



QBE

Claims Environment Update – November 2008

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Agenda

- The reform agenda – where did it go?
- Costs – this season's fashion
- Asbestos – the mesothelioma jurisprudence
- Criminal sanctions
- Motor news
- Horizon scanning
- Questions and answers

The reform agenda – where did it go?

Answer

42

The motor reform...

The 15 day challenge

Mechanics and sanctions

Making systems and practice:

Ministry of Justice – 3rd November workshop

System for late Spring 2009

Operational – October 2009?

The emerging process

£10,000 injury claims

Search of motor insurance database

Standard claim forms – fully completed

E mail transactions – dated / assumption of receipt

Fully liability admissions only

Standard medical reports – GP/hospital records?

Settlement packs

Costs payable – as you go

Interim damages payable – as agreed

Costs.....

Costs reform – initiative overload

1) *Advisory committee on civil costs – Prof Stephen Nickell*

- new hourly rates : by Christmas

2) *MoJ – CFA review – new limitations?*

3) *Master of Rolls initiative – Sir Anthony Clarke*

- Lord Justice Jackson / enquiry / road shows
- Remit – England and Wales costs system – big thoughts?
- End of costs transfer / contingency fees?

- Congestion... Clearing end of 2009

The mesothelioma jurisprudence

1) *Mesothelioma coverage – EL trigger litigation (appeal pending?)*

- Occurred v caused wordings – coverage triggers
- Potential for gaps in cover / no cover
- Purposive decision – 21st November
- EL insurers will pay because they should

2) *Asbestos induced pleural plaques*

England and Wales:

Consultation – closed October 2008 – no news

No fault scheme? But which one – past claims or future too?

Scotland:

Damages (Asbestos-related Conditions) (Scotland) Bill – moving forward

3) *Behavioural change evident – symptomless asbestosis emerging*

Criminal sanctions

1) *Corporate Manslaughter*

- Sentencing consultation response awaited – due autumn 2008
- Clarify fines and non monetary sanction
- Percentage of turnover 5 – 10%?
- Experience – no change in investigation or prosecution behaviour but...

2) *Coroners : Rule 43 “powers to prevent future deaths”*

Statutory duty to respond to coroners report

Advise as action to be taken or reasons for taking none

3) *Health and Safety (Offences) Act 2008 – in force January 2009*

- Lower courts – fines limit increased to £20,000
- Broader range of offences leading to imprisonment

Criminal sanctions

Motor – sentencing guidelines council / four offences:

- Death by dangerous driving
- Death by careless driving – alcohol/drugs
- Death by careless driving
- Death by ..driving whilst unlicensed, disqualified or uninsured

New guidelines 15th July 2008 – effective England and Wales

- Reading / composing text messages – seven years
- Substantial amounts of alcohol / drugs – seven years
- Both with aggravating circumstances – fourteen years

Motor Issues

Motor insurers database

Managed by MIB, MID launched in September 2001

4th Directive implemented in January 2003

Self Regulation Charter agreed with UK Government

MID contains details of 30.0 million private vehicles

MID contains details of 560,000 commercial policies

MID contains details of 5.1 million commercial vehicles

10,000 changes every hour

(per Trevor Harrison – MIB)



Eastern Europeans

MIB data - Top ten largest percentage increases in accidents involving overseas vehicles - 2001 to 2007 (Countries with less than 25 claims in 2007 are excluded) – authority Trevor Harrison MIB

		2001	2007	%age change	Ranking over 25 in 2007 only
LT	Lithuania	1	798	79700%	1
SK	Slovak Republic	22	553	2414%	2
PL	Poland	361	3893	978%	3
LV	Latvia	11	109	891%	4
RO	Romania	76	351	362%	5
H	Hungary	192	785	309%	6
CZ	Czech Republic	250	913	265%	7
SLO	Slovenia	68	237	249%	8
IRL	Ireland	128	413	223%	9
EST	Estonia	28	84	200%	10

Certification requirements PCV / LGV

- Effective 10th September 2008
- Driver certificate of professional competence
- New starters – 4 hour theory / 2 hour practical
- Experienced – 35 hours retraining / five year period
- Driver standard agency to hold records

Charges / vehicle removal and storage

The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 - effective 1st October

Seriously damaged “*in the reasonable opinion of a police constable it cannot be driven safely on the road*”

- Sums payable – vary on vehicles size and load
- 18 metric tonnes / upright on road:
- Increase from £350 to...

Positive trends

Fraud / credit hire

- Kirk v Walton – permission to bring contempt proceedings against claimant after settlement
- Iqbal v Bi – ghost passengers / own fact based claim thrown out
- Steadman v TNT – credit hire – failure to mitigate loss

Lesson – self help solutions work!

Horizon scanning

III Health Claims

Deafness – numbers up

Lower exposure thresholds / Non compliance / Claims farming

HAVS – incidence flat

Upper limb disorder - up

Stress – less anxieties – *Conn v Sunderland* antidote to *Majrowski*

Dickens v O2 – fact based / not relevant?

Fairchild creep – lower standard of proof for claimants

- Latest example – *Novartis Grimsby v Cookson*
- Risk of application to other injuries and ailments

New claim types : CFA as a protective factor – nobody to pay for big science in proving cause

Quantum drivers

Periodic payments – increase in demand

Discount rate change? – collapse in real rates of return

Withdrawal of VAT exemption – temporary worker supply

- impact on care provision

Damages consultation – awaiting MoJ response

Workplace cancer – increased identified incidence

Specifics :2009 – 2012 Insurance Contract Law

Law Commission issues papers

- Misrepresentation and Non Disclosure
- Warranties
- Intermediaries and Pre contract information

Consultation – Misrepresentation and Non Disclosure

Reform likely 2011 / 2012

- Proportional remedies for non disclosure / misrep, breaches of condition and warranty
- Voidance less likely
- Prejudice to be demonstrated re condition / warranty breach
- Damages as measure / premium or offset of claims payment

Specifics : 2009 – 2012 Legal Services Act

- New law firm ownership rules and regulatory regime
- Regulatory environment from 2011
- New ownership rules go fully live from 2012
- Outside capital can own a law firm provided the firm is managed by a majority of lawyers

Claims farmers expansion

Corporate expansion

Soft take off

Frequency enhancer

QBE emerging risks group – barking dogs?

Whimpering dogs

Nanotechnology – cellular level technologies – health stressors

Shift work – association to diabetes

Heart stress – prolonged manual work

Aircraft fume exposures

Beat knee / arthritis

Silent Dogs

Mobile phone useage

Worried well



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Questions and Answers

