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Reforming personal injury claims

An overhaul of the personal injury legal framework in England and Wales will help to combat the compensation culture and, by reducing the cost of claims, enable insurers to pass on savings to their customers through lower insurance premiums.

The programme of reforms, which represent the most significant overhaul of the personal injury legal framework in more than a decade, is being introduced by the Ministry of Justice following its consultation on civil justice procedure and Lord Justice Jackson's review of civil litigation costs.

The changes aim to bring more balance to the civil litigation system by making lawyers' costs more proportionate and speeding up the time it takes to settle a claim. To achieve this, changes are being introduced to the way personal injury claims are reported.

Faster claims settlement

This year, the reforms will see an expansion in the type of claims that are managed through the online portal. This portal was introduced in April 2010 to speed up the settlement of road traffic accident (RTA) motor personal injury claims with a value of between £1,000 and £10,000 by imposing strict timescales and fixed legal fees for the various stages of the process.

As the portal has already proved successful at managing these claims it will be extended. From 31st July 2013, as well as handling claims for RTA injuries, it will also cover claims for Employers' Liability and Public Liability. Additionally, the limit for all claims dealt within the portal will be increased from £10,000 to £25,000.

This will make a significant difference to the speed in which claims are settled. The Association of British Insurers estimates that by raising the limit on motor personal injury claims, an additional 55,000 people injured in RTAs will receive their compensation payouts more quickly every year.

New claims deadlines

To further speed up the process, the timescales for decisions on liability will be reduced significantly for accidents occurring on or after 31st July 2013.

These stricter deadlines to admit or dispute liability will mean that policyholders and their brokers will need to supply their insurer with all the relevant information relating to an incident quickly.

Reducing legal fees

Legal fees will also change, both for claims inside the portal and those outside of it. These will be reduced on a staggered basis from the end of April 2013. As an example, prior to the reforms, a typical whiplash claim settling at £3,000 would have attracted a fixed fee of £1,200 within the portal if settled at stage 2. As a result of the reforms this fee will be reduced to £500.

New claims deadlines

Insurance	Number of working days to admit or dispute liability
Motor (RTA)	15 days (no change)
Employers' Liability	30 days (currently 90 days)
Public Liability	40 days (currently 90 days)

Additionally, costs will be driven out of the claims process through the abolition of recoverable legal costs and referral fees.

Benefits to policyholders

The reforms will result in a number of benefits for policy holders. As well as faster settlement times for a broader range of claims, there is also the potential for lower insurance premiums as a result of the savings on legal fees.

To ensure you benefit fully, it's essential that you are mindful of the new stricter deadlines when reporting claims. You will now need to notify actual or potential claims as soon as possible and provide accurate and comprehensive information as well as all the relevant documentation to ensure the claim is managed within the shorter timescales.

For additional information on the reforms visit:
www.claimsportal.org.uk

Claims Notification - One Day To Respond

You should note that both Employers' and Public Liability claim notification forms should be sent to your insurer via the portal. However, if your insurer cannot be identified, the claimant's lawyer will post a paper copy of the claim notifications form directly to you. You should acknowledge receipt of the form to the claimant's lawyer, confirm your insurer's details and forward a copy onto us on the day it is received.

In the instance where you receive an Employers' or Public Liability claim notification form through the post, you should complete it and email it

to: mojcasualtyclaims@allianz.co.uk

Alternatively, it can be sent to:
Allianz Insurance
500 Avebury Boulevard
Milton Keynes
MK9 2XX

You should also notify us of incidents that **may** result in a claim as soon as possible, ideally before the claim notifications form is received. This will enable us to be in the best position to settle the claim quickly.

Open to abuse

Having taken more than one million uninsured vehicles off the roads, open motor certificate abuse is coming under the spotlight as part of the police's clampdown on uninsured drivers.



Although the majority of open motor certificates are for legitimate use within the motor trade industry, the police have seen an increasing number of these policies being misused.

The most common type of abuse is where someone, usually a sole trader, small business or someone who is not a legitimate motor trader, is abusing an open certificate that has been obtained inappropriately or it does not cover the specific use of the vehicle. For example, using the vehicle for a separate business. There is also evidence that these open certificates are being used fraudulently by organised crime groups.

Police challenges

Identifying whether an open certificate is being used by a genuine motor trader or a criminal can be a challenge for the police. When they stop a vehicle that does not appear on the Motor Insurance Database (MID), it can take time to check whether there is valid insurance in place for the driver and the vehicle with further delays following as the police contact third-parties to verify the information provided.

Being subject to these checks can have serious ramifications for the motor trader. As well as disrupting business while the police investigate, if details of valid

insurance cannot be produced there is a risk that the vehicle will be seized.

Two-pronged attack

Insurers are working with the police to address these issues. Potential actions include improving the wording of open certificates to provide greater clarity to the police and policyholders; publishing a guide to assist the police when dealing with open certificates; and reviewing the data held on the MID.

You can also help in the fight against uninsured drivers. By ensuring you have the correct cover in place and that all vehicles are correctly listed on the MID will help to prevent the police from needing to check your insurance.

Taking this approach will help to stamp out uninsured driving, making the roads safer and helping to control the cost of motor insurance.

Allianz offers its policyholders access to a purpose built website, www.allianzmid.co.uk, where vehicle data can be updated quickly and efficiently. As well as being available around the clock, it also includes a DVLA look-up facility to avoid typing errors and cut down on processing time.

Uninsured drivers
the statistics

Uninsured drivers are five times more likely to be involved in road collisions.

Uninsured and untraced drivers kill 130 people and injure 26,500 every year.

Nearly 2,500 vehicles are seized by the police each week.

The annual cost of uninsured driving is estimated at £400m.

Managing fire risks

A fire can have a devastating effect on a motor trade business, destroying buildings and stock and even resulting in fatalities. But the nature of the work carried out on motor trade premises, as well as the materials stored there, means that, without adequate controls in place there is a huge risk of fire.

Recent examples in the motor trade sector include a fire at AJ Garages in Wallsend, which resulted in damage to the workshop and 10 vehicles, and required the evacuation of 25 homes in the area, and a large fire at Thornton Garage Services in Ellesmere Port, where 19 cars were damaged.

While insurance will cover the losses, the time it takes to get the business back to normal can have serious implications on your livelihood. Identifying potential fire hazards and taking steps to reduce the risk will help you to prevent this and make your business more robust.

Fire risk assessment

The first step in reducing the risk is a fire risk assessment. Legally, you are required to have a fire risk assessment of your premises completed by a competent person. This will take into account factors such as the nature of the building, fire detection and alarm systems, previous fires,

and then identify the measures necessary to reduce the risk of death and injury.

To help undertake a risk assessment, the government publishes a range of guides. Fire Safety Risk Assessment Guides can be downloaded from www.communities.gov.uk or, in Scotland, from www.scotland.gov.uk.

Fire hazards

The presence of fuel, flammable gases and liquids and waste materials means there are plenty of fire hazards within motor trade businesses. These can not only cause a fire but can also increase its severity once it's taken hold.

As an example, the fires and explosions that occur during the emptying of fuel tanks are a major cause of death, serious injury and property damage. Where this activity cannot be avoided it is important to take



precautions. These include having a safe area to carry out the fuel retrieval; using the right type of equipment; and ensuring that employees are trained and competent to carry out the work safely.

Additionally, fuel and other flammable liquids are covered by the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR). This means that if you are using or storing them you will need to ensure you comply with these regulations.

Welding and similar equipment can also be a dangerous hazard, causing around 700 fires a year in commercial properties. To reduce the risk it is essential that any welding is only undertaken by employees who have been fully trained and understand the necessary fire precautions and emergency procedures if a fire does break out. You should also pay close attention to the maintenance of the equipment, ensuring, for example, that any damaged or perished hoses are replaced before they start to leak.

Additionally, although employees can smoke in yards and compound areas, the presence of flammable materials means it's sensible for you to ban it in these areas too. Instead, smokers should be offered legally compliant smoking shelters situated away from buildings and hazardous areas.

Electrical risks

Attention also needs to be paid to electrical installations and appliances as these can cause fire and electrocution. To ensure they're safe, regular inspections and tests are required, with detailed records kept, to show they have been carried out.

How often inspections need to be carried out varies and more details can be found on the HSE website. For example, with installations it will depend on the condition and how the building is used.

Heating appliances also require special attention. As well

as regular tests and inspections, these must be safe and suitable for the environment in which they are used.

It's also sensible for you to avoid using portable or mobile heating appliances if possible as this increases the fire risk and can affect their insurance cover. For example, as these appliances can be moved they could be sited too close to combustible goods; near to where flammable liquids are used; or at risk of being hit by a moving vehicle.

Arson risk

Arson can also be a problem, with at least half of all fires in non-residential premises believed to be caused by children, vandals or malicious persons. Ensuring adequate security is in place, both for the site perimeter and the buildings, will help to deter would-be arsonists.

You should pay attention to the way combustible items such as waste tyres, bins and pallets are stored outside as these are particularly prone to being set on fire. If close to a building the fire can quickly spread inside so, if they cannot be stored indoors, they should be kept away from buildings and inside lockable containers.

The HSE produces a range of leaflets covering fire risks and its website, www.hse.gov.uk, includes a "From Experience" section detailing actual accidents that have occurred in other motor trade businesses.

Allianz's Risk Director also provides a wealth of free risk management information www.riskdirector.co.uk

Noise control

Garages can be noisy places but, with exposure to noise potentially leading to hearing problems and other health and safety issues, it's important for motor traders to protect their employees from this risk.

As well as causing problems such as hearing loss and tinnitus, a noisy workplace can also lead to safety risks. With employees less aware of their surroundings and unable to hear warnings, they can be at increased risk of injury and death.

The Control of Noise at Work Regulations 2005 aim to ensure that employees' hearing is protected from noise at such levels or durations that might result in health problems. To do this, the regulations set out levels, called exposure action values, at which employers need to take action.

Although the regulations set specific levels, these can be difficult to understand in practice. Instead it is easier to recommend further action if the noise level is either of the following:

- At such a level, even for a short period, that employees have to shout to have a conversation. This could be the case with work such as hammering or the noise caused by impact power tools.
- Intrusive, but at a level where a normal conversation can take place, for many hours of the working day. As an example this would be comparable to the noise of a busy street or a crowded restaurant.

Where noise reaches either of these levels, employers are required to have a 'suitable and sufficient' risk assessment completed by a competent person. If this shows that noise levels are too high and there is a risk to employees' health, further action will need to be taken. These include taking steps to control and reduce noise in the workplace; providing health surveillance for those employees at risk; and where it isn't possible to reduce noise, providing employees with suitable personal hearing protection.

More information can be found on the HSE website, www.hse.gov.uk/noise or you can find Risk Control Notes on our Risk Director website www.riskdirector.co.uk





Top tips for managing noise at work

- Consider the noise levels in the workplace and undertake a risk assessment.
- Implement noise reduction/control methods such as quieter equipment, sound proofing and limiting the time people spend in noisy areas.
- Regularly maintain machinery to help reduce noise and make noise levels a key consideration when purchasing new equipment.
- Provide personal hearing protectors if required, and ensure they are maintained and that employees understand when and how to use them.
- Implement suitable health surveillance, for example hearing tests, if assessments indicate that there is a risk to employees' health.
- Keep up with best practice to ensure noise is controlled wherever possible.

Getting **tough** on driving offences



Punishment for dangerous and careless driving is getting tougher as sentencing guidelines and new legislation seek to improve road safety and deter this behaviour.

As a result employers requiring their employees to drive on business must ensure they drive safely and legally or risk a charge of corporate manslaughter if they are involved in a fatal accident.

Driving offences

There are two main driving offences where corporate manslaughter could come into play - causing death by dangerous driving (CDDD) and causing death by careless driving (CDCD).

With CDDD, which carries a sentence of up to 14 years imprisonment, driving standards fall 'far below' those of a careful driver. A common example of this is using a mobile phone while driving.

For CDCD, driving standards fall 'below' that of a careful driver. This could be a momentary lapse such as poor observations during a manoeuvre. Sentencing is up to five years imprisonment, with 20% of people who pleaded guilty receiving a custodial sentence.





Allianz has produced a guide, Safer Driving for Work Handbook, with The Royal Society for the Prevention of Accidents. This can be found at www.allianz.co.uk/DriveSafely

New offences

New offences are also being introduced to punish bad driving. Last December, an offence of causing serious injury by dangerous driving came into force. This was introduced to provide a more appropriate sentence where dangerous driving results in life changing injuries such as paraplegia. The maximum sentence for this offence is five years with a minimum of one year.

The government is also introducing a new offence of driving or being in charge of a motor vehicle with concentrations of a specified controlled drug in the body. The maximum penalty will be six months imprisonment or a £5,000 fine, or both and a 12 month disqualification.

This is tougher than the existing drug driving legislation as it does not require proof of impairment. Additionally, as well as applying to illegal drugs, it will also apply to some self medications such as Codeine and Night Nurse.

Your driving policy

It is important that your driving policy takes these offences into consideration and that you encourage employees to drive carefully and within the law.

As an example, you should ensure that employees do not need to use their mobile phones while driving, providing them instead with hands-free support if telephone use is essential. They will also need to be mindful of the new drug driving offence.

By setting out rules on driving within your driving policy, you will ensure your employees are aware of the law and encourage safe and responsible driving. Failure to do so could have serious consequences.

New EU driving licence



More details on the changes can be found at <https://www.gov.uk/newlicencerules>

Existing licences will be replaced at the time of renewal or, at the latest, by 2033.

A new driving licence model was introduced across Europe in January to guarantee freedom of movement to EU drivers and help reduce fraud.

The new credit card style licence will replace more than 110 different models currently in existence and will establish rules on the design of the licence, medical examination requirements and the period for which it is valid.

It will be in a different format to the old style licence. The expiry date will be shown on the front with all vehicle categories listed on the back with dates to show the driver's entitlement. All new licences will be issued in this format with existing ones being replaced at the time of renewal or, at the latest, by 2033.

To harmonise all the licences there are a number of changes to the rules that apply in Great Britain. These include new towing rules for cars and small vehicles. With these, drivers with category B licences issued after 19th January 2013 will only be able to tow small trailers weighing no more than 750kg, or heavier ones where the combined weight of the towing vehicle and trailer is no more than 3,500kg. To exceed the 3,500kg limit the driver must pass a further test and get B+E entitlement on their licence.

There are also changes for bus and lorry drivers. As well as a new minimum age of 24 to drive a bus, unless holding a Certificate of Professional Competence, driving licences issued to drivers of medium and large lorries, minibuses, buses and coaches will be valid for a maximum of five years.

Bus and lorry drivers will also need to sign a medical declaration to renew their licence, with those aged 45 plus required to submit a medical examination report to prove they meet the required standards. These changes came into effect for new drivers passing their test after 19th January 2013, with existing drivers, who typically hold a 10-year licence, coming under the new rules at the earlier of licence or lorry/bus entitlement renewal.

Commenting on the plans, Roads Minister Stephen Hammond said:

“ There is absolutely no benefit in making motorists prove they have insurance when they buy a tax disc now that we regularly check existing insurance under the CIE rules.”

Insurance check changes

The DVLA has announced plans to cut red tape by removing the insurance check from the vehicle taxing process.

Under the current rules motorists must produce a valid insurance policy when applying in person or have their details checked on the Motor Insurance Database if they apply online or by phone.

But, since the introduction of Continuous Insurance Enforcement (CIE) to crackdown on insurance evaders, the need for this check has greatly reduced.

Commenting on the plans, Roads Minister Stephen Hammond said: “There is absolutely no benefit in making motorists prove they have insurance when they buy a tax disc now that we regularly check existing insurance under the CIE rules.”

The DVLA estimates that the removal of the insurance check could generate an average saving of £0.5m to businesses. Its consultation into the changes closed in November 2012 and it is expected to make further announcements soon.

DVLA changes

As a result of the closure of the DVLA's local offices later this year, it has announced a number of changes that will affect motor trade businesses.

From July 2013, new vehicles registered and taxed using Automated First Registration Licensing (AFRL) will have the tax disc issued from DVLA, Swansea, with dealers able to request that it is sent to their premises or directly to the registered keeper or the fleet operator. In addition, under proposed new legislation, new vehicle owners will be able to drive for 14 days following the taxation of the vehicle without displaying a tax disc.

As well as being more convenient, because AFRL dealers will not need to hold any tax discs on their premises, this will significantly reduce the indemnity fee they are required to pay.

Additionally, all new trade licensing applications are now to be sent directly to DVLA, Swansea. The Swansea office will also issue all trade licences and trade plates through the post.



Trade plate changes

The format of trade plates has changed and will now be numerical only. All other aspects of the design such as size and colour will remain the same.