



THE NEW RTA PROCESS

(The Ministry of Justice Changes)

GOLDSMITH WILLIAMS

January 2010



BACKGROUND & THE NEED FOR CHANGE

- The changes to the process have been lobbied for, for many years by the third party insurers and the ABI (Association of British Insurers). The claimant side of the industry have NOT wanted the changes.
- Lobbying began as soon as CFA's were introduced in 1999 and insurers had to start paying additional liabilities such as "success fees" and ATE premiums.
- IMPORTANT
- The government and insurers have lobbied for years that the legal costs of low value RTA claims are totally disproportionate to the actual value of the clients claims ONE OF THEIR MAIN ARGUMENTS IS THAT IF SOLICITORS CAN PAY £600 PLUS FOR A CLAIM THEN THERE MUST BE AT LEAST THIS MUCH TOO MUCH IN THE SYSTEM.
- Government and insurers have an inherent dislike of Claims Management Companies and think they bring no value at all to the process.



AIMS & OBJECTIVES OF THE REFORMS

- Three main aims of the powers to make it –
 - Quicker
 - Simpler
 - AND THE MOST IMPORTANT – to make it cheaper!
 - As the view in government was that if £700 is being paid for a claim then this means that this amount plus more is too much in the system.



CASES THAT ARE ELIGIBLE FOR THE NEW RTA PROCESS

- Claims that have a 'date of accident' post 6th April 2010
- RTA claim valued up to £10,000.00
- Valuation of £10,000 must include
 - a) Personal injury element worth at least £1,000 plus
 - b) Any Special damages relating to personal injury e.g loss of earnings, cost of care, rehabilitation etc.

IMPORTANT – For valuation purposes vehicle damage and credit hire claim is NOT included. E.g claim of PI worth £2,000, loss of earnings £1,000, credit hire of £8,000 totalling £11,000 does fall into regime.



EXCLUDED CASES from new RTA process

- Personal injury claims worth less than £1,000
- MIB Untraced Drivers claims
- Claim where claimant or dependant has died
- Claimant or Defendant is bankrupt

MAKING A CLAIM – POST

06.04.2010 - STAGE 1

- All claims must start with a standard claim Notification Form (CNF) being sent to a dedicated e-mail address of the defendant insurers.
- ALL THE FIELDS on the CNF are MANDATORY. Effectively the time for the claim to start running does NOT start until the defendant insurers have the fully completed CNF.
- The defendant insurers will reject the claim if it is in any way incomplete.
- The defendant insurers have 15 Business Days to respond (MIB have 30).
- During these 15 business days claimant lawyers are forbidden in charging out for further work.

STAGE 1

The Defendant insurers options within the 15 Business Days

1. Option 1 – The insurers deny liability, allege contributory negligence or don't respond at all, then the claim will leave the “new process”. All these claims will be dealt with from then as they are now!
2. Option 2 – The insurers admit liability then the case proceeds to Stage 2!



STAGE 2

- Claimant lawyer obtains evidence to support claim.
- Claimant obtains medical report. There is no fixed timetable to obtain report BUT there is a fixed template and format for this report that MUST be obtained.
- If medical report has factual inaccuracies when received it can be returned to expert BUT Defendant insurers MUST be told and reasons for delay explained.
- Within 15 days of client confirming factual accuracy of report the claimant Solicitor MUST electronically send a settlement pack to Defendant insurers.
- The medical report must be 100% factually accurate as, once disclosed to the TPI, we cannot seek to amend it or try to justify why any part is inaccurate. Any inaccuracies could result in the claim failing or the client getting a reduced amount of compensation.
- The “settlement pack” MUST include:-
 - a) medical report
 - b) all receipts and evidence of special damage, disbursements of solicitor e.g medical report invoice
 - c) An offer to settle the claim by the Claimant Solicitors in £’s. THIS IS A VERY NEW CONCEPT e.g the Claimant lawyer has to put a value of this on the clients personal injury claim and say client will accept £2,000 as a example.



STAGE 2 Cont

- Insurer has 15 business days from receipt of 'settlement pack' to accept claimants offer or make a counter offer
- If insurer does not accept claimants offer or make a counter offer, or at this stage alleges fraud, denying causation or contributory negligence then the claim leaves the new process and the claim will be dealt with from that time as it is now
- If defendant insurers make a counter offer they must do this issuing the 'settlement pack' form' which is a living document
- If defendant insurer makes a counter offer there will be a further 20 Business Days (after the end of the 15) to consider and negotiate or the case goes to Stage 3!



STAGE 3

- Claimant lawyer will send “Stage 3 settlement” pack to Defendant insurers to agree, comment etc.
- Either Claimant lawyer or defendant insurers/lawyers can then commence court process for court to determine quantum
- There is a presumption that the court will decide the value of the claim on the “paper evidence” before it BUT either side can apply for a oral hearing.
- Either party can opt for oral hearing



STAGE 3 Cont

- Court papers must include
 - Best offers in a sealed envelope
 - Comments on all heads of Claim
 - No new documents
 - No new evidence
- Claimant submits to insurer
- Insurer has 5 days to add 'comment' – presumably similar to a defence ?
- Extension is by agreement only
- Stage 3 fee payable only if award made



PRACTICAL ISSUES

- Q1 What will the Claimant solicitors get paid if a claim goes all the way through the new “fixed costs” process?

Answer: i) £400 for stage 1

- ii) £800 for stage 2

- iii) A further £250 or £500 for stage 3 depending on whether the court decides the claim value on the paperwork or an oral hearing

Q2 What will the Claimant solicitors get paid if a claim leaves for whatever reason the new “fixed costs” process?

Answer: The same as present

Q3 How many claims will end up going through this new “fixed costs” process?

Answer: This is impossible to answer.! This is the million dollar question. Will the defendant insurers get their act together to respond within the time limits? Will they begin admitting liability much earlier than they have historically? Will they even start making more and more pre-med offers to clients to even evade having to pay the new fixed costs?

Q4 Is this all actually going to happen?

Answer: Yes definitely! There is a major political will and it will happen even with a new government.



AS AN INTRODUCER WHAT SHOULD WE BE DOING NOW IN READINESS?

- 1. Read the attached Claim Notification Form in detail (CNF)
- 2. We would strongly recommend that you should start to use the CNF NOW as your claim form. Get it fully completed. This will be mandatory from 06/04/2010.
- 3. Pass the CNF now to any sub-suppliers and agents and request that they also start using it and FULLY complete it. No claim can start without full completed CNFs from 06/04/2010. Educate your suppliers.
- 4. Are you a credit hire operator? The above is particularly important. Full recovery of hire charges will be dependent on the timely receipt and acceptance of a fully completed CNF by the TPI.
- 5. Please be aware that this new process will almost certainly affect the method of payment of referral fees and the amount payable for cases entering the new process. Further information on this will be provided in due course as the final rules are clarified.