

## Risk Control

### The 16th Edition of the Judicial College (JC) Guidelines for valuing personal injury claims has now been published...

Some key changes have occurred since the last edition, with roughly a 6.5% uplift across the board reflecting the RPI increase since the last update in 2019. Some areas have seen larger or smaller increases.

The key headlines are that;

- The RPI adjustment to allow for the period between the new and previous edition is 6.56%
- The pre-Simmons v Castle column is removed (10% uplift following legislation to compensate the claimant for the inability to recover ATE premiums from the paying defendant)
- There is a new section on damages for sexual and physical abuse, as was recommended by the Independent Inquiry into Child Sexual Abuse
- A separate chapter now exists for upper limb injuries, separating them from the Orthopaedic injuries chapter (chapter 7) where they were previously included.
- The whiplash tariff is included but the introduction and foreword states only how it operates and that claims involving a tariff award and another injury will need to be determined by the courts in due course

"It is unclear from the statutory provisions and the Regulations quite how the courts are expected to assess General Damages in those cases where a Claimant suffers both a whiplash injury and a non-whiplash injury (including a 'non-minor' psychological injury). See section 3(8) of the Act. Again, further guidance will doubtless be provided by the courts in due course. The applicability of the tariff scheme to those cases in which the injury sustained amounts to an acceleration or exacerbation of an underlying condition for a period of up to two years is another area where further judicial input is likely to be required."

Of note is that the new edition still provides guidance for valuing non motor/whiplash claims where the claimant's neck is injured. An injury where a recovery is made within 3 months having a guided value of up to £2,450 – highlighting the disparity between the tariff in whiplash claims and common law awards – this figure as always is replicated in the minor injury's chapter.

The issue therefore of the valuation of 'mixed injuries' following an RTA is still therefore very much up in the air with the guidelines themselves stating that "...The legislative scheme will in practice no doubt generate interesting and tricky issues, not least the approach of the courts to an award for damages for whiplash injuries in combination with other injuries"

Any offers made by either claimant or defendant based on the 15th edition guideline figures will need to be reviewed and potentially amended as required to give adequate costs protection where running a quantum dispute.

If you would like to discuss further please contact your RMP Account Director or our Director of Risk – Ashley Easen at: [Ashley\\_easen@gbtpa.com](mailto:Ashley_easen@gbtpa.com)

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