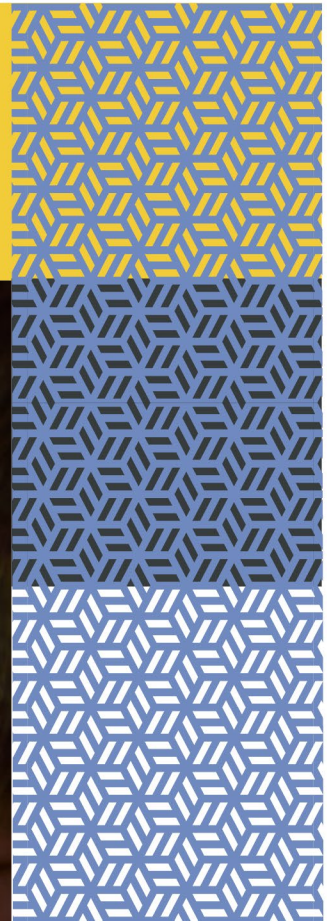


rmp


Risk Control

Whiplash Reforms Update

May 2022



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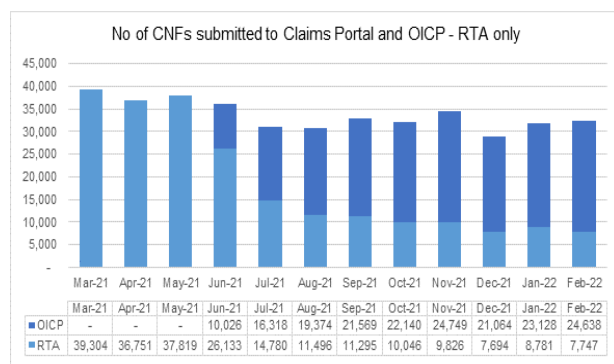
Introduction

In April 2022, the Official Injury Claims Portal (OICP) released the third Management Information (MI) pack, which detailed the claims presented from the 1st December 2021 through to the 31st March. This briefing note sets out the highlights from the information provided in the pack, as a number of our clients were keen to understand the position and impact of the reforms settlement numbers. They remain relatively low however; we are beginning to see trends appearing. The full PDF report can be accessed here: [Claims data \(officialinjuryclaim.org.uk\)](https://www.officialinjuryclaim.org.uk).

Report Highlights

Reporting Period OICP	Total Claims	1/12 – 31/03
Overall claims volume:	209,442	95,266
Represented Claims:	190,411	86,805
Unrepresented Claims:	19,031	8,461
Liability decisions:	123,332	62,016
Settlements (closed):	17,607	13,843
Settlements (open):	2,299	2,299

Road Traffic Accident (RTA) claims presented in the Claims Portal (claims above £5000 or for other exempt claims) still have to be taken into account in the overall numbers and these are shown combined with the OICP data in the chart below. What is clear is that the combined OICP and Claims Portal RTA new claim numbers are comparable to those presented at the corresponding time in 2021. However, numbers presented are still well below the pre pandemic levels, the impact of the whiplash reforms on face value would appear to have kept the number of new claims relatively low. What will be interesting is comparing the number of paid/successful claims as an overall percentage of those submitted in the coming months when settlement data is more mature.



Representation and Injuries Presented

As per the update in December 2021, the split of represented versus unrepresented claimants remains at circa 90% of claimants having representation. This mirrors our own experience at Gallagher Bassett Claims Management and shows how claimant lawyers' business models have been adapted to cater for the changes. This leads into the issue surrounding the types of injury claims being received.

Of the claims presented, 96% of claims have an element of whiplash (awards covered by the new tariff) with 64% of all claims having an additional injury element to the claim or a 'mixed damages claim' as the term is now known with only 32% of claims being a tariff only claim.

The trend and as we discussed extensively prior to the reforms coming into play, of claimant law firms looking to present mixed injury claims in order to raise the level of damages and in turn the potential for either obtaining recoverable costs or costs claimable from the claimant of Legal Expense Insurance (LEI) accordingly.

Claims handlers will need to be vigilant in the approach to both causation of additional injuries as well as the valuation of the same as this will be the battle ground in the coming months and something the mixed working group is tasked to look at, but for the time being we still do not have a date for the CA to consider this issue.

Exceptional Circumstances or Exceptionally Severe Whiplash

A proportionately higher number of unrepresented claimants continue to claim a whiplash injury was exceptionally severe compared with those having representation with 38% claiming the injury was exceptionally severe compared to 23% of represented claimants.

This is reflective in the fact a claimant's own perception of the injury they sustain and completing the online notification themselves may well be considered more severe prior to speaking to a legal advisor well versed in personal injury settlements and having that form completed for them.

Of interest is the fact that a far higher proportion of represented claimants' present claims for mixed injury, yet the reverse is true when looking at claims for exceptionally severe injury.

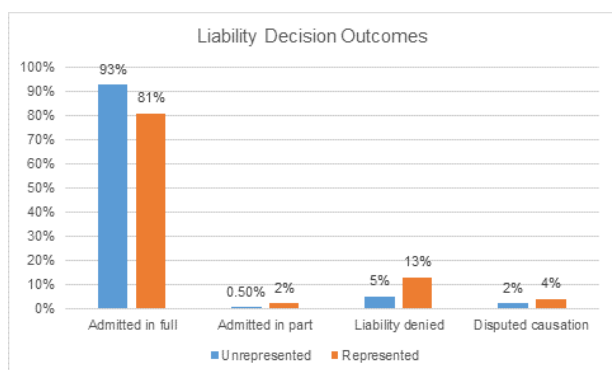
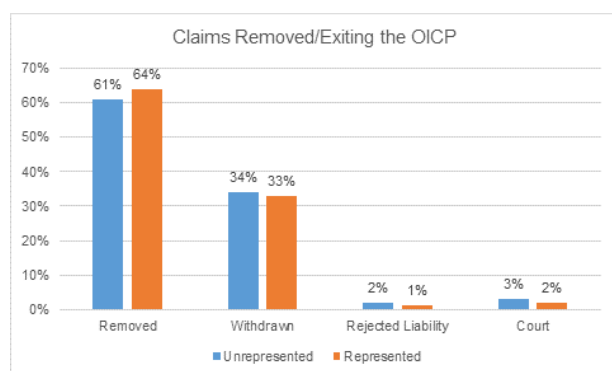
Claims Exiting and Liability Decisions

Of the total number of claims received, 6% have exited the portal for a reason other than settlement. Claims can exit the OIC process in a variety of different circumstances. 42% of represented claims however have exited due to the defendant stating there are complex matters of law involved.

One of the issues with the OICP has been the inability to reject a CNF as can be done in the Claims Portal, it may well be that defendants and insurers are using this option to circumnavigate the lack of this option being available.

In total 123,332 cases have had a liability decision made. 84% have had liability admitted in part or in full by the at-fault compensator. Of this number, 81% of represented and 93% of unrepresented claims have had liability admitted in part or in full.

Causation was disputed in only 4% of claims where the claimant was represented. Compensators therefore at present are accepting the injuries presented without having the medical expert consider causation on examination, the caveat to this is that the number of medical reports presented remains relatively low.



Settlements and Award Levels

For the first time OICP has released some settlement data. 17,607 claims have now formally settled, with 13,843 settling within this reporting period. A number of claims have appeared to have settled but not formally completed its journey through the OICP, as such the OICP are introducing an auto close feature after a period of time once settlement has been agreed.

The average settlement period at present is 139 days, this will rise as more claims progress to settlement and is an increase from 85 days from the previous reporting period.

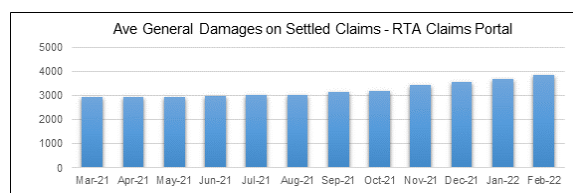
Early data shows that 66% of claims are settling within the first three tariff bands (claims for an injury with a duration of up to nine months). As time elapses, more claims will fall into the higher bands.

Settlement data will take some considerable time to mature, and a more settled picture is unlikely to emerge before the end of 2022.

Claims Portal also continues to release settlement data, as shown below average damages have continued to rise since the introduction of the OICP, with February's average settlement at £3,852 as claims below £5000 begin to close this average will continue to rise.

What is interesting and has to be monitored is the comparison of settlements in Claims Portal against the OICP to see whether the intention of bringing down low value damages award levels comes to fruition, or if the high level of mixed injury claims drags that average up potentially to over the averages seen prior to the OICPs introduction.

This will all depend on the outcome of the mixed injury test cases and is also likely the reason for continued low numbers of settled cases in the OICP where additional injury is claimed.



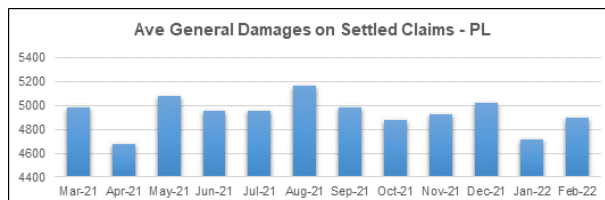
Mixed Injury Working Group

As mentioned above, there are no updates provided at present to the ongoing work being undertaken by the Mixed Injury Group.

EL and PL Claims Impact

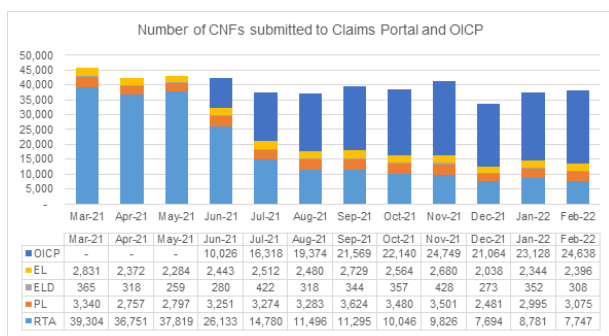
One concern raised with the introduction of the reforms was the impact on EL&PL claims and whether we would see claimant law firms historically focused in whiplash move into EL&PL injury claims. The numbers of new claims however have remained relatively static with a slight increase seen over the year perhaps driven more by the opening up of society than the reforms.

Average monthly EL claims border around the 2,200-2,500 mark with PL in and around 3,000 monthly claims made but have not yet increased in volume since the lifting of restrictions the next quarters data will be interesting to see what further impact this has with more people returning to work against fully home working set ups.



Summary

The report certainly makes for interesting reading as are the trends we can see beginning to emerge. We will continue to provide you with intermittent updates as we receive new data through to analyse.



Award Levels

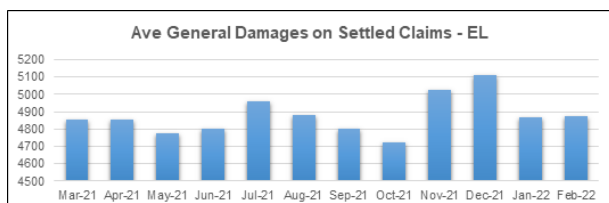
EL settlement averages increased to above £5,000 in November and December, with December seeing the highest average for PSLA paid since EL claims were included in the claims portal process.

The levels for January and February have since fallen back to 2021 levels as settlement numbers are relatively low month by month the data can be skewed quickly.

However we will continue to monitor this and report back at the end of Q2.

PL settlements have continued to hover around the £4,900 with a slight dip in January to £4,700.

The monthly averages can be seen in the charts below.



Further information

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