



Justice Committee

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Rt Hon Lord Keen of Elie QC
Ministry of Justice
102 Petty France
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23 July 2019

Online platform for RTA personal injury claims up to the value of £5,000

Thank you for your letter of 3 July 2019 explaining that, for the time being at least, minors and protected parties will be exempted from the increase in the Small Claims Track (SCT) limit to £5,000 for RTA-related personal injury claims and therefore will not be required to use the electronic platform. This is a welcome development which reflects some of the concerns about vulnerable litigants identified in my Committee's report on the small claims limit for personal injuries [Seventh Report of Session 2017–19].

On behalf of the Committee, I would also like to take this opportunity of raising a number of questions relating to the development of the electronic platform. The first two issues arise from oral evidence that we took on 10 July 2019 from members of the senior judiciary, the Secretary of State and HMCTS officials; and the remaining points have recently been drawn to our attention by claimant sector organisations.

- 1) Whether use of the electronic platform will be mandatory:** In oral evidence, the Lord Chief Justice emphasised to us that there were "absolutely no plans to force litigants in person to use digital processes if they do not want to" and confirmed that, for those people, "there will always be a paper alternative available". This was confirmed by the Parliamentary Under Secretary of State for Justice, Paul Maynard MP, during the House of Commons Second Reading debate on the Courts and Tribunals (Online Procedure) Bill on 19 July 2019, in response to a question from myself. However, your department's consultation on Future Provision of Medical Reports states (at Paragraph 6) that "Claims relating to accidents on or after the date of implementation *will be pursued* through this new IT platform" [emphasis added]. This implies that no paper alternatives will be available in relation to personal injury small claims. Could you please confirm your Department's intentions in this regard?
- 2) Whether assisted digital support will be sufficient:** In its response to the Committee's report on the small claims limit for personal injury, the Government said it would "ensure that there will be an 'assisted digital' route so that users that are digitally disenfranchised will be able to submit their claims." However, in oral evidence on 10 July, Susan Acland-Hood told us that HMCTS's assisted digital service had so far helped only 98 people. We are aware that HMCTS intends to extend the number of centres from which the service operates, but we remain unconvinced that it will be sufficiently developed to provide the extent and level of support required to help all potential RTA personal injury claimants who are digitally excluded. Could you please let us know whether HMCTS is on track to increase the assisted digital service to a level that would guarantee this support is fully available by April 2020, and how it will ensure that people needing assistance are identified and referred to it?



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- 3) **How medical reports will be funded:** In your letter to us dated 29 May 2019, you explained that, in cases where liability is denied, the claimant would have access to a bespoke alternative dispute resolution (ADR) process funded by the insurance sector. If liability is not accepted following this process, then the claimant would be at liberty to start court proceedings and “at that point they would have to fund their own medical report”, the cost of which would be recoverable as a disbursement if the claim succeeds. (We assume that an unsuccessful claimant would be unable to recover this expenditure, anticipated to be well over £200 including VAT). We understand, however, that the model being developed by the Motor Insurance Bureau (MIB) would involve the unusual approach of a claimant – having tried ADR without success – issuing court proceedings without medical evidence to determine liability alone, rather than liability and quantum. Could you please confirm whether your previous explanation remains correct – and, if so, whether the MoJ has any plans to extend the fee remission scheme to cover the cost of medical reports?
- 4) **How claimants will be assisted in handling medical reports.** Stakeholders from the claimant sector have told us that little thought has been given to the need to assist unrepresented claimants in dealing with medical reports – that is, understanding the process for obtaining them, interpreting their technical content, dealing with defendant challenges to the report and/or deciding when an additional report may be required. Could you please let us know how this support will be provided?
- 5) **Whether stakeholder involvement will continue until the platform is ready for launch:** Stakeholders from the claimant sector have also referred to an apparent lack of transparency or genuine collaboration in the development of the new platform, telling us that recent stakeholder meetings have been cancelled; that the MIB has not taken on board views expressed – even when there is agreement between the sectors; and that design decisions are being made ahead of Court Rules being finalised. We would be grateful if you could let us know whether it is your Department’s intention to maintain full stakeholder involvement in this project as the platform moves into the final stages of development.

I look forward to your early response to these points.

Bob Neill MP
Chair
Justice Committee