

Whiplash Reforms



The Whiplash Reforms, which are part of the Civil Liability Act 2018, are set to change the way that low value whiplash claims are managed. They apply to accidents that occur on or after 31 May 2021 in England and Wales. **Here's what you need to know.**



Key Changes

- Applies to claims on or after 31 May 2021 (England and Wales only)
- Increase in the Small Claims Track limit for Road Traffic Accident (RTA) claims to £5,000
- A new Official Injury Claims (OIC) portal has been created to receive claims under this value
- New whiplash injury tariff
- Ban on pre-medical offers for whiplash claims
- Exclusions: Vulnerable Road User (VRU) claims, minors (in addition to existing exclusions from Ministry Of Justice (MOJ) portal)



New OIC Portal

- Claimants can now log their claims on the portal directly, or they can choose to seek representation
- The liability decision period is now **30 working days**, more than the MOJ timescales, but less than the overall liability consideration period in the current process which is 90 days
- Unlike in the current MOJ portal, no response within 30 working days will result in an automatic admission
- Any split or full denial needs to be supported by a statement from our driver, which is to be added to the portal within the 30 day investigation period
- There is no facility to reject or redirect claims – insurers must liaise with the correct insurer and then request that the Motor Insurance Bureau (MIB) redirect the claim, but the 30 day period does not reset once the claim is transferred

Early reporting of incidents, plus the continued cooperation of our insured and their broker, are essential if we are to defend these claims



Small Claims Track (SCT) Limit and The Injury Tariff

- The new whiplash tariff will be used to value minor whiplash and psychological injuries
- Excluded from this tariff are additional injuries, e.g. minor bruising. As a result, there is currently some uncertainty around the ultimate cost of a low value injury claim post-reform
- The Claimant may declare Pain, Suffering and Loss of Amenity (PSLA) as 'exceptional', which may increase damage costs by up to 20%
- Where primary liability is agreed, Aviva can challenge causation or contributory negligence via supporting evidence assessed by medical experts
- Insurers can drop causation or fraud cases from the OIC portal at either Stage 1 or Stage 2
- The Defendant and Claimant may submit up to three offers on the portal, respectively
- If the Claimant is dissatisfied with our final offer, they may escalate to Small Claims Court, which will hold hearings for liability and quantum disputes at Stage 3
- In cases of liability, the driver's statement is crucial as evidence for the hearing