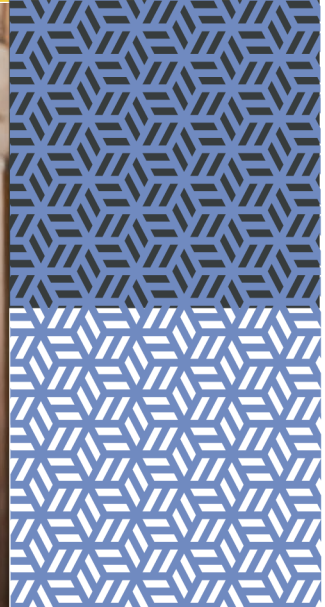
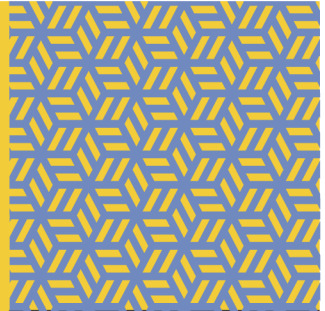


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Risk control
Industry Highlights
October 2023



In partnership with



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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. As promised in our September issue, this further update will cover the 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.

CPR Updates

Fixed Recoverable Costs expansion goes live

As of 1st October 2023, the planned expansion of the Fixed Recoverable Costs (FRC) regime was implemented. The extension of FRC to all civil claims across the fast track, including a new process and separate table of costs for Noise Induced Hearing Loss (NIHL) claims valued up to £25,000.

There is a new intermediate track and corresponding FRC for less complex claims valued at more than £25,000, but not more than £100,000. FRC will apply to all cases in the fast track and the new intermediate track, with limited exceptions.

Specific provisions for vulnerable parties and witnesses under the extended FRC regime and the arrangements for Part 36 offers to settle in low value personal injury cases already subject to FRC have been updated to cover all FRC claims.

The changes that have come in apply to all claims that are issued from 1 October bar personal injury claims for which the date of the incident itself is the trigger (or letter of claim for disease) and that too is on or after 1 October 2023.

The Claims Assistance toolkit has been updated with a link to the new Fixed Costs Calculator.

Recoverable NHS charges increase

The Department for Health & Social Care has announced the results of the consultation on proposals for a mid-year tariff uplift of the NHS's Injury Cost Recovery Scheme.

For the first time since 2003 we have a mid-year uplift in the recoverable sums for NHS charges – this reflecting the current cost of living situation and strains on the NHS.

The raise is subject to Parliamentary scrutiny, but the tariff for 2023/24 will be uplifted for accidents on or after 2nd October 2023 although for most claims the difference in monetary value is marginal adds to the combined claims inflation % being seen across all heads of claim.

Accident On or After	Outpatient	Inpatient	CAP	Ambulance charges PP / per journey
01.04.23	£788	£968	£57,892	£238
02.10.23	£806	£991	£59,248	£243

Damages

CICA releases new compensation application service for victims of violent crime

The Criminal Injuries Compensation Authority (CICA) has released a new application service for victims of violent crime to gain compensation. The CICA has asserted that this service has been simplified and that the application form has had as many potential triggers of 're-traumatisation' removed as possible. This service was created using 'extensive user research and usability testing' involving victims of violent crime and frontline victim support services.

[Claim compensation if you were the victim of a violent crime: Start or continue a claim - GOV.UK \(www.gov.uk\)](#)

See the CICA for further information: [CICA application service changes - GOV.UK \(www.gov.uk\)](#)

Lawmakers urge MoJ to probe backlog of injury claims

The House of Commons Justice Committee urged the Ministry of Justice (MoJ) on 20 September 2023 to look into the backlog of insurance claims for 'whiplash' injury suffered in motor accidents, as they said that only a quarter of cases have reached settlement since an online portal was launched to help tackle the mounting caseload.

For further information: [MoJ must investigate Official Injury Claim Service case backlog after whiplash reforms, Justice Committee says - Committees - UK Parliament](#)

High Court upholds decision to disallow claim for credit hire charges

The King's Bench Division, in the case of *Ali v HSF Logistics Polska SP Zoo* [2023] EWHC 2159 (KB), dismissed the claimant's appeal against the decision of the judge to disallow a claim for £21,588.72 in respect of credit hire charges incurred by the claimant for a replacement vehicle while his vehicle was being repaired.

The claim arose from a road traffic accident when the defendant's lorry struck the claimant's vehicle which did not have a valid MOT Certificate. The issue was whether the judge was right to disallow the claim for credit hire charges, not on the basis of illegality but on the basis that the lack of

an MOT Certificate together with evidence of any intention to obtain one meant that the claim failed for lack of causation.

The court held that the judge had not erred in dismissing the claim on the basis of *ex turpi causa*. Further, it was clear from the evidence that the claimant would have never been able to render the car useable on the road. The causation argument succeeded and accordingly, the court awarded nothing for the credit hire element because there was nothing for the defendant to compensate.

For further information: [A TARGETED FORM OF ILLEGALITY AS A DEFENCE TO DAMAGES: CAR DRIVER WHO HAD NO MOT FOR DAMAGED CAR COULD NOT RECOVER COSTS OF HIRE OF ALTERNATIVE VEHICLE – Civil Litigation Brief](#)

Home Insurance

The Association of British Insurers (ABI) reported that home insurance payouts increased to £782m, an 11% uptick on the second quarter of 2022 (Q2 2022).

The average claim rose to £4,300 in Q2 2023, a 24% surge compared to Q2 2022.

Subsidence payouts also increased to £54m, up 21% on Q2 2022 and attributed to last summer's heatwave.

The ABI also highlighted that, for the third consecutive year, insurers paid out more in claims than they received in premiums.

For further information: [Home insurance payouts up 11% | ABI](#)

Flood Insurance

The Flood and Coastal Erosion Risk Management Research and Development Programme and the Department for Environment, Food & Rural Affairs published research on the affordability and availability of flood insurance for households and SMEs, including agricultural businesses.

It found that the majority of household owners have both buildings and content insurance and agree that their insurance premiums are affordable.

There is a 'significantly lower proportion' of households in the rental sector who have contents insurance. Only 13% of SMEs have buildings insurance, around 50% hold business property insurance and 23% hold business interruption insurance.

The research also found that less than half of those with business property or business interruption insurance reported that flood cover was included. In addition, an

evaluation of the Property Flood Resilience repair grant scheme has also been published.

See: [LNB News 21/09/2023 49](#). Requires access to Lexis PSL.

FOS Complaints Data – Motor and Buildings Insurance

The FOS published complaints data for the first quarter of the financial year (April to June 2023/24) which shows that all the most complained about products have seen year-on-year increases. Complaints relating to motor and buildings insurance have reached their highest level in five years, while current accounts, credit cards and hire purchase (motor) were also some of the most complained about products.

See: [LNB News 14/09/2023 21](#). Requires access to Lexis PSL.

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

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