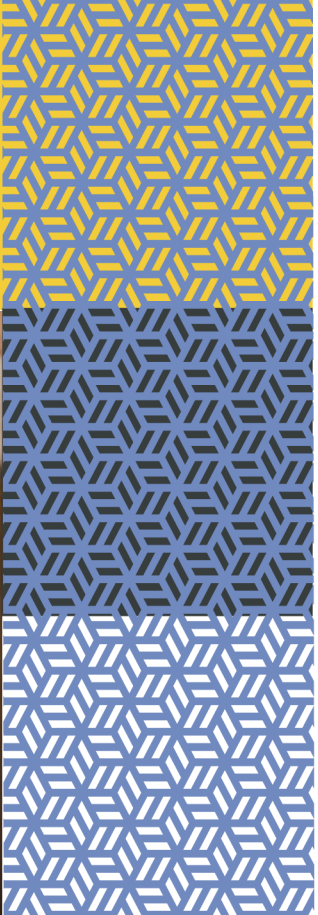


rmp

Risk control
Industry Highlights
September 2023



In partnership with



Industry Highlights

September 2023

Introduction

This short briefing provides a summary of pertinent cases and updates from across the industry. Further detail can be found by clicking on the links included throughout. Further updates will follow this month on the planned 1st October roll out of the latest civil liability reforms with the expansion of Fixed Recoverable Costs (FRC) for claims up to £100,000 and the creation of a new Intermediate Court Track.

ABI – Insurance Fraud

The Association of British Insurers (ABI) published key findings from its latest figures on detected insurance frauds

The ABI noted that despite a 19% drop in the number of fraudulent insurance claims uncovered in 2022, the value of the average scam increased to £15,000, up 20% on 2021.

For further detail: [Conning big - crackdown on insurance cheats delivering results, but average scam up to nearly £15,000 | ABI](#)

See also: [LNB News 23/08/2023 28](#) requires access to Lexis PSL.

CPR Updates

APIL applies for Judicial Review of the Fixed Costs Reform

The Association of Personal Injury Lawyers (APIL) has issued judicial review proceedings challenging new rules to extend fixed recoverable costs in personal injury cases.

In a press statement, the APIL has said that the new rules, with regulations to be introduced on 1 October 2023, connote 'significant impediments to access to justice for injured people' and that the government has 'underestimated the impact of the new rules on vulnerable people'.

The APIL has said that its four key grounds of review relate to:

- the rules' impact on clinical negligence claims;
- provisions relating to vulnerable people;
- the exclusion from the new regime of fixed recoverable costs for representation at inquests and for restoring companies to the companies register;
- the allowing of parties to contract out of fixed costs when there is a dispute in settlement agreements, in favour of agreeing that costs will be subject to detailed assessment.

The APIL has said that in light of the Ministry of Justice's (MoJ) ongoing consultation, which was published in July, the judicial review proceedings will be stayed until three weeks after the government responds to the consultation, when the APIL can then apply to amend its grounds for issuing proceedings.

For further detail: [LNB News 01/01/0001 2983](#) requires access to Lexis PSL.

Vicarious Liability

Court of Appeal upholds overall conclusion that school was not vicariously liable

The Court of Appeal, in the case of *MXX v A Secondary School* [2023] EWCA Civ 996, dismissed an appeal of the claimant.

The defendant (respondent) was a co-educational secondary school providing education for children aged 11 to 16. The claimant, then aged 13, joined the school. The tortfeasor (PXM), one of the defendant's former pupils, undertook a work experience placement at the school. He committed the torts of assault and battery against the claimant, pleading guilty to a number of counts of sexual activity involving a child.

The judge dismissed the claim, holding that the defendant was not vicariously liable for the torts committed against the claimant by PXM. The claimant appealed. The court held that although the relationship between the defendant and PXM was akin to employment, PXM's torts were not sufficiently closely connected with his relationship with the defendant so as to give rise to vicarious liability.

The APIL press statement can be viewed here: [Press Statement: Fixed recoverable costs judicial review \(apil.org.uk\)](#)

See also News Analysis: [\[2023\] All ER \(D\) 100 \(Aug\)](#) requires access to Lexis PSL.

Damages

MoJ publishes PIDR Expert Panel July 2023 Meeting Minutes

The Ministry of Justice (MoJ) has published minutes of the meeting held by the Personal Injury Discount Rate (PIDR) Expert Panel on 21 July 2023.

In the meeting, Policy Lead of the MoJ, Rachel Powell, confirmed that the work of the Expert Panel is a statutory process and will not be impacted in the context of a general election or change in Lord Chancellor.

Powell further confirmed that the 2024 review of the PIDR must commence no later than 15 July 2024 and that HM Treasury and the Expert Panel must respond within 90 days of the Lord Chancellor's request. However, Powell clarified that HM Treasury and the Expert Panel should proceed 'independently and separately' from each other.

In the meeting, the Expert Panel confirmed the Expert Panel Terms of Reference and the HM Treasury Terms of Reference have concurrently been published by the MoJ.

The minutes of the meeting can be viewed here: [pidr-expert-panel-meeting-21-july-2023-minutes.pdf](#) ([publishing.service.gov.uk](#))

See also News Analysis: [LNB News 25/08/2023 28](#) requires access to Lexis PSL.

General Injury Update

ACSO comments on latest Compensation Recovery Unity data from DWP and DfT

The Association of Consumer Support Organisations (ACSO) has commented on the latest Compensation Recovery Unit data from the second quarter, which has been released by the Department of Work and Pensions (DWP) and Department for Transport (DfT).

The ACSO has attributed the lowest second quarter on record for claims to government reforms, such as the Civil Liability Act 2018. Although the data shows a fall in casualty numbers, the ACSO has concluded that many victims are still not seeking the redress available to them. It has said that 'in a period of rapidly increasing motor insurance premiums, it is difficult to see how any of this is a win for consumers, especially injured ones'.

Commentary can be viewed here: [ACSO comments on the latest CRU claims data | Association of Consumer Support Organisations \(ACSO\)](#)

See also News Analysis: [LNB News 03/08/2023 25](#) requires access to Lexis PSL.

Motor Insurance

The average cost of car insurance was at its highest on record in the second quarter of 2023 at £511, a trade body for the sector said, pointing to higher costs to explain the increase.

See News Analysis: [UK car insurance prices hit record high amid cost pressure](#) – requires access to Lexis PSL.

Property Insurance

Devastating natural disasters cost insurers US\$50bn worldwide in the first half of 2023, a fourth consecutive increase and the highest figure since 2011 for the insurance sector, according to a report by reinsurance giant Swiss Re published 9 August 2023.

The article can be viewed in full here: [Severe Convective Storms Top Insured Natural Disaster Losses in H1: Swiss Re](#) ([insurancejournal.com](#))

PricewaterhouseCoopers (PwC) reported that insurers may be hit with increased subsidence related insurance costs stretching to over £1.9bn by 2030 due to sustained heat, floods and heavy rainfall. The findings reflect the impact record temperatures can have on insurance claims, with a global increase in unusually hot summers.

See News Analysis: [LNB News 23/08/2023 37](#) requires access to Lexis PSL.

Business Interruption

Dozens of companies, including restaurants and rugby clubs, are suing insurance giant Allianz for losses allegedly incurred during the coronavirus (COVID-19) pandemic, in the latest wave of disputes over pay-outs in the wake of government-enforced health restrictions.

The article can be viewed in full here: [UK Hospitality Groups Are Back in Court With Insurers Over Lockdown Losses](#) ([insurancejournal.com](#))

See also News Analysis: [Allianz facing more coronavirus \(COVID-19\) loss claims in group action](#)

Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

contact@rmpartners.co.uk



Risk Management Partners

The Walbrook Building
25 Walbrook
London EC4N 8AW

020 7204 1800
rmpartners.co.uk

This note is not intended to give legal or financial advice, and, accordingly, it should not be relied upon for such. It should not be regarded as a comprehensive statement of the law and/or market practice in this area. In preparing this note we have relied on information sourced from third parties and we make no claims as to the completeness or accuracy of the information contained herein. It reflects our understanding as at 6 September 2023, but you will recognise that matters concerning COVID-19 are fast changing across the world. You should not act upon information in this bulletin nor determine not to act, without first seeking specific legal and/or specialist advice. No third party to whom this is passed can rely on it. We and our officers, employees or agents shall not be responsible for any loss whatsoever arising from the recipient's reliance upon any information we provide herein and exclude liability for the content to fullest extent permitted by law. Should you require advice about your specific insurance arrangements or specific claim circumstances, please get in touch with your usual RMP Risk Control consultant or account director.

Risk Management Partners Limited is authorised and regulated by the Financial Conduct Authority. Registered office: The Walbrook Building, 25 Walbrook, London EC4N 8AW. Registered in England and Wales. Company no. 2989025.