



9 **Informing Progress** - Shaping the Future

**FOIL UPDATE**

**6<sup>th</sup> 2023**



## NIHL claims under the extended Fixed Recoverable Costs regime

### Entering a defendant on the Claims Portal NIHL List

As part of the introduction of the extended FRC regime, coming into effect on 1 October 2023, changes to the handling of NIHL claims are being introduced.

The Pre-Action Protocol for Disease and Illness Claims will be amended on 1 October, to put in place a new Annex E, providing for alternative claims handling processes for NIHL claims worth up to £25k against a sole defendant:

### Annex E

#### Claims against sole defendants

E5. The Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims ("the EL/PL Protocol") applies to a disease claim brought against a sole defendant, where that defendant appears on the list maintained by Claims Portal Ltd. ("the NIHL List") for the purposes of this paragraph.

E6. A defendant may be entered by Claims Portal Ltd on the NIHL List—

(a) where the defendant is still trading; or

(b) where the defendant is no longer trading, all relevant insurers have agreed to the defendant's name being entered on the list.

E7. The effect of the defendant's name being entered on the NIHL List is that all claims against that defendant as sole defendant must start in the EL/PL Protocol rather than under this Annex of this Protocol.

E8. Where the defendant's name has not been entered on the NIHL List at the date when the letter of claim is sent, a claim against that defendant as sole defendant must be started in accordance with this Annex of this Protocol.

Claims Portal has contacted FOIL with a view to contacting compensators or their representatives, to enable those defendants who wish to be on the list to be included. It is anticipated that most of the claims handled under the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims will be those against the legacy body organisations handling claims against the former state-owned companies such as British Steel and the Coal Authority.

Firms representing defendants who wish to be entered on the Claims Portal list, or who represent one of the legacy body organisations, are asked to get in touch with Claims Portal as soon as possible on [ClaimsPortal@mib.org.uk](mailto:ClaimsPortal@mib.org.uk).

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