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Ministry of Justice  
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Building a Brighter Future  
for Injured People

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By email only: [whiplash-reform-team@justice.gov.uk](mailto:whiplash-reform-team@justice.gov.uk)

Dear Sir/Madam

### **OIC and Whiplash reform stakeholder roundtable policy proposals**

APIL welcomes the opportunity to provide comments on the Ministry of Justice's response to the policy proposals raised at the Official Injury Claim (OIC) stakeholder roundtables.

*Time limit for responding to a liability challenge: why do users think this is required?*

We believe this change will introduce certainty for the parties.

The current process is that the claimant submits the small claim notification form, and the compensator responds about liability. If that response is a denial of liability or a partial admission, the claimant can challenge the response. There are 3 challenges allowed on liability decisions on the OIC, but there is no timeframe within which the compensator is required to respond to that challenge. The rules require the compensator to respond only within a "reasonable" time.

The claimant is now able to issue proceedings in the absence of a response, which is an improvement on the previous position. However, there remains potential for disputes to arise as to what constitutes a "reasonable" time.

Our members report that this stage of the process is taking a long time, sometimes even weeks just to get a response from the defendant. Under the court rules and most protocols, the time limits are clearly prescribed to ensure expeditious claim progression. APIL is of the view that defining time limits to respond to a liability decision would help claims progress more efficiently.

The introduction of a fixed 14-day period, during which the compensator must respond to a challenge, would reduce the scope for disputes and would avoid the risk of proceedings being issued prematurely.

*Introduction of dispute resolution mechanisms: what dispute resolution mechanisms users want, and why do they need to be introduced as part of OIC?*

As stated in the MoJ response, there is an existing mechanism for negotiation within the current OIC process, with a view to resolving claims. It is not clear how any mediation process would make the process more effective, and given the Government's intention to introduce integrated post-issue mediation for money claims, we do not think this is necessary.

Stakeholders would incur additional time and cost in building and operating any mediation process. We believe that benefits would need to be completely clear before imposing any

additional obligations in terms of IT, process, and costs – particularly given the issues that the OIC has caused since its implementation.

*Time limit for medical report disclosure: why do users feel this is required: are claimants taking a longer period than pre-reform to disclose medical evidence?*

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APIL has already commented on this proposal in response to the Ministry of Justice's consultation about Revisions to the Medical Reporting Process for Road Traffic Accident Claims<sup>1</sup>.

This proposal conflicts with the existing rules and legislation applicable to civil and personal injury claims. A claimant has three years to issue proceedings and is at liberty to prepare the claim as they see fit during that period. The claimant is entitled by the law of privilege to take time to fact-check the report or even consider whether they want to rely on the report. We believe this suggestion undermines the claimants' freedom to prepare their claim purely for the benefit of the compensator.

The consequences of this proposed change are far-reaching, without any clear policy justification. APIL believes that there is no reason to implement such a drastic change.

*Enhancement of the transfer process: why is this required, and what would the impact be?*

APIL agrees that there should be further enhancement of the transfer process. There is an issue with the transfer of claims between compensators in the portal. When submitting a small claim notification form (SCNF) to the OIC, claimant solicitors do not have the option to select the insurer, the system automatically sends the SCNF to the compensator. Our members have experienced claims getting stuck at this stage because compensators seem to be unable to follow the OIC guidance on how to transfer the claim between them. They ask claimants to resubmit the SCNF but that is not a solution considering that the system will send it to the incorrect compensator again.

We believe that revising the transfer process would make the claims process more efficient and avoid delays at that stage.

Yours sincerely,

A handwritten signature in black ink that reads 'Ana Ramos'.

Ana Ramos

Legal Affairs Assistant

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<sup>1</sup> Please see our response to the Ministry of Justice consultation about Revisions to the Medical Reporting Process for Road Traffic Accident Claims

<https://www.apil.org.uk/files/pdf/ConsultationDocuments/4162.pdf>