

The Ministry of Justice Reforms 2013 have now come into effect. These are a whole string of changes, but the changes covered by this white paper cover the area of civil claims for injury or ill health that occurs in the workplace.

Summary of key changes are:

- No win no fee CFAs remain available in civil cases, but the additional costs involved (success fee and insurance premiums) are no longer payable by the losing side.
- No win no fee DBAs are available in civil litigation for the first time.
- Referral fees are banned in personal injury cases.
- The introduction of new protocols extending the Road Traffic Act personal injury scheme to £25,000.
- A new fixed recoverable costs (FRC) regime is introduced.
- Claimants' damages are protected: the fee that a successful claimant has to pay the lawyer - the lawyer's 'success fee' in CFAs, or 'payment' in DBAs - is capped at 25% of the damages recovered, excluding damages for future care and loss
- General damages for non-pecuniary loss such as pain, suffering and loss of amenity are increased by 10%
- A new regime of 'qualified one way costs shifting' (QOCS) is introduced in personal injury cases which caps the amount that claimants may have to pay to defendants. Claimants who lose, but whose claims are conducted in accordance with the rules, are protected from having to pay the defendant's costs.
- A new sanction on defendants to encourage earlier settlement of claims.

There are new claim notification forms. These differ slightly for injury and ill health but are otherwise similar. They have effect for injuries sustained after 31<sup>st</sup> July 2013 or ill health that has not been notified by 31<sup>st</sup> July 2013.

You are required to respond immediately by e-mail as soon as you receive the form. This does not mean that you have to supply all the information immediately, but you must immediately acknowledge receipt of the form by e-mail. "Immediately" is not defined, but you should assume that a response within 24 hours is appropriate.

There are several unaddressed problems here; what happens if there is no e-mail address to which you should respond?, or what happens if the person to whom the form is sent is away for several days, as is quite likely? You could argue about delays in response in such cases, but you would be in a very exposed situation if you sat on the notification and did not respond within what could be argued is an "immediate" period.

### **Hyperlinks**

Claim notification form <http://www.justice.gov.uk/courts/procedure-rules/civil/pdf/low-value-personal-injury-scheme/el1-claim-notification-form.pdf>