

Motor Claims process overview

6 April 2010 is due to see the introduction of the Ministry of Justice motor claims process reforms – the biggest upheaval to civil litigation practice since the Woolf Reforms. For those who may have any doubt...the Ministry of Justice have made it very clear that the new process will go live “come hell or high water on 6 April 2010.”

In brief: The New Process

The new process is designed to streamline low value claims for personal injury (£1000–£10,000) and provide fixed costs to claimant solicitors at various stages. Strict adherence to the timelines is important– otherwise claims will fall out of the process.

The 3 stage process

Stage 1 (£400*) – Liability

- The claimant’s solicitor completes a Claims Notification Form (CNF) to send electronically to the defendant insurer. Defendants must then respond within 15 working days. The MIB has 30 days to respond.
- If liability is admitted then the claim proceeds to Stage 2 and the defendant pays the first Stage fee of £400* – within 10 business days from the end of the 15 day period for responding to the CNF (or 30 business days for MIB claims)
- If contributory negligence is alleged, liability is denied, or no response is received then the claim drops out of the process, into the existing Pre-Action protocol.

Stage 2 (£800*) – Medical evidence

- Where liability has been admitted the claimant obtains a medical report and a process of negotiation, with a strict timetable, takes place.
- Once the medical report is approved by the claimant, the Stage 2 settlement pack form together with receipts/documents in support of Special Damages must be sent to the defendant within 15 business days.
- The defendant has 15 business days to consider the claimant’s offer and either accept or make a counter offer.
- If the claimant’s offer is accepted the defendant pays Stage 2 fee of £800* within 10 business days of the stage being completed.
- If the defendant makes a counter offer there will be a further 20 business days for consideration and negotiation between the parties. These periods can be varied by mutual agreement if necessary.
- If agreement cannot be reached an interim payment to the value of the defendant’s best offer must be made.

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Stage 3 (£250 or £500) – Hearing

- Where quantum is not agreed an application will be made to the Court to determine quantum.
- The claimant will file at court a claim form, medical report and a Stage 3 settlement pack. Comments on all heads of claim are to be filed and served, with best offers on quantum to be placed in a sealed envelope.
- There is a presumption of a paper hearing, but either party can request an oral hearing.
- The Court will make its decision and notify the parties, and subject to Part 36 offers, damages and costs then become payable.
- A 12.5% success fee uplift will be applicable where a conditional fee agreement is in place.
- London weighting is only allowed when the claimant lives or works in the London area and the solicitor instructed is in the London area. It is equal to a 12.5% of the MOJ fixed stage costs.

Please note that:

- Missing deadlines may lead to claims exiting the process and/or increased costs.
- Credit hire claims will be included, unless there are arguments about the validity of the agreement.

Consider the impact on your business and gear up to meet the challenge

It is vital to your business that you consider the impact of these proposals, review your current strategy and develop a claims model that ensures you will reap the benefits that the scheme will offer to those able to deal

with claims quickly.

Considerations include:

- a review of your internal fast track motor claims process
- a review of existing workloads and backlogs
- the implications on both of the new process
- a review of the people and the skills they will need at each stage to deal with claims efficiently
- review of training requirements to ensure that admissions are made promptly, quantum is assessed accurately and experienced negotiators are in place to settle claims and to communicate well with litigants in person
- changes to short, medium and longer term strategies to ensure your business is able to adapt to the changes
- investing in technology to remove inconsistency

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- educating insureds to ensure claims are notified promptly
- reviewing policy terms to reflect the need for adequate and early accident reporting
- earlier intervention
- outsourcing: when and how

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