



19 November 2012

Dear Colleague

**EXTENSION OF THE RTA PI SCHEME:
PROPOSALS ON FIXED RECOVERABLE COSTS**

As you will know, the Government has committed to extending the current Road Traffic Accident (RTA) Personal Injury scheme by April 2013 – vertically, to include claims up to £25,000; and horizontally, to incorporate Employers' Liability (EL) and Public Liability (PL) claims. You will be aware that the Civil Procedure Rule Committee (CPRC) is currently consulting on the draft Protocols which will implement these changes. The Government is also committed to reducing the fixed recoverable costs (FRC) available within the extended RTA scheme. The purpose of this letter is to invite your comments on the proposed levels of FRC that will apply to the extended scheme.

As indicated in the detailed analysis of responses to the call for evidence conducted earlier this year (available at <https://consult.justice.gov.uk/digital-communications/extension-rta-scheme>), views on the appropriate costs model, and on the level of FRC, for the extended scheme, are wide ranging and contradictory. However, taking into account the evidence which stakeholders have provided, I have decided:

- To retain a flat rate FRC structure for RTA claims, but with a dual tariff for claims up to £10k and for claims from £10-25k;
- To introduce a similar flat rate, dual tariff structure for EL and PL claims, but with different rates from RTA cases to reflect the potentially greater complexity of these types of claims;
- To retain the current FRC for RTA claims at Stage 3 (£250 for a paper hearing; and £500 for an oral hearing), and to apply this same rate for EL/PL claims at Stage 3.

Based on the initial analysis undertaken, including of consultation responses and other available information, I propose that the FRC within the extended scheme should be as set out in **Annex A**.

With regard to the FRC which will apply to RTA, EL and PL claims which exit the Protocol process, I have decided to introduce a matrix of fixed recoverable costs based on Jackson's Table B but amended both to take account of inflation since the

table was first produced (in 2009), and reduced throughout by an amount intended to reflect the forthcoming ban on referral fees. A copy of the proposed table is attached at **Annex B**.

The proposed FRC will be reviewed in light of further evidence received from stakeholders. In particular, I would be interested for your views and supporting evidence on:

- the proposed rates and the differential above and below £10k;
- the proposed differential between RTA and EL/PL FRC rates;
- the proposed apportionment between Stages 1 and 2 above and below £10k, for both RTA and EL/PL;
- the proposed rate for EL/PL claims at Stage 3; and
- the interface between the proposed FRC arrangements within and outside the Protocols, particularly with regard to incentives for either side to exit.

I am keen to receive views from as broad a spectrum of stakeholders as possible, and to that end I should be grateful if you would forward this request to others you believe would have useful input in this area. You need not repeat any representations you have previously made in response to the call for evidence earlier this year. It may be helpful to mention that the FRC rates which are implemented in April 2013 will be subject to review after a year and further details on the arrangements for this will be published in due course.

I would be grateful if you could send your response and any supporting evidence by **4 January 2013** to:

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HELEN GRANT

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry of Justice.

The Ministry of Justice will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

**MOJ PROPOSED FIXED RECOVERABLE COSTS FOR CLAIMS WITHIN THE
RTA AND EL/PL PROTOCOLS**

	Claims of £1k-£10k			Claims of £10k-£25k		
	Stage 1	Stage 2	Total	Stage 1	Stage 2	Total
RTA claims	£200	£300	£500	£200	£600	£800
EL/PL claims	£300	£600	£900	£300	£1,300	£1,600

ANNEX B

**MOJ PROPOSED FIXED RECOVERABLE COSTS FOR RTA, EL AND PL CLAIMS
OUTSIDE THE RTA AND EL/PL PROTOCOLS**

	Pre issue £1,000- £5,000	Pre Issue £5,001- £10,000	Pre Issue £10,001- £25,000	Issued – Post issue Pre Allocation	Issued – Post allocation pre listing	Issued – Post listing pre trial	Trial - Advocacy Fee
	Case Settles before Issue	Case Settles before Issue	Case Settles before Issue				
Road Traffic Accident							
Fixed Costs	Greater of £550 or £100 + 20% of Damages	£1,100 +15% of Damages over £5k	£1,930 + 10% of Damages over £10k	£1,160 + 20% of Damages	£1,880 + 20% of Damages	£2,655 + 20% of Damages	£485 (to £3,000) £690 (£3-10,000) £1,035 (£10- 15,000) £1,650 (£15,000+)
Escape	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	na
Employers Liability							
Fixed Costs	£950 + 17.5% of Damages	£1,855 +12.5% of Damages over £5k	£2,500 + 10% of Damages over £10k	£2,630 + 20% of Damages	£3,350 + 25% of Damages	£4,280 + 30% of Damages	£485 (to £3,000) £690 (£3-10,000) £1,035 (£10- 15,000) £1,650 (£15,000+)
Escape	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	na
Public Liability							
Fixed Costs	£950 + 17.5% of Damages	£1,855 +10% of Damages over £5k	£2,370 + 10% of Damages over £10k	£2,450 + 17.5% of Damages	£3,065 + 22.5% of Damages	£3,790 + 27.5% of Damages	£485 (to £3,000) £690 (£3-10,000) £1,035 (£10- 15,000) £1,650 (£15,000+)
Escape	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	+ 20%	na

Notes:

Base fees - in all cases increased by 12.5% where London firm as per CPR 45