

MIB 2nd March Official Injury Claim Webinar Q&A Part 1

1. When will the MIB Guide to Making a Claim referenced in the Rules and PD be published?

The Guide is owned by the MoJ rather than being an MIB Guide. It isn't an MIB Guide. We're talking to the MoJ at the moment about when they can publish so we will get a date out as soon as we possibly can. It is a comprehensive document that is substantially complete.

2. How will driving other car cases be handled as the claim will be directed to the incorrect insurer based upon MID? Without acknowledgment stage how can these be redirected?

AND

There is no claim acknowledgement process as in the current portal, what happens where a claim needs to be redirected as no policy / risk in place?

MID is the route through which a compensator will get work. The claim will come on to the system, and a DVLA check will take place to confirm the registration number, the system will then do a ping to the MID service and the MID service will come back and identify the relevant insurer. The service then automatically sends that information to you. There are then potentially two exceptions – for instance if there's a double hit the portal support centre will step in and they will outbound the two potential compensators in relation to that MID match. The compensators will agree who is correct and portal support centre will assign the claim and at that point you know the correct insurer has got it.

Alternatively, if there is no MID match or if the triage position within the support centre cannot identify the insurer then that is a potential route into the MIB for a possible uninsured claim application. The point here is that the person that has the claim that wants to pursue the claim is not left high and dry and they have somewhere to go and they're not caught in a cul de sac.

3. What is the situation where there is a mixed claim, both whiplash and non-whiplash injuries? We assume the whiplash injuries are assessed per the tariff, but is it correct that the non-whiplash injuries are assessed according to the JC guidelines?

Whiplash will always be assessed by tariff. There will be discussions that will be needed around how to assess mixed injuries governed by JC Guidelines. There will have to be some Judicial Guidelines in terms of how tariff and non-tariff interact with each other. This is a question that should be raised at the forthcoming MoJ webinar because it's about how the policy will operate and MoJ anticipate that the system will work.

4. Medical report fee who pays for this if the case is in dispute regarding liability?

There's a new feature in the portal that if there is an absolute liability dispute denial, then the claim will be exited from the service at that point and people will go off to court. If they get a judgment that's in their favour they will come back in and they will go on to a journey which allows them to get a medical report. If there is a partial admission, or a full admission of liability, then at this point the compensator is on the hook for paying the cost of that report and will be expected to meet those costs.

5. What happens when Police records are needed for driver details, witness information, vehicle registration clarification etc? Most Police Constabulary's won't give this information out without a fee so who pays for this? And who applies if the Insurer are not prepared to do it?

These costs can be included as lists of losses and disbursements and can be uploaded to the system. Obviously, it'll be up to the compensator to then make a decision during the course of assessing that claim whether or not they believe that it's a proper item for them to make an offer on.

6. Is the prospect of an unrepresented claimant managing this process is circa 0%

AND

How on earth will an unrepresented claimant understand this?

We have done two rounds of customer testing and we have engaged with third sector organisations like Support Through Court by showing them how the system works and asking them for their feedback to make sure the service will work for unrepresented Claimants. The side bar and the 'Guide to making a claim' have both been developed to provide extra support to unrepresented Claimants. We have worked hard to bring down the reading age on content as low as possible to make the process easy to understand for Claimants.

This change is a matter of government policy and the system built reflects this. The system has been reviewed by the MoJ and demonstrated to ministers. My ask of everybody is that before you prejudge you wait until you have an opportunity in April to experience it. It's premature to pass judgment until you have seen how it works and how it fits together. I am comfortable from the consumer group testing and the view from government. This is a good system that will work well for litigants in person but also for represented claimants and compensators.

7. How will LiPs be able to value hybrid injuries where there are tariff and non-tariff elements? What advice will they be given if they only have non-tariff injuries? What protections will there be against under compensation?

The service must remain unbiased and impartial. It is not set up to give advice including whether an offer is right or wrong, or high or low. Our primary focus is to help people through the claim process. Our role is to support the connection between those making the claim and those paying the claim. To support Claimants, we will be signposting to tariffs so that people understand them. We will allocate the right tariff to your claim according to the type of injury that you have, so if you have a minor psychological injury you end up in the second tariff bracket giving you the benefit of the additional money available for that injury.

There will be a Segway into judicial guidelines to assist valuation and for people to make some investigations of their own. For these mixed cases we may well need some judicial guidance to help. With regards to the under-compensation question, Official Injury Claim as an impartial and unbiased service and has no responsibility for this, our role is to bring together the relevant parties to enable them to make good business decisions between them.

8. What arrangements are there for unrepresented litigants to pay the £216 medical report fee?

LiP's will not need to pay the fee. As soon as they've got a partial or a full admission, they can automatically go on to the MedCo stage and the Doctor will bill the compensator directly. Claimant lawyers will be familiar with the current MedCo process, and Official Injury Claim works in the same

way - guiding the claimant through a series of questions, to establish the type of injury and issue. At the next stage the service will ask the Claimant what type of doctor they would like to see, where they would like to see them, based on the postcode of their choosing. Next the MedCo doctor will arrange the examination and will upload their report to the system for the claimant. Meanwhile the bill will go directly to the compensator, so the unrepresented claimant doesn't have to pay.

If you are a Claimant lawyer, you make the MedCo selection, you will get the report and then you will upload it to the system. There's a slight divergence in the way in which it's approached for both for direct claimants and unrepresented during the course of the journey as described

9. When will the public be told exactly about the changes and how will this be addressed?

MoJ are responsible for the public launch in May. They will be providing more detail. There won't be an advertising campaign. Much of the public awareness raising is expected to be done through compensators and the third sector organisations signposting those who need to use the service to it.

To support those on the frontline who need to signpost claimants to the service or answer their questions we are developing toolkits that will be made available next month. These toolkits will include access to training videos, FAQs and branding material.

10. Why is askCUE not automated for represented claimants?

This is a question that should be raised at the forthcoming MoJ webinar because it's about how the policy will operate and MoJ anticipate that the system will work.

11. How does a compensator allege fraud or FD? What is the process, is there a form, will a statement of truth be required?

If a compensator has evidence of fraud and fundamental dishonesty, they can decide to exit the claim from the portal. Compensators will be reminded that allegations of fraud and fundamental dishonesty are very serious, that there are consequences and that evidence will be required. Full details of the justification for removal are then recorded and shared with the claimant so they are aware. There is no requirement for a statement of truth for this to happen.

12. How are Claimant's expected to know if their claims are worth over £5,000?

This is a tricky area. It's going to be really difficult for anyone to evaluate what an injury is worth, a week in after the accident. That is no different from now. The portal contains various triggers to keep reminding people that this is a small claims portal. The new service is for personal injury claims worth less than five thousand pounds or ten thousand pounds collectively.

Throughout we keep reminding people to think about the values; so we highlight the tariffs; we highlight judicial guidance and this is included within the Guide to Making a Claim that will be made available from the portal. If someone has a minor psychological injury or a whiplash injury the odds are very much stacked in favour of it being a less than five thousand pounds but inevitably this is an area we are going to need to monitor. If people are falling out of the system or going to the wrong portal, we may need to work with the MoJ to suggest adjustments.

13. Will the system support you in obtaining a second medical report (where recommended by the first report) on day one for professional users? Our testing is currently showing us that this part of the process isn't working correctly and it is directing us onto the unrepresented route.

This is a known API issue that will be fixed by 10th of March.

14. Can the claimant include 'credit rehab' in their OIC claim under 'other protocol damages' as the rules/PAP refer to this as including 'any liability for the claimant to repay another person or business' and 'costs of treatment'.

This is for the MoJ to answer. The broad principle is that if a claimant has paid for things themselves then they can include these in their claim as losses. If somebody else has paid for them on their behalf they will be treated as items that fall outside of their claim, but the answer to this question should be raised with the MoJ at their webinar.

15. How are indemnity concerns dealt with, what if a MID search returns an insurer and the insurer decides they are not providing indemnity? What about mistaken identity claims as well? There's lots of scenarios where the MID returns an insurer and they don't end up dealing with it.

In cases where MID is wrong, or it's misdirected a claim, our priority is to ensure that we're not allowing the claimant to be left high and dry. There will need to be a communication between the insurer and the claimant, if the insurer is not able to persuade them that it's wrong and it's been misdirected the claimant may choose to go to court.

16. We've been advised new API's are being published in the next data dictionary - when will new API's stop being added & how many more can we expect?

Within the last couple of weeks there's been two emails sent out to our API contacts covering what is scheduled and the current status of the build. APIs can only be finalised when policy is finalised. As recently as last week, tariffs were confirmed, with an unexpected second tariff, as a result the system and the interconnecting APIs need to be updated.

A change freeze has now been applied to the system, we're working our way through the last items with oversight from the MoJ legal team. These conversations may necessitate subtle alterations to the API but by the beginning of April, when we make the service available in the training environment to registered professionals the APIs should be finalised. After this date, barring unforeseen showstoppers we don't expect any further changes ahead of go live on May 31st.

17. Do you anticipate that rehabilitation arrangements for represented claimants will continue broadly as now? Will unrepresented claimants be signposted towards rehab or will they be reliant on the compensator intervening?

We would expect credit rehab to be dealt with inside the portal with the claimant adding them as losses to be claimed. If the loss is ongoing, an indicator is added and the claimant reminded to update the loss before submitting their claim to the compensator for an offer.