

Legal update

Implementation of new RTA claims process postponed until April 2010

Background

In July 2008, the Ministry of Justice published its long-awaited Response to the DCA Consultation produced in April 2007 on case track limits and the claims process for personal injury actions.

In spite of the seemingly radical nature of some of the proposals in the Consultation, the Response was generally viewed as merely making minor changes to existing systems and processes, save for a proposed new streamlined claims process for RTA actions with a value of up to £10,000.

When the Response was published however, significant concerns were voiced at the fact that there was no timetable for the introduction of the new process, no indication of the level of fixed costs that were to be applied and that significant further consultation was apparently needed. The Civil Procedure Rule Committee was then to be remitted to consider the draft rules, practice directions and pre-action protocols that would be needed to implement the new process.

Progress of the proposals

The proposed new process contained many gaps and numerous questions as to its mechanics were raised. Nevertheless, it was widely thought that the new process would be ready for implementation by October 2009.

However, the legal Press reported this week that the planned timetable for the new process was under serious threat and that talks between all those involved in the detailed definition of the process had become deadlocked.

As a result of this, the Ministry of Justice had called in the Civil Procedure Rule Committee to conduct a series of three mediations, to conclude in June, in order "to mediate a small number of outstanding process issues before considering the level of fee earner and the amount of time it will take for each stage of the process."

What happens next?

Subject to the successful mediation of the outstanding issues by the CJC, any necessary changes to the Civil Procedure Rules, practice directions and the pre-action protocol(s) would need to be approved by the Civil Procedure Rule Committee.

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In addition, sufficient time would have to be made available for all those affected to put in place any IT and other necessary changes to systems and processes, including staff training. In view of all this, it is now understood that the proposed implementation date for the new process of October 2009 has therefore been put back to April 2010.

The deferral of the implementation of the new process is regrettable as it means that affected claimants will continue to have a longer wait for their compensation, while policy holders and insurers will also have to wait for the introduction and consequent benefits of a more cost-effective scheme. Hopefully the delay will enable the MOJ to line this process up with Jackson LJ's review into civil litigation costs.

Nevertheless, it also means that those operating within the new process will have sufficient time to perfect routines and processes to ensure compliant working practices. There will be time to restructure teams and ensure staff involved are trained and sufficiently well-practised to be running under the new process before the actual implementation date.

Weightmans has developed a range of consultancy, business transformation and training solutions to enable clients to meet the strategic and operational challenges of the new process. With an additional six months to prepare, if you have not had a conversation with us about these services, perhaps now is the time.

For further information about Weightmans or to discuss any of the issues in this update please contact Bavita Rai, Partner on 0121 200 3499 or at bavita.ra@weightmans.com, or Ken Slade – Associate on 0151 242 7953 or at ken.slade@weightmans.com

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