

NEW RTA CLAIMS PROCESS: AN OVERVIEW

Where:

- Accident on or after 30.04.10,
- GDs more than £1k, and
- GDs + SDs = less than £10k

- NB: SDs = Exclusive of interest, and Exclusive of vehicle related damages.

STAGE 1

C sends Claim Notification Form (CNF)

- No deadline / time limit.
- Process starts when you want it to!
- Brief details – telephone call.

If CNF “inadequate”, D can decide not to use Protocol

- If leave, cannot come back
- C will have to go through Pt 7
- C may only get Protocol costs (see table)

15 days for D to make admission

- Start of the time limits
- All periods can be varied by agreement, except this one (‘Insurer’s response’) and the ‘Further consideration period’ (see below).
- If no response / no admission, leaves Protocol. CNF = LofC.
- If admission, D pays Stage 1 costs = £400

STAGE 2

C obtains medical report

- No agreed expert.
- No time limit – wait?
- Medical report form
- Need to get specials sorted!

15 days to send report to D, after C has approved it and agreed to rely on the prognosis

- No change to privilege.
- Wait to check prognosis?
- Second report? Expert needs to recommend.
- Second expert? Yes.
- Any more experts? Only if recommended by expert.
- Otherwise, may not recover costs of the report.

**Agree to stay?
Interim settlement.**

- Eg. if expert recommends further report.
- Can request interim payment.
- Will need evidence of financial losses and disbs.
- D automatically has to pay up to £1k.
- If C wants more and no agreement, will leave process. If C gets less than D offered, will get stage 2 fixed costs only.

**Ready to settle:
Stage 2 settlement pack**

- If C values more than £10k, leaves process.
- Medical report sent to D with all specials and evidence.
- (See settlement pack form)
- C must value GDs etc.
- Best case.

**15 days:
“Initial consideration period”**

- D must make an offer, otherwise leaves process.
- Can agree to extend period.
- D to value each item claimed.
- D can withdraw admission of causation during this period = leaves process.

**20 days:
“Negotiation period”**

- No limit on number of offers/counter-offers within the period.
- Can agree extension.

**If receive offer within last 5 days
of period – goes to extra time:**

“Further consideration period”

- A further 5 days for the other party to consider.
- Cannot extend this period.
- No further offers within this period.

Agreement reached?

- If dispute on disbs only, D to pay claim and C issues on disbs only.
- NB: CRU to be deducted.
- If there is claim for vehicle related damage, (‘car claim’) will need to add to settlement pack.
- If agree PI claim (GDs + SDs) and car claim, D pays up.
- If agree PI claim but not car, D pays PI claim and C can start [Pt 7] proceedings re car
- If agree car but not PI claim, D pays car and C prepares for Stage 3 re PI claim.
- If neither claim agreed, C prepares Stage 3

**No agreement:
Court proceedings pack**

- Almost same as the settlement pack form
- C completes both sections and each party’s final offer.
- No new arguments / evidence.
- D then pays what D thinks it is worth! + disbs + stage 2 fixed costs of £800
- D pays within 15 days or leaves process

STAGE 3

C issues claim

- Modified Part 8 claim.
- Can state if you want an oral hearing – if either party does, will get it.
- NB: child claims still need approval via oral hearing.
- Attach Court proceedings pack + all evidence + disbs + notice of funding.
- Only evidence which has been served already – otherwise will be dismissed.

Hearing

- Will be at least 21 days after filing claim form.
- If done on paper, court will give reasons.
- No other guidance.
- C probably won't need to attend.
- Any head of claim not well supported by evidence is likely to fail.
- Court makes a decision. Then opens sealed envelope...

Part 36

- Now in two parts – 2nd part is for RTA protocol.
- RTA offer is exclusive of interest.
- Same as before re benefits – it is the net figure that counts.
- Words are same as the pre-2007 P36 – ie: “more than or equal to”
- Consequences only apply to Stage 3
- Equal or less than D's offer: C pays D stage 3 costs (paper hrg = £250; oral hrg = £500) + disbs + success fee.
- Between offers: D pays C stage 3 costs + disbs + success fee.
- Equal or more than C's offer: D pays stage 3 costs + disbs + success fee + interest on damages and costs (from date of service of court proceedings pack).

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If not already registered, go to www.rtapiclaimsprocess.org.uk:

“The portal will be available for live claims from 30th April. If your organisation is ready, we suggest you register for the portal, as “set up” may take two or three weeks before you can start familiarisation and training. In addition, during March we will be setting up users to be ready to start using the portal for incidents occurring 30th April onwards.”
