal have increased by 22%, from an average of £2,015 in January 2013 to £2,455 in February 2014. This is down to the 10% uplift, the extension of the portal to include higher value claims and the ability of claimant lawyers to claim up to 25% of damages in fees from the claimant providing an incentive to push for higher awards. As a result more claims are proceeding to stage 3 hearings within the portal as claimants solicitors look to maximise the damages. For instance in May 2013, 1231 claims proceeded to stage 3; this February the number had increased to 1803.

Whilst damages are up, costs are down with insurers no longer having to pay success fees or ATE premium and benefiting from the fixed fee regime. However the net impact of the reforms will only be capable of being assessed once a significant number of claims have been concluded within the new process.

## Work together

To ensure they benefit fully from the new framework, insurers, brokers and policyholders need to work together to ensure their practices and procedures are in line with the rules.

To enable insurers to contain claims costs it is essential policyholders notify claims as soon as possible, providing full documentation and contact details to enable liability enquiries to be undertaken. This will enable insurers to complete early liability enquiries admitting liability on appropriate cases within the portal timescales and rebutting spurious or fraudulent claims at the outset.

The timeliness of the liability decision is key if unnecessary costs are to be avoided. To give an example, on a £3k whiplash claim, if liability is admitted within the portal £500 will be paid in legal fees, if it drops out of the portal £700 is owed, if proceedings are issued £1760 plus our own legal costs and if ran to trial £5000.



## Watch this space

Further reforms are also in the pipeline. The MoJ has issued a consultation in respect of proposals regarding the cost, quality and independence of medical experts used in whiplash claims. Final proposals are due in July with implementation expected in October.