



Dear British Insurance Brokers Association

26 February 2021

## IMPLEMENTATION OF THE WHIPLASH REFORM PROGRAMME

I am writing to update you on the latest position regarding the Government's Whiplash Reform Programme.

The Government is firmly committed to the implementation of the necessary and proportionate measures set out in Part 1 of the Civil Liability Act 2018 and I am very pleased to announce that we have now laid in Parliament two Statutory Instruments which will allow us to take an important step towards that aim:

These Statutory Instruments are:

- The Whiplash Injury Regulations 2021; and
- The Civil Procedure (Amendment No. 2) Rules 2021

The Whiplash Injury Regulations 2021 will:

- specify, by way of a tariff, the amount of damages payable for pain, suffering and loss of amenity for road traffic accident (RTA) related whiplash injuries lasting up to 2 years, and any minor psychological injuries suffered on the same occasion as any whiplash injury;
- allow the court to apply a discretionary uplift (up to 20%) to the tariff in exceptional circumstances; and
- specify what constitutes appropriate medical evidence for the purposes of settling a personal injury claim which includes a whiplash injury (and which, under section 5 of the Civil Liability Act 2018 must be obtained before the claim may be settled) as well as specifying those experts who may provide such evidence.

The Civil Procedure (Amendment No. 2) Rules 2021 increase the Small Claims Track (SCT) limit for RTA related Personal Injury claims from £1,000 to £5,000. Details of the amended rules can be found at <http://www.justice.gov.uk/courts/procedure-rules/civil>.

A new SCT Pre-Action Protocol (PAP) has been developed and published today which establishes a process to help parties to reach a fair settlement, as well as setting out the steps to take should they need to start court proceedings. New Rules, associated guidance and court forms have also been developed that will align with and underpin the service, as well as a new Practice Direction which will provide a bespoke procedure for dealing with disputes where they arise within the protocol.

Claimants affected by these changes will be supported through a new modern digital portal, the Online Claims Service (OICS), designed to enable claimants to make and settle RTA related personal injury claims valued under £5,000, which has been developed alongside the Motor Insurance Bureau. The Service mirrors the requirements found in the new SCT PAP and has been designed to be accessible. Claimants will be provided with additional guidance to assist them with using the new OICS. Users and digitally disadvantaged claimants who are unable to use the online system may also seek assistance from a dedicated telephone helpline.

You may have seen the comment made in the minutes of the Civil Procedure Rule Committee in January 2021 that *'overall the sub-committee's impression is that the portal build [OICS] so far is impressive, user-friendly and uses clear and accessible language'*.

It should be noted that children and protected parties will not be subject to the increase to £5,000 and in addition, where the criteria are met, the normal track for any such claims which consist of or include a whiplash injury will, for the time being, be the fast track.

There are two remaining Regulations which are to be laid in due course by HM Treasury:

- The Civil Liability Act 2018 (Financial Conduct Authority) (Whiplash) Regulations 2021
- The Civil Liability Act 2018 (Specification of Authorised Persons) Regulations 2021

These will enable the Financial Conduct Authority (FCA) to effectively regulate the ban on pre-medical offers. It is our intention to take these Statutory Instruments forward as a package as we move towards the implementation of these reforms in May 2021.

I would like to thank you for your continued interest and engagement in these important reforms.

**David Parkin**

Deputy Director for Civil Justice and Law Policy  
Ministry of Justice