



WHIPLASH REFORMS

The Ministry of Justice's Whiplash Reforms

The reforms will apply to claims arising from a Road Traffic Accident (RTA) which occurs in England & Wales on or after 31 May 2021*. The headlines are:

- The introduction of a fixed tariff of compensation for whiplash injuries that last up to 2 years. This tariff will provide clarity and certainty to claimants about the amount of personal injury damages they will receive for whiplash injuries.
- A ban on settling whiplash claims without medical evidence. The Official Injury Claim service will enable claimants to source medical reports to ensure claims are supported by medical evidence before settlement.
- The introduction of the Official Injury Claim service which has been designed to provide claimants with an accessible & user-friendly digital system, supported by guidance. The service will enable all claimants, particularly those without legal representation, to make and settle their own claim.
- Increasing the Small Claims Track (SCT) limit for RTA related Personal Injury claims from £1,000 to £5,000 via amendments to the Civil Procedure Rules. This means that the majority of such claims will now proceed through the Small Claims Track, where legal costs are not recoverable.

What can you do to help your Insurer conform to the Whiplash Reforms and prevent claims costs from escalating?

The quicker you can notify your Insurer, the better. Early notification helps to ensure your Insurer works within the timeframes and rules set by the Ministry of Justice's Pre-Action Protocol for low value personal injury road traffic accident claims, and the new Small Claims Track Protocol. The sooner your Insurer is notified of an accident, the sooner they can provide a response, get the claim moving and contain costs.

If your Insurer fails to provide your version of the incident and a signed Statement of Truth within 30 working days of receipt of a Small Claims Track Claim Form, your Insurer is deemed to have admitted liability in full. Clearly, you want to avoid this situation wherever possible in order to help protect your claims experience.

Using Insurers claims helplines are our recommended method of notification. There is usually little or no call waiting time for you, and generally, Insurers are able to gather all the information needed to make enquiries quickly if liability is contested.

The charts on the following pages illustrate the cost implications of delayed notification for both Official Injury Claims (OIC) Portal and the Ministry of Justice's (MoJ) Portal.

OAMPS

HAZARDOUS INDUSTRIES

www.oamps.co.uk

This information is not intended to constitute any form of opinion and recipients should not infer any opinion from its content. Recipients should not rely exclusively on the information contained in the bulletin and should make decisions based on a full consideration of all available information. If you have any concerns at all about property maintenance, you should seek advice from a trusted local tradesman.

We make no warranties, express or implied, as to the accuracy, reliability or correctness of the information provided. We and our officers, employees or agents shall not be responsible for any loss whatsoever arising from the recipient's reliance upon any information we provide and exclude liability for the statistical content to fullest extent permitted by law.

OAMPS is part of Pen Underwriting Limited which is authorised and regulated by the Financial Conduct Authority (FCA number 314493).

Registered Office: The Walbrook Building, 25 Walbrook, London EC4N 3AW. Registered in England and Wales. Company Number: 5172311.



New Official Injury Claims (OIC) Portal

Notification Date	Notification Method	Repair	Hire	Personal Injury (PI)	Total Cost**
Day 1	Via Insurers Claims Helpline, with full contact details for third party provided.	<p>Third party accepts offer of repair through your Insurers approved repairer network.</p> <p>The damaged vehicle is collected within 24 hours. Repair duration monitored.</p> <p>Costs reduced due to agreed approved repairer rates.</p>	Third party agrees to use your Insurers preferred supplier for vehicle hire.	<p>Initial call identifies that the third party has suffered a whiplash injury.</p> <p>The claimant is directed to the OIC portal and supported with their claim submission by your Insurers, who arrange physiotherapy for them.</p> <p>Third party medical report confirms a 7 month whiplash injury with minor psychological injuries.</p>	
		Estimated Repair Costs: £1,500	Estimated Hire Costs: £500	Estimated Personal Injury Costs: £1,270	£3,270
Day 5	Over the phone by your fleet manager. Only name and registration number of third party provided.	<p>Third party has contacted their own Insurer to arrange for their vehicle to be repaired.</p> <p>The third party's Insurer doesn't apply their repairer discounts to claims where they can recover their money from another party as they would for a fault claim.</p>	The third party's Insurer refers them to a credit hire company to hire a car for the duration of time their vehicle is being repaired or replaced.	The third party has instructed solicitors to pursue an injury claim. They've submitted the claim through the OIC portal and arranged physiotherapy and commissioned a medical report which confirms a 12 month whiplash injury with minor psychological injuries and a six months sprain to the knee.	
		Estimated Repair Costs: £1,800	Estimated Hire Costs: £1,700	Estimated Personal Injury Costs: £3,500	£7,000
Day 15	Broker emails your Insurer stating the claim form will follow with full details, following a call from you to notify an accident with no additional information.	<p>As your Insurers cannot confirm the position on liability, the third party's insurers cannot waive the third party excess.</p> <p>The third party doesn't want to pay their excess for a non-fault accident, so chooses have their vehicle repair costs paid by credit.</p>	<p>The third party is using credit hire.</p> <p>Due to the delay in reporting there's an increased risk that your Insurer is unable to make a payment of hire within 30 days, resulting in penalty charges accruing.</p>	<p>There's an increased risk that liability can't be agreed within the 30 days allowed for investigation in the OIC portal.</p> <p>The claim goes to court attracting fees and the cost of instructing our own solicitors to deal with matters.</p>	
		Estimated Repair Costs: £2,600	Estimated Hire Costs: £2,400	Estimated Personal Injury Costs: £4,500	£9,500
Day 30	Claims notification received from the third party's solicitors through the OIC Portal.	Storage costs of the third party's vehicle are incurred as your Insurer is unable to confirm the position on both cover and liability. Third party goes to a credit repairer	<p>As your Insurer is unable to admit liability within 90 days, the hire charges switch to commercial rates.</p> <p>The period of hire is also greatly increased as your Insurer cannot confirm cover or liability until you report the claim.</p>	<p>Your Insurer cannot confirm liability within the 30 day investigation period permitted under the OIC protocol.</p> <p>As a result, the claimant litigates for a court decision on liability. With increased cost, own solicitors fees and small claims fixed cost.</p>	
		Estimated Repair Costs: £4,000	Estimated Hire Costs: £7,500	Estimated Personal Injury Costs: £4,500	£16,000

Ministry of Justice's (MoJ) Portal

Notification Date	Notification Method	Repair	Hire	Personal Injury (PI)	Total Cost**
Day 1	Via Insurers Claims Helpline, with full contact details for third party provided.	Third party accepts offer of repair through your Insurers approved repairer network. The damaged vehicle is collected within 24 hours. Repair length monitored. Costs reduced due to approved repairer rates.	Third party agrees to use your Insurer's preferred supplier for vehicle hire.	Initial call identifies that third party has suffered a whiplash injury with prognosis exceeding two years. Third party agrees to deal directly with your Insurers, who arrange physiotherapy and commission a medical report.	
		Estimated Repair Costs: £1,500	Estimated Hire Costs: £500	Estimated Personal Injury Costs: £6,500	£8,500
Day 5	Via Insurers Claims Helpline by your fleet manager. Only name and registration number of third party provided.	Third party has contacted their own insurers to arrange for their vehicle to be repaired. Their Insurer doesn't apply their repairer discounts to claims where they can recover their money from another party	The third party's Insurer refers them to a credit hire company to hire a car for the duration of time their vehicle is being repaired or replaced.	The third party has instructed solicitors to pursue the injury claim. They have submitted a claim through the MoJ Portal, arranged physiotherapy and commissioned a medical report.	
		Estimated Repair Costs: £1,800	Estimated Hire Costs: £1,700	Estimated Personal Injury Costs: £9,000	£12,500
Day 15	Broker emails your Insurer stating the claim form will follow with full details, following a call from you to notify an accident with no additional information.	As your Insurer cannot confirm the position on liability, the third party's Insurer cannot waive the third party excess. The third party doesn't want to pay their excess for a non-fault accident, so chooses have their vehicle repair costs paid by credit.	Third party opts for credit hire. Due to the delay in reporting there's a risk that your Insurer won't be able to make a payment of hire within 30 days, resulting in penalty charges accruing.	There is an increased risk that your Insurer cannot confirm the position on liability within the 15 days allowed for investigation in the MoJ process, in which case it will drop out and costs will increase. The third party's solicitor is likely to use a more experienced solicitor who may bring in more complex types of claim.	
		Estimated Repair Costs: £2,600	Estimated Hire Costs: £2,400	Estimated Personal Injury Costs: £13,500	£18,500
Day 30	Claims notification received from the third party solicitors through the MoJ Portal.	Storage costs of the third party's vehicle are incurred as your Insurer is unable to confirm the position on both cover and liability. Third party goes to a credit repairer.	As your Insurers are unable to admit liability within 90 days, the hire charges switch to commercial rates. The period of hire also increases as Insurers cannot confirm cover or liability until you report the claim.	Your Insurer cannot confirm liability within the 90 day investigation period permitted under the PI protocol. As a result, the claim is passed to the third party's solicitor's litigation team to prepare the matter for court. All types of loss will be included and damages maximised to increase costs.	
		Estimated Repair Costs: £4,000	Estimated Hire Costs: £4,000	Estimated Personal Injury Costs: £18,000	£29,500

** The figures produced are illustrative based on assumptions triggered by delayed reporting which takes into account the increased risk of escalation in damages linked to items such as credit hire, credit repair and fees associated with litigation