



Soft tissue injury (“whiplash”) claims process reforms

Frequently asked questions



Why has the Government acted to reduce the number of whiplash injury claims?

The Government has expressed concern about what it says is the continuing high number and cost of Road Traffic Accident (RTA) whiplash related claims. Although the volume of such claims has reduced in recent years, the Government believes that low value whiplash claims are routinely exaggerated or fraudulent and the cost of dealing with these small claims results in motorists paying a high price for their motor insurance.

What are the objectives of the so called “whiplash” reforms in the Civil Liability Act?

The Government wishes to reduce the volume and cost of whiplash and minor injury claims by restricting the amount of compensation paid to claimants, simplifying how claims are brought so that individuals can bring claims themselves instead of using lawyers, and removing the right for injured parties to claim back their legal costs from the other side’s insurer.

The Government says that its measures will ensure that genuinely injured claimants will receive a proportionate amount of compensation and expects that insurers will reduce motor insurance policy premiums in recognition of the expected savings.

How will the Civil Liability Act achieve this?

The Civil Liability Act (often referred to as the “Whiplash Reforms”) will change the personal injury compensation system in England and Wales. The Civil Liability Act will:

- introduce a definition for whiplash injuries which will apply to claims for whiplash injuries brought by occupants of a vehicle that has been involved in an accident;
- fix compensation at low set amounts for all whiplash injuries with a recovery period of up to two years;
- ban whiplash claims from being settled without first obtaining medical evidence. This practice, in the past, has led to insurers paying-off low value claims rather than incur the expense of investigating them properly.

Changes to small claims reforms?

Not included in the Act but still a central part of the Government’s whiplash reforms, is a rise in the Small Claims Court Limits (SCCL) for motor-related cases involving whiplash personal injuries. Where the value of a claim is above the SCCL, injured parties can claim back legal costs that they have to pay to pursue their claim for compensation from the person responsible for causing the accident (or that person’s insurers), provided the claim is successful. The limit will rise from:

- £1,000 to £5,000 for motor-related whiplash personal injury claims, and will apply to claims where the accident occurs on or after 31 May 2021.

The vast majority of whiplash claims are likely to fall within the new £5,000 limit. For these cases the majority of legal costs will not be recoverable from the party at fault on successful conclusion of the claim. For motor-related personal injury claims before 31 May 2021 and for other personal injury claims, such as accidents at work, the SCCL remains at £1,000.

Are there any exemptions to this?

Vulnerable road users such as pedestrians, cyclists, horse riders and motorcyclists will be exempt from both the Civil Liability Act and the increase to the SCCL. They will still be able to claim their legal expenses back from the party at fault. This exemption also applies to children and other protected parties that do not have the legal capacity to make a claim.

What are the key dates?

The reforms will be fully implemented on 31 May 2021.

How will these reforms impact Motor Legal Expenses Insurance?

As lawyers will no longer be able to recover the majority of legal costs from the party at fault on successful conclusion of any personal injury claim that falls within the SCCL, the costs of handling such claims will in the future be borne by Motor Legal Expenses Insurance.

Following these reforms your Motoring Legal Solutions or Complete Motor Legal Solutions policy will become even more important to

- provide representation if you are injured; and
- make sure you get to keep all compensation you are awarded (without any reduction to pay for legal costs to bring your claim).