



Informing Progress - Shaping the Future

FOIL UPDATE 11 January 2021



Update – ‘Whiplash’ Reforms

In addition to the ‘public’ announcement, FOIL has received a letter from the Ministry of Justice (MOJ) regarding postponement of the implementation of these reforms.

The letter states that despite the challenges the pandemic has presented, work continues in order to implement these reforms. However, the MOJ has noted the concerns raised by stakeholders, in particular the need for them to have as much notice as possible to take the necessary steps in order to be fully prepared for the changes. The implementation of the Whiplash Reform Programme will therefore take place in May 2021, rather than in April.

Nigel Teasdale, a member of FOIL’s Motor SFT comments:

Although the Secretary of State for Justice has confirmed that the date for implementation of the whiplash reforms will be "May", it is not entirely clear whether the new rules and Portal will apply to claims arising from accidents after 1 May or some later date in May. That is likely to depend on when the rules are published which is likely to be at the end of this month or early February with the CPRC having a meeting scheduled for the 5th February. That would provide the three- month period of preparation previously requested by all parts of the industry.

IN BRIEF

The ‘whiplash reforms are to be further delayed until May 2021.

It is not clear whether this means 1 May or some later date in the month.

Whilst technically this is a delay on the previously announced date of April 2021, that date has looked unlikely for some time and the delay is not as long as some had predicted.

The Government are keen for the Civil Procedure Rules Committee to sign off the rules even if not perfect so as to keep as close to the previously announced implementation date as possible. Get Brexit Done has been superseded by Get Whiplash Done although perhaps not as headline grabbing. That means inevitably there will be some gaps and/or areas of controversy in the new rules once they are released.

Once the rules are signed-off, we can expect to see the secondary legislation regulations laid before Parliament for a number of matters – the increase in the small claims limit to £5000 for certain RTA injury claims, the implementation of the tariff, the ban on pre-medical offers and the definition of whiplash but no surprises are expected with the draft regulations having been set out when the Civil Liability Act was debated. We should therefore see the final tariff around the end of the month and the outcome of the consultation between the Lord Chancellor and the Lord Chief Justice on the subject, with the likelihood that any changes to the previous draft tariff will be minor still leaving the thorny issue of non-tariff damages outstanding amongst other issues.

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