



EMPLOYMENT AND CIVIL NEWSBRIEF

▼ CASE TRACK LIMITS—INDUSTRY RESPONSE ROUNDUP

The Department of Constitutional Affairs (now Ministry of Justice) consultation on the claims process seek to introduce the most sweeping reform of the civil justice system since the inception of the Civil Procedure Rules in 1999. Responses to the proposal were invited by July of this year. There seems a clear lack of consensus on the proposals which comes as little surprise. The response of some of the key stakeholders can be summarised as follows;

Association of Personal Injury Lawyers (APIL). APIL agrees with maintaining the small claims track limit at £1,000 and opposes extending the fast track to £25,000. If the fast track was extended to £25,000 then there should be a presumption that complex cases will still be allocated to the multi-track. The new streamlined claims process would only be suitable for the most straightforward road traffic accidents and time limits need to be strict. APIL remained cautious regarding the introduction of further fixed fees.

The TUC agrees with the £1,000 small claims track limit and does not oppose the £25,000 fast track limit

provided suitable cases could still be dealt with on the multi track. They consider that the streamlined claims process is only suitable for cases involving one medical report and the same process should be used on all cases up to the value of £25,000. The TUC's most notable concern was regarding the fragility of the After the Event Legal Expenses Insurance (ATE) market, a concern which is also reflected in APIL's response.

The Law Society agreed with the proposed case track limits. The streamlined claims process should be limited to cases worth under £5,000 and any admission of liability must be binding and time limits strictly enforced.

The Civil Justice Council considers that the Claimant should not need to beat his own offers to recover costs of a final hearing. This proposal does not give the insurers sufficient incentive to try to settle a case. They support the introduction of further fixed fees for the streamlined process and suggested that the Costs Council could be used to establish the

appropriate level of fees.

The Association of British Insurers supports the £1,000 small claims track limit and the proposed £25,000 fast track limit. It would like to see flexibility with the time limits and longer to provide an admission on cases where notification of a claim is over 6 months from the accident. It supports the introduction of further fixed fees and would like medical experts to determine the appropriate tariff of injuries if a tariff system is introduced. It considers that Claimant's should not recover costs of a final hearing in all cases up to £25,000 where the Claimant failed to beat his own offer. Despite representing a number of ATE insurers the ABI considers the insurance industry is resilient enough to handle the proposals regarding ATE policies.

The Ministry of Justice must now consider how to handle any reforms and if there are to be any at all. It seems likely that there will be some reform of the current system but it difficult to predict what shape this will take given the diversity of opinion within the industry.

NEW REHABILITATION CODE

A revised version of the Rehabilitation Code sets out new timetables to determine how long Claimants wait to receive treatment.

Insurers and local authorities now have 21 days to respond to solicitors notifications, a needs assessment is required within 14 days and a report must be paid within 28 days of receipt.

As with the earlier code emphasis is placed upon early notification of the immediate needs. Under the new code there may not be a need for an initial medical report before rehabilitation is considered.

Greater flexibility is ensured by allowing for telephone interviews whereas in the past the initial assessing agency needed to

provide an initial interview to the Claimant at home or in hospital. The new code also removes need for independence. The combination of these two factors plays to insurers panel arrangements.

Previously compensators only needed to consider recommendations made in a needs assessment. Now they must justify any refusal to assist with implementation of the assessment.

Greater emphasis has been placed upon rehabilitation in recent years and it has come a long way. It has been embraced by a number of responsible compensators yet there still remains a long way to go.



Employment

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.



Civil Disputes and Accident Claims

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win — no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.



Richard Cassel

Head of Employment Department. Richard specialises in all aspects of employment and discrimination law. He is a highly regarded advocate appearing in the Employment Tribunals on a regular basis, and less frequently in the Employment Appeal Tribunal. Richard has been a Part-Time Chairman of the Employment Tribunals since 1993 and has a considerable experience of Tribunal practice and procedure.
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Sally Davenport

Sally joined the employment team at Hatch Brenner in 2006. Originally from Cheshire, Sally took a Modern Languages degree at Oxford University, and worked in international banking before pursuing her legal career. She worked as a commercial litigation solicitor with Theodore Goddard, one of the largest London law firms, before moving abroad with her family and developing her own business as a legal translator. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed a Masters Degree in Employment Law at the University of East Anglia with distinction. She is a Fellow of the Chartered Institute of Arbitrators and is an advisor at a local Citizens Advice Bureau.
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Rosemary Escott

Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.
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Mark Fitch

Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.
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Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.
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John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.
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