

# Ministry Of Justice Reforms 2013 Update

In March we wrote to you about Lord Justice Jackson's review of civil litigation costs and expansion of the Ministry of Justice (MoJ) rules and how these changes will impact you and your customers.

Following release of Claim Notification Forms (CNFs) by the MoJ, we write to remind you about the key changes, and what to do if your customer receives a low value personal injury claim outside of the Portal.

## 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 more 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 Road Traffic Accidents (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 Association of British Insurers (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 going through the portal, 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 Employers' Liability and Public Liability 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	<b>30 days</b> (currently 90 days)
PL	<b>40 days</b> (currently 90 days)



The strict deadlines to admit or dispute liability will mean that brokers and policyholders will need to quickly supply us with all relevant information relating to an incident. This will help streamline the flow of information required to investigate liability, 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.

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

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

\*£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.

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

### When do the new MoJ rules go live?

- 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**.
- The extension of the portal applies to qualifying disease claims where a letter of claim has not been sent to the defendant before **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 policyholder. This will enable early decision making on liability and provide detail that can be utilised to better equip our Claims Investigators.

### What your customer needs to know

To maximise the potential benefits from these changes we need your continuing 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.

### What should the customer do if they receive an MoJ claim by post?

It is likely that some Claimant lawyers will send Claim Notification Forms (CNFs) to Defendants (your customers) rather than submit them to their insurers via the MoJ Portal. The MoJ rules allow lawyers to do this when they cannot identify who the customers' insurers are.

This situation is most likely to occur on PL claims as there is currently no central database which confirms the PL insurer.

You and your customers need to be aware that the following action

needs to be taken to avoid claims dropping out of the process. These actions should be taken **upon the day of receipt of a CNF wherever possible:**

1. Your customer must acknowledge receipt of the CNF to the Claimant Solicitor and advise them that the CNF has been sent to Allianz. No comment on the claim itself should be made.
2. Your customer should scan the CNF and email it to us at: [mojcasualtyclaims@allianz.co.uk](mailto:mojcasualtyclaims@allianz.co.uk)

If customers are unable to scan the CNF it should be sent to:

Allianz Insurance  
500 Avebury Boulevard  
Milton Keynes  
MK9 2XX

Please find attached links to examples of Claim Notification Forms (CNFs) for **Public Liability**, **Employers Liability** and **disease** claims to help you and your customers quickly recognise these important items of post, so can action them accordingly.

#### Key message to customers

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

## What needs to be notified?

### Employers and Public Liability notification guidelines

In line with the policy wording, you should notify Allianz of any incident which could give rise to a claim. As such, Allianz require details of all incidents and / or accidents at work which need to be recorded under Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR) entries as soon as possible.

In addition to RIDDOR entries we require notification of the following:

- All formal claims
- Any incident where the injured person is not represented by solicitors but has made contact directly with the insured seeking compensation
- Head injuries involving hospitalisation
- All falls from height
- Any bone injury e.g. fractures and breakages
- Other serious injuries e.g. amputations, degloving, burns
- Fatalities
- Accidents involving minors & vulnerable adults
- Accidents which result in scarring

- Accidents resulting in admission to hospital or where on-going medical treatment is being sought
- Any incident involving a HSE investigation
- All requests for disclosure of information from a solicitor
- All accidents where the emergency services attend
- Accidents where the employee leaves employment shortly afterwards or where redundancy notices are subsequently served on the employee .

### Disclaimer:

The above list is not exhaustive and serves merely as a guide. If you are uncertain as to whether or not you should notify an incident to Allianz, please discuss this with a member of the Allianz Claims team.

## Recording accidents in the workplace

We recommend that customers use the following documents (where required) to record accidents within the workplace. This will enable them to provide the necessary information when notifying a claim. (Where specific regulations apply other documents may be necessary)

- Accident book entry
- First aider report
- Surgery record
- Foreman/supervisor accident report
- Safety representative's accident report
- RIDDOR report (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) Health and Safety Executive – [www.hse.gov.uk/riddor/report.htm](http://www.hse.gov.uk/riddor/report.htm)
- Other communications between defendants and HSE (Health and Safety Executive)
- Minutes of Health and Safety meeting(s) where accident/matter is considered
- Report to DSS (Department of Social Security) where required
- Documents listed above relative to any previous accident/matter identified by the claimant and relied upon as proof of negligence
- Provide evidence of claimants' earnings information where defendant is employer (typically 13 weeks pre-accident and for the period they are off, post-accident).

Allianz's Risk Director can provide a wealth of free risk management advice and information on health and safety in the workplace and includes guidance on creating a health and safety management programme. [www.riskdirector.co.uk](http://www.riskdirector.co.uk)

## Health and safety at work guidance

The government has produced guidance on health and safety at work in accordance with the Health and Safety Regulations 1992:

- Pre and post-accident Risk Assessment required by **Regulation 3**.
- Accident Investigation Report prepared in implementing the requirements of **Regulations 4, 6 and 9**.
- Health Surveillance Records in appropriate cases required by **Regulation 5**.
- Information provided to employees under **Regulation 8**.
- Documents relating to the employees health and safety training required by **Regulation 11**.

For further information on the Health and Safety Regulations 1992 please refer to:

[www.legislation.gov.uk/uksi/1992/2051/contents/made](http://www.legislation.gov.uk/uksi/1992/2051/contents/made)

## Have you thought of a RIO?

At Allianz, we strongly recommend that customers appoint a RIO ('Reporting and Investigations Officer'). This is to ensure a key person of responsibility is appointed to manage accidents and take charge of potential claims from an early stage.

A 'Reporting and Investigations Officer' is a co-ordinating role; the appointed person(s) being responsible for ensuring that all incidents and / or accidents at work are thoroughly investigated, recorded and reported. The RIO could be a supervisor, manager, business owner, Director or another trusted and diligent employee who is identified as having the skills to perform the function.

## Further Information

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

For additional information on the reforms, please see the portal site: [www.claimsportal.org.uk](http://www.claimsportal.org.uk)