



Home Office

Reform of the Riot (Damages) Act 1886

Summary of Consultation Responses and Conclusions

March 2015

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Executive Summary

Between 5 June and 1 August 2014, the Home Office conducted a public consultation on reform of the Riot (Damages) Act 1886. This was in response to an independent review of the Act carried out in 2013, which recommended substantial reform or replacement of the existing Act.

Responses to the consultation included a broad range of opinion. Although most people agreed that the Act was in need of reform, there were significant differences of opinion on what a reformed Act should include. Following analysis of the responses to the consultation and other evidence received, the Government has decided the policy positions on the issues raised. Some of these will require legislative changes, but several can be implemented more quickly through improvements to guidance and support.

Requiring legislative change

1. Providing greater clarity by basing the test for a riot solely on the riot definition contained in the Public Order Act 1986.
2. Introducing a cap on the amount of money that can be paid out in any single claim.
3. Including limited cover for motor vehicles, offering protection for those whose insurance policies do not include coverage for riot damages.
4. Clarifying that consequential loss is not recoverable.
5. Creating the legal framework for the Secretary of State to establish a Riot Claims Bureau to handle damages claims arising out of significant and widespread disorder – such as cases where an incident falls into two or more different police force areas.

No legislative changes required

6. The Home Office will publish central guidance for both the public and for compensation authorities, to improve consistency in managing compensation claims.
7. The Home Office will liaise further with Cabinet Office and the Department for Communities and Local Government to provide further support to frontline local authority workers assisting people in the aftermath of a riot.

1. Consultation Activities

- 1.1. The public consultation on proposals for reform of the Riot (Damages) Act 1886 (RDA) was launched on 5 June 2014 and closed on 1 August 2014.
- 1.2. We are grateful to those individuals and organisations who took the time to respond to the consultation, to which we received 53 formal responses. There were several ways that people could respond to the consultation:
 - through an online survey on the Gov.UK website;
 - to a dedicated email address; or
 - by post.
- 1.3. The breakdown by medium of responses is as follows¹:
 - Online survey: 17 (32%)
 - Via email: 35 (66%)
 - By post: 1 (2%)
- 1.4. The majority of questions carried an option for respondents to explain or expand upon their views and these responses are summarised alongside their corresponding quantitative information.
- 1.5. Working with HM Treasury, the Department for Communities and Local Government, and the Department for Business, Innovation and Skills (the other Departments with an interest in this issue), the Home Office identified as many potentially interested parties as possible, ensuring that they were invited to respond to the consultation. Home Office officials also extended meeting invitations to a variety of stakeholder organisations during the consultation, with the aim of helping those not previously connected with work on RDA to understand the key issues and the proposed reforms.
- 1.6. The Home Office engaged in significant media briefing for the launch of the consultation, ensuring coverage particularly in those local areas affected by the August 2011 riots. The launch of the consultation was also announced on a number of official social media accounts. In addition, we noted at least one MP² representing an affected community further publicising the consultation through their own social media networks. However, it should be noted that very few responses were received from individual businesses or members of the public. While we received responses from a number of industry-specific representative bodies, public and non-related business engagement appears to be minimal. A list of organisations which responded appears at Annex B.

¹ Figures rounded to the nearest 1%

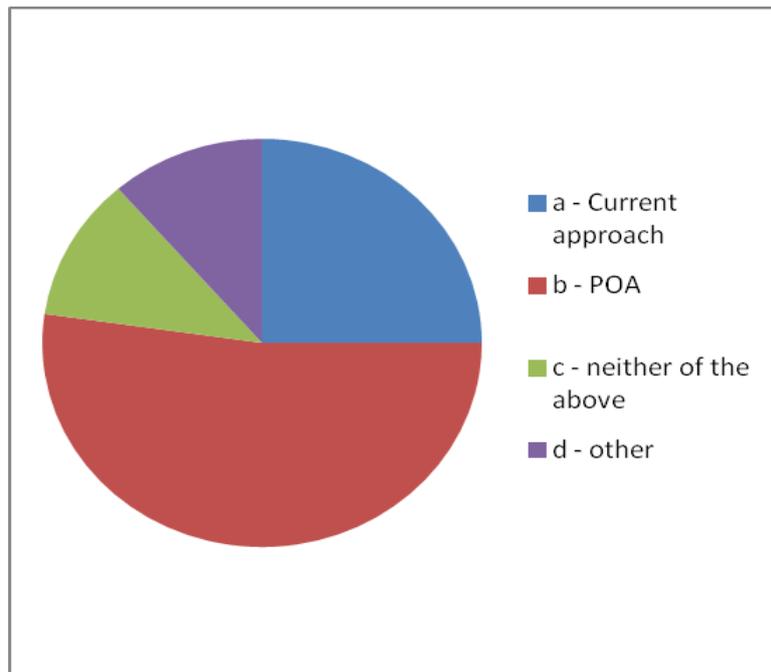
² David Lammy MP (Twitter: @DavidLammy)

2. Liability and Definition

Consultation questions

Question 1: What definition of 'riot' do you think should be used in future?

Chart 1: Summary of responses to Question 1

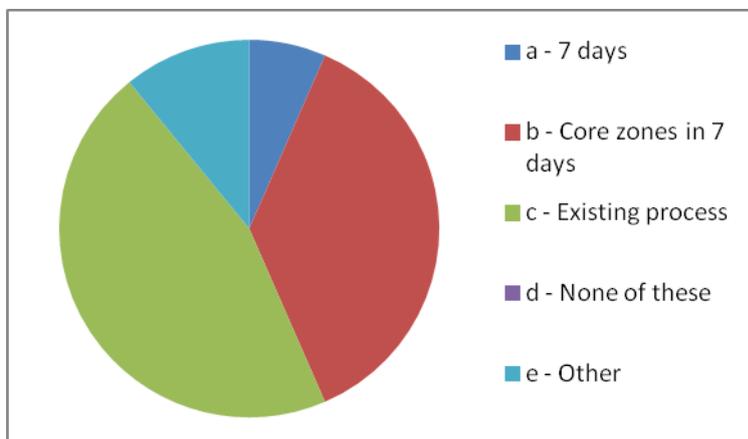


- 2.1. The current Riot (Damages) Act 1886 refers to 'persons riotously and tumultuously assembled'. Under the Public Order Act 1986, a 'riot' involves 12 or more persons together using or threatening unlawful violence for a common purpose with the effect that a person of reasonable firmness would fear for their safety. In practice, interpretation of the dual concept of 'riotous and tumultuous' has caused some difficulty and the concept of 'tumultuous' behaviour has in particular been the subject of consideration by the courts.
- 2.2. In total, 44 responses to this question were received. Of those, 11 thought that the approach to defining a riot should remain as it is, 23 believed that the definition as set out in the Public Order Act should be the sole test, five stated neither approach, and five proposed a different measure.
- 2.3. The second part of this question asked for respondents to explain their answer. In the main, those respondents who believed that the definition should reflect the Public Order Act 1986 stated simplicity and consistency as their primary reasons for selecting that answer. Several responses cite 'archaic language' as a key difficulty in defining riot to satisfy the legislation – a reference to the requirement within Riot (Damages) Act 1886 for 'riotous and tumultuous' assembly.

- 2.4. Some insurers raised concerns that compensation authorities had, in recent cases, been unduly literal in interpreting the riot definition of 12 persons to mean that 12 or more people had to have caused losses or damage together. While this is one interpretation, it is clear that in other cases compensation authorities took a pragmatic view on riotous groups that divided during the course of an incident.
- 2.5. A police response suggested there should be greater alignment between the definition to support compensation claims and the definition to support a criminal charge for the offence of riot. They felt that it would be illogical to have a claim for riot compensation fail in a case where the rioter had been convicted of the offence.
- 2.6. Some respondents pointed out that the Public Order Act 1986 definition might describe situations other than the sort of rioting that the Act is intended to address, such as crowds around football matches engaging in disorder.
- 2.7. A small number of respondents believed that the additional requirement for tumultuous assembly (as well as a riotous one) was appropriate as there should be a higher threshold for compensation than for criminal charges.

Question 2: Which of the following approaches and targets do you think should apply to PCCs for determining which areas qualify as riot areas?

Chart 2: Summary of responses to Question 2



- 2.8. Opinions on this issue were mixed. Many respondents believed that determining core riot zones quickly would help to expedite claims. This opinion was split across the demographics with some police, insurers and public respondents taking similar views.
- 2.9. However, some police respondents took the view that to designate a specific geographic area within which all claims would be taken to satisfy the definition of riot would ‘inevitably’ increase fraudulent claims. They said that even if damages had occurred within an area clearly affected by rioting, the damage might not be the result of a riot by its strictest definition. They therefore supported the current process by which each claim is examined individually to

see whether the damage has been caused in the course of a riot.

- 2.10. While it was not part of the consultation questions, some responses also expressed some concerns about Police and Crime Commissioners' taking decisions on the declaration of riot at all, citing potential for conflict of interests.

Key quote: British Property Federation

'The BPF feel that the option for PCCs to determine 'core riot zones' is useful particularly in the immediate aftermath of a riot and allows for a swifter process for residents and business owners to make their claims and begin the process of regeneration. If PCCs were required to consider whether or not all areas fell under the definition of a riot within seven days, this could lead to areas being overlooked.'

Conclusions for liability and definition

- 2.11. Although not specifically asked in the consultation, the majority of respondents held the view that overall liability should remain with the police. The Home Office concurs with this view as set out at the beginning of the consultation.
- 2.12. On the question of definition of riot in compensation claims, opinion was more divided, but there was broad consensus that the Riot (Damages) Act 1886 definition, including the requirement for 'riotous and tumultuous' assembly was outdated and lacked clarity. **The Government intends to remove this requirement from any new legislation.**
- 2.13. For clarity, the Government intends to link the definition of riot in any new legislation simply to the definition within the Public Order Act 1986 and track any future changes to that definition. In order to promote consistency among decision makers on riot claims, the Government will also publish guidance on how to apply the definition under different scenarios.
- 2.14. The Government takes the view that the Police and Crime Commissioner (PCC), in conjunction with their chief officers, remains the appropriate person to take decisions on whether a riot has taken place. As the elected representative of that police force area, the PCC has a duty to represent the best interests of communities, even where that may create a financial liability for that force area.
- 2.15. Whilst the Government acknowledges the case for creating a requirement for PCCs to define core riot zones, it is also concerned about introducing a measure that increases the scope for making fraudulent claims. **The Government therefore intends to keep the existing process whereby claims are determined on a case-by-case basis** taking into account operational police reports and evidence submitted by the claimant in order to determine whether the damage or loss sustained was caused in the course of a riot.

3. Entitlements Under a New Act

Consultation questions

Question 3: What arrangements and safeguards against fraud do you think should be made for claims for motor vehicle damage?

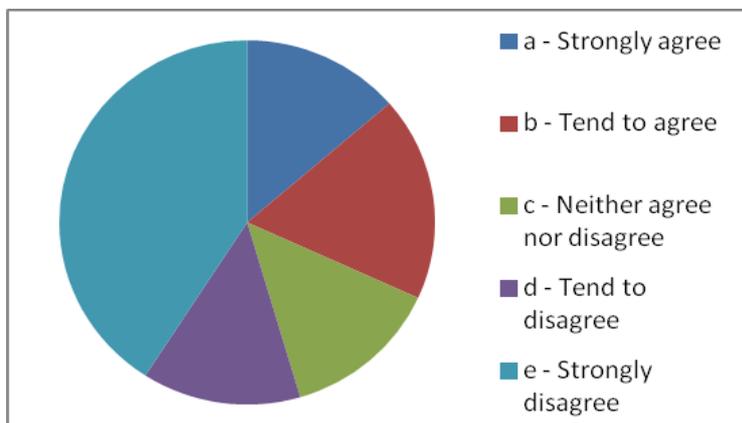
- 3.1. This was an open question intended to inform the consultation on motor vehicle fraud prevention techniques. Input from insurance industry respondents was especially helpful in identifying fraud prevention techniques already in place within the industry.
- 3.2. Police respondents raised concerns about the potential additional financial impacts on the police. Some responses suggested further limits on such claims including:
 - reduced deadlines for claiming motor vehicle damages; and
 - exclusion of cosmetic damages.
- 3.3. Respondents raised concerns about the possibility of claims for pre-existing damage, and the difficulties there might be in proving that the vehicle was parked within the riot area at the time of the incident.

Key quote: East Midlands Police Collaboration

'[while the reviewer covered ten years in his report] it is noteworthy that before the 2011 riots the riots that are most engrained in the public conscious are the riots that took place during the summer of 2001 riots in places such as Burnley, Oldham, Leeds and Bradford. Unlike the 2011 riots, these riots took place in largely residential areas and I suspect that the incidences of damage to vehicles was greater than the 2011 riots which had more of a focus in city centres.'

Question 4: To what extent do you agree or disagree that riot victims should be compensated on a new-for-old instead of an indemnity (old-for-old) basis?

Chart 4: Summary of responses to Question 4



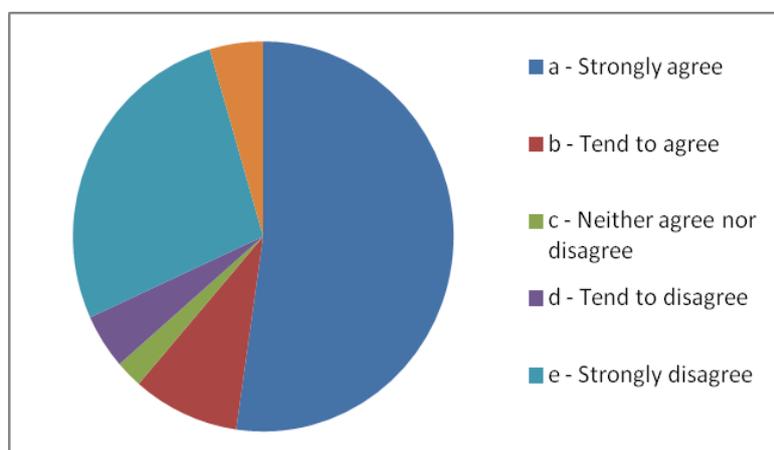
- 3.4. The majority of responses disagreed with the proposal for new-for-old compensation. Reasons for disagreement varied, with police respondents mainly concerned about the financial impact and insurers highlighting that reinstatement value in compensation is a benefit of insurance and that the Government should not be expected to provide that level of compensation.
- 3.5. The view of RPC, an insurance law practice, is that to provide new-for-old compensation would be problematic as reinstatement coverage is not always provided as 'standard'. Other respondents expressed concern over whether introducing new-for-old payments could have a detrimental impact on other areas of common law where indemnity is the basis upon which damages are awarded.

Key quote: RPC

'A modification of the common law to a new for old basis under this statute would confuse matters unnecessarily and there is also a danger of creating a precedent which would pervade into other areas of the law. This in our view would be detrimental and unjust. We would strongly urge legal counsel be sought before modifying any basis of settlement under statute to avoid this practice importing into Common Law.'

Question 5: To what extent do you agree or disagree that a cap should be applied to the amount that insurance companies can reclaim under the Riot (Damages) Act?

Chart 5: Summary of responses to Question 5



- 3.6. Broadly, responses indicated agreement that a cap should be applied to compensation payments. Most respondents concurred with the view that unlimited compensation from public funds was not sustainable.
- 3.7. Some respondents raised concerns that any limits on compensation would be in conflict with the principle of police liability in riots (which the Government is seeking to maintain). This view was mainly evident among respondents from the insurance industry, who noted that riot coverage in policies had historically been offered without analysis of risk and therefore had not been factored into the pricing of premiums, (underwriters and insurers have always taken into

account both the low frequency of these events and the legal right of insurers to reimbursement under Riot (Damages) Act 1886).

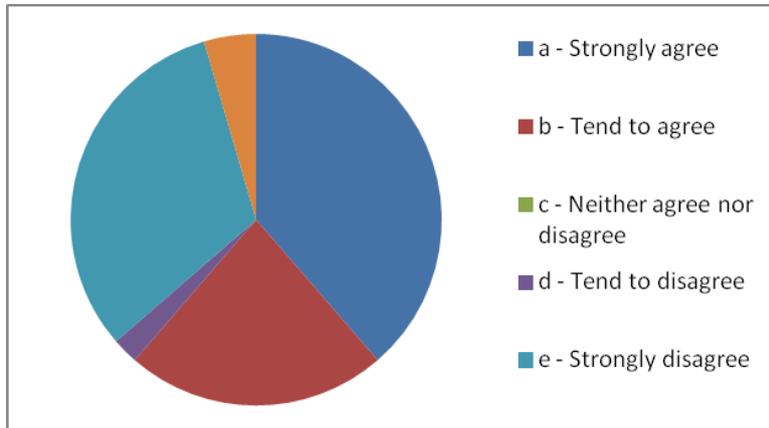
- 3.8. Insurers believe that any restriction on this right to reimbursement would necessitate a change in pricing or, in cases where risk was deemed too great, a withdrawal of riot coverage entirely for all business and individuals.
- 3.9. RPC also raised the issue of consequential losses. The Court of Appeal recently ruled that consequential loss is recoverable under Riot (Damages) Act 1886 (albeit the decision is being challenged before the Supreme Court).
- 3.10. Responses in favour of a turnover cap in respect of insurer reimbursement payments raised the following points to support that position:
 - insurance companies have benefitted from customers' premiums prior to any claim so compensation from public funds may be perceived as double indemnity; and
 - the public should not be expected to subsidise commercial activity such as insurance.

Key quote: Police respondent

'It should be a key priority to ensure that the Act works to protect public funds where it is possible to do so. Following the August 2011 riots, those who benefitted were the insurance companies, having already benefitted from premiums from their customers, and then benefiting from payments in full from the Government. This is at the expense of the public purse, and, arguably, the Claimants who have in fact suffered loss. The imposition of a cap will ensure that insurance companies are not able to profit in this way from such a situation in the future.'

Question 6: To what extent do you agree or disagree that a cap should be based on business turnover?

Chart 6: Summary of responses to Question 6



- 3.11. Responses to this question provide some interesting differences of opinion. Insurance industry respondents were strongly opposed to a cap while the police (as liable parties) together with the public were in favour. However, this was not a unanimous view. Some responses raised concerns over the legality of applying such a cap where the police were deemed to be liable in the more general sense.
- 3.12. Most responses outside of the insurance industry agreed that it was reasonable to apply a cap and that a turnover-based threshold seemed reasonable, based on the principle that businesses with higher turnover should be able to purchase insurance. However, several responses said that high turnover could not always be taken as a measure of profitability and that some higher turnover businesses might still be financially vulnerable.

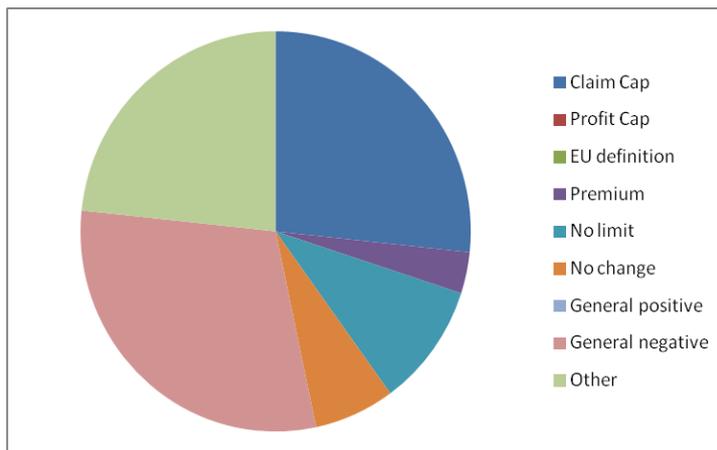
Key quote: Association of Convenience Stores

'The micro business definition used in the EU of £2m turnover is not an appropriate definition. Many small retailers, with two to three shops or a forecourt site, would automatically fall out of this category because of the high turnover nature of their business. These were precisely the types of businesses that were attacked during the 2011 riots.'

Question 6a: If you believe a different method should be used, please describe it below:

- 3.13. This question invited suggestions for alternative methods to limit liability to the public purse. The majority of respondents to this question were from within the insurance industry.

Chart 7: Summary of responses to Question 6a



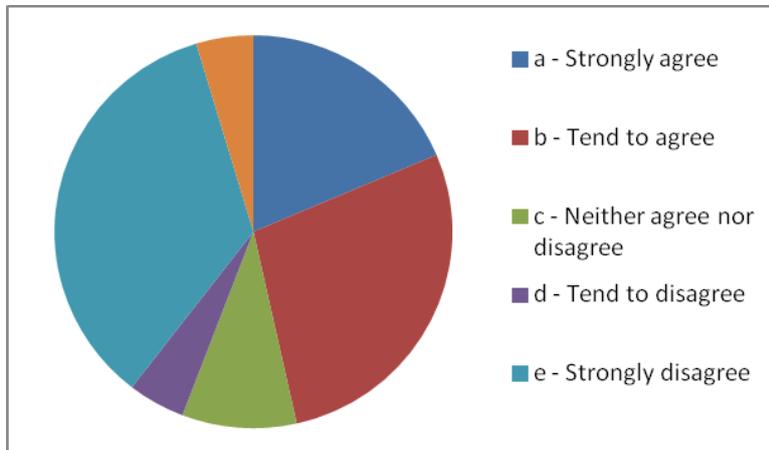
- 3.14. While the industry does not support limiting compensation to businesses, the alternative measure suggested by most was to cap the total amount of compensation per claim, irrespective of the claimant's circumstances. RPC also suggested that this could also include consequential loss.
- 3.15. Insurers suggested that a cap per claim would allow for identification of a maximum liability after 42 days following the incident, would also be simpler to manage and not require additional evidence.

Key quote: Royal & Sun Alliance Insurance

'This [financial limit] not only would have the added benefit of simplifying the claims process, but would provide certainty in relation to pricing and for businesses which are uninsured or self-insured.'

Question 7: To what extent do you agree or disagree that £2m is an appropriate figure for a business turnover cap?

Chart 8: Summary of responses to Question 7



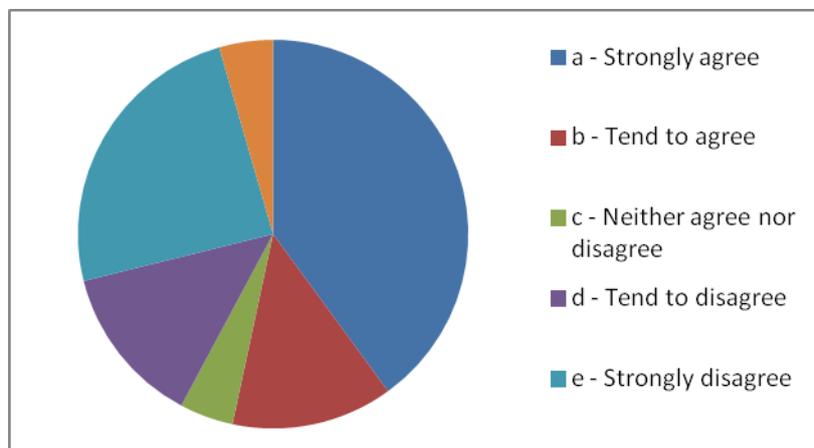
- 3.16. Responses to this question were divided fairly equally with 20 (47%) respondents agreeing and 17 (40%) disagreeing.
- 3.17. Some respondents from both viewpoints raised similar concerns about a fixed-level cap, taking the view that the cap should either track with the EU definition of a 'micro business' (currently €2m) or be regularly reviewed.
- 3.18. Most positive responses expressed the view that a business of that size should be able to afford insurance.

Key Quote: Association of British Insurers

'The independent review itself makes clear that the turnover figure of £2million is based on the definition of a 'micro business' in EU law, which is described as having a turnover of less than €2m and less than ten employees. Only protecting 'micro businesses' under the Act therefore seems a step further than Government's stated position of protecting small businesses.'

Question 8 – To what extent do you agree or disagree that a (£2m) cap should be applied to uninsured businesses who make claims under the Act?

Chart 9: Summary of responses to Question 8



- 3.19. Over half of respondents agreed that any cap should apply to both insured and uninsured businesses. Many of those who expressed additional views reasserted their view from question 7 that higher turnover businesses should be able to afford insurance. It was also noted that those who choose not to insure under those circumstances should carry the associated risks.
- 3.20. The response from RPC, while strongly disagreeing with the principle of a turnover-based cap, agreed that there should be no distinction between the treatment of insured and uninsured businesses under the Act.

Key quote: Association of British Insurers

'The proposed cap would leave many businesses in areas affected by the riots in August 2011 outside of the scope of the Act. ABI analysis of claims paid following the 2011 riots estimates that:

- *Businesses with a turnover of less than £2million constituted around 9% of the total value of commercial property material damage claims in the 2011 riots and around 13% of the total value of business interruption claims.*
- *Businesses with a turnover of less than £2million constituted around 33% of the total number of commercial property claims in the 2011 riots.'*

Question 9 – What key issues might result from applying the annual business turnover cap to landlords and agents of rented and leased properties?

- 3.21. This question invited views on whether landlords should be treated in the same manner as other businesses for the purposes of compensation.

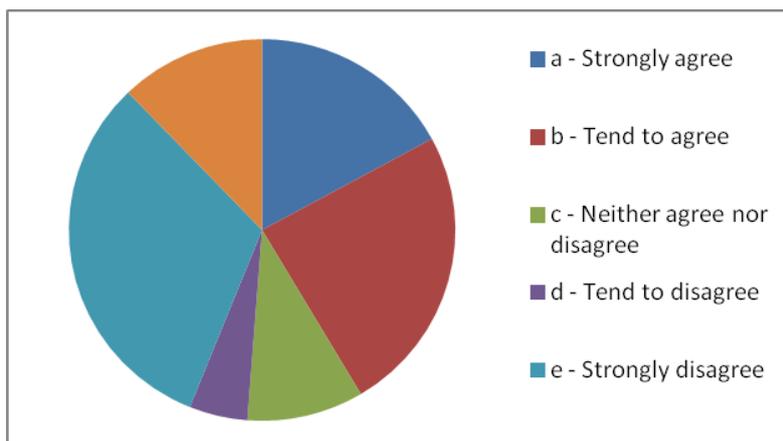
- 3.22. Issues raised by those who responded included:
- the impact to leaseholders within shared occupancy buildings;
 - the possibility of increased rents or fees to tenants due to uplifts in insurance premiums for landlords; and
 - the insurance status of vacant buildings.
- 3.23. Respondents also raised concerns about how any cap might apply to housing associations and other large social landlords.

Key quote: Zurich Insurance

'The Government has stated that they are seeking to protect individuals and as such it would appear incongruous to exclude residential buildings where there is any form of 'owner occupancy' whether through a long leasehold, shared ownership or other scheme.'

Question 9a – To what extent do you agree or disagree that £2 million is an appropriate figure for a business turnover cap to be applied to landlords and agents of rented and leased properties?

Chart 10: Summary of responses to Question 9a



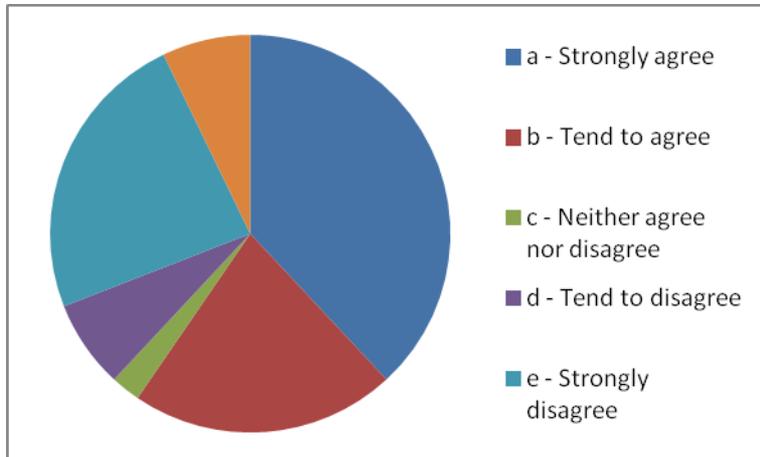
- 3.24. Similarly to question 7, responses to this question were evenly divided. Fewer than half of respondents expressed any further opinion in narrative.
- 3.25. Where further opinions were given, those who agreed felt that landlords should be treated as businesses, and those who disagreed felt that the potential impact on tenants should be taken into account.

Key quote: Police and Crime Commissioner for Derbyshire

'The cap should be applicable to all businesses. It is conceivable that the cap may influence a decision to purchase a property but the infrequent nature of riot should mean that a landlord and agent business with an annual business turnover above the cap should be able to obtain insurance to mitigate any risk.'

Question 10 – To what extent do you agree or disagree that claims made under the Act should attract an excess?

Chart 11: Summary of responses to Question 10



3.26. Almost two thirds of respondents to this question agreed with the principle of a de minimis claim threshold or ‘excess’. Most who agreed cited this as a disincentive to trivial or nuisance claims and a way of reducing the administrative costs to the compensation authority.

3.27. Those who disagreed cited the following reasons:

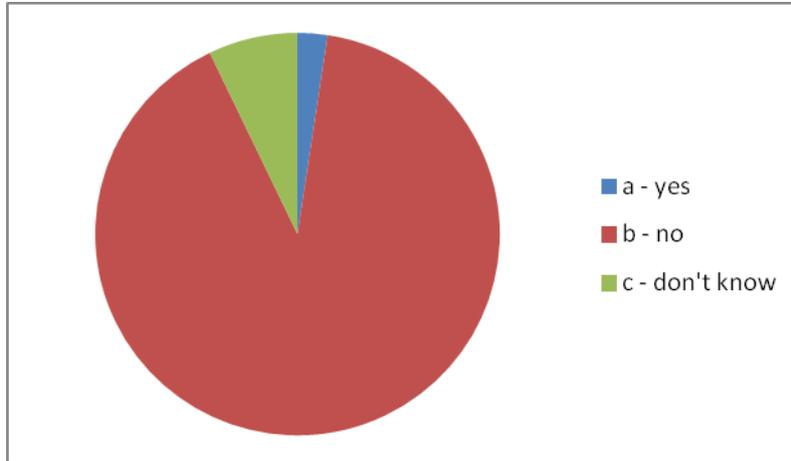
- potential to cause hardship for uninsured claimants;
- Riot damage compensation should not be treated as insurance; Excess should not apply to compensation schemes as it might to an insurance policy; and
- potential impact on underinsured suffering excess under insurance and again under the statutory scheme.

Key quote: (unspecified) Police and Crime Commissioner

‘The likelihood is that any excess will disproportionately impact on the uninsured. Taking into account the focus in the press after the August 2011 riots was on the uninsured and ensuring they were not left out of pocket, we disagree with any excess.’

Question 11 – Should the police be held liable under the Riot (Damages) Act for riots that occur in prisons, young offender institutions, immigration detention centres or other secure facilities?

Chart 12: Summary of responses to Question 11



- 3.28. This question was intended to seek opinions on this issue, taking into consideration the riot in Yarl's Wood Immigration Removal Centre in 2002 which resulted in large liability to the (then) Bedfordshire Police Authority and their public liability insurers. Choices were limited in this instance to 'yes/no/don't know' for additional clarity.
- 3.29. Only one response specifically stated that the police should be liable for riots in such institutions. They believed that the police and private security companies should create arrangements that placed responsibility on the police to quell riots should they break out in privately-run facilities.
- 3.30. The 38 respondents who did not believe that the police should be responsible agreed that where the police did not have day-to-day responsibility for maintaining order, it was not reasonable to confer liability for damage caused by rioting. Those who expressed a view on liability agreed that it should fall to whichever organisation was responsible for routine operations in the facility.

Key quote: Devon and Cornwall Police and Crime Commissioner
'The police occasionally provide back-up and support to prisons and detention centres to help quell a riot or disorder. It would be unreasonable therefore to then place additional financial burdens on the police following the provision of such support.'

Conclusions on entitlements under a new Act

Motor vehicles

- 3.31. While not a specific question in the consultation, several respondents from the insurance industry raised concerns about the limited nature of coverage proposed for motor vehicles, noting that this was not in line with the recommendation of the independent reviewer and was ‘at odds’ with the agreed principle that police should retain liability for riot damage. The Association of British Insurers added that the proposals excluded 96% of motorists whose comprehensive insurance policies already cover their vehicles for riot damages. The position under the Riot (Damages) Act 1886 is that no compensation can be claimed in respect of damage or loss to motor vehicles caused by a riot.
- 3.32. Our intention is to protect the minority who cannot afford comprehensive motor insurance and would therefore be left out of pocket should their vehicles be damaged during a riot. Those who have paid premiums for comprehensive motor insurance would be compensated for such damage through insurers.
- 3.33. At the heart of this issue is whether insurance companies can reclaim the costs of settlements paid out to their comprehensive motor insurance policy holders. Whilst the Government has stated it is in agreement with the principle that police retain liability for riot damage, it also considers it entirely reasonable to limit the liability on the public purse. If subrogation of comprehensive motor insurance claims (repayment of insurance payments by the liable party) is permitted then further public funds would be paid to insurance companies who are financially able to cover these settlements through the premiums they already charge (which cannot be affected by the Riot (Damages) Act 1886, given that it makes no provision for motor vehicle payments). In line with the proposal to limit public liability in respect of vehicle claims the ability to claim any uninsured excess will not be permitted.
- 3.34. **The Government believes, therefore, that it is fair to provide a safety net to the more vulnerable motorists and will include coverage for them in any new or updated legislation.**
- 3.35. Responses to the consultation also sought clarity on whether any new legislation would cover vehicles owned by a car dealership or fleet vehicles. It is the Government’s intention to clarify in the new legislation that vehicles owned by a dealership may be claimed as stock, rather than being dealt with under the more limited motor vehicle provisions. Fleet vehicles will be covered in the same way as other motor vehicles.

Compensation basis

- 3.36. Views on the proposed change from the current indemnity (‘old-for-old’) basis to reinstatement (‘new-for-old’) values in compensation were mixed. While many agreed it was reasonable to replace goods rather than offer a reduced value which would not replace them, there are challenges in the application of

such a change.

- 3.37. Compensation authorities were concerned with the uplift in the amount of compensation this would require. Significant additional work (usually by paid loss adjusters) is currently required to determine the indemnity (old-for-old) value of goods. As shown in the impact assessment, the uplift in cost would remain relatively low despite this increased compensation value.
- 3.38. In addressing the question of whether providing replacement value could have a negative impact on damages awarded under common law, the Government is of the view that riot compensation law is distinct and separate. It is the Government's view that taking a different approach which would offer fairer settlements to claimants where their property has been damaged in the course of a riot is entirely justified. **The Government intends to adopt the recommendation of the independent reviewer and offer, in respect of the majority of claims for property damage, compensation based on the replacement value of the goods.**

Capping or limiting compensation and reimbursement

- 3.39. It is clear that the proposal to exclude larger businesses from statutory riot compensation is not a simple one. Responses to this consultation showed a range of views on the issue. One of the Government's objectives in the consultation was to take account of impact on the public purse. The proposals seek to achieve this by placing responsibility for protecting property with those businesses who can reasonably afford to insure but to continue to offer unlimited cover to those more vulnerable businesses for whom the affordability of insurance is already a difficulty.
- 3.40. Whilst the Government has carefully considered the business turnover cap, including the possibility of implementing such a model with a higher £5m threshold, it has found the arguments for a cash cap per claim persuasive. This approach would be easier to administer, be equitable to all types of business and provide greater certainty to compensating authorities as to the maximum liability arising from a civil disturbance. **The Government is therefore minded to introduce a cash cap and has set the level in the draft Bill at £1m per claim**, which will ensure that all individuals and businesses who qualified for compensation following the August 2011 riots would also receive at least some compensation in the event of future disturbances. Since the consultation closed we have engaged with a number of stakeholders who have indicated that a £1m cap provides a reasonable balance of ensuring that most uninsured individuals are fully compensated whilst limiting the overall liability on the public purse. However, through the legislative process we will continue to test whether this is the correct level and welcome the views of stakeholders on this.
- 3.41. The Government has carefully considered the arguments put forward by insurers for inclusion of consequential loss, including as part of a cash cap model. However the Government agrees with the independent reviewer that covering consequential loss would be a step too far for a state administered scheme and does not intend a reformed Act to cover consequential loss.

- 3.42. **The Government believes that the introduction of a cash cap per claim should offer sufficient protection to charities and not-for-profit organisations in connection with future claims. However, the Home Office will continue to explore whether further protection may be needed for such organisations.**

Treatment of landlords and freeholders under the Act

- 3.43. The consultation responses, together with separate discussions the Home Office has held with stakeholders, suggest that there are a few key issues to be addressed when considering the treatment of landlords as business owners.
- 3.44. **The Government believes that it is right that whatever limits or qualifications exist for other businesses should equally also to the property business.**

Excess charges

- 3.45. The proposal to charge an excess in a similar way to an insurance policy will reduce liability to the public purse and may have the additional effect of discouraging very small 'trivial' claims.
- 3.46. **The Government will include provisions for charging an excess in a reformed Act** but will consider further its impact on uninsured victims in determining how this will be applied.

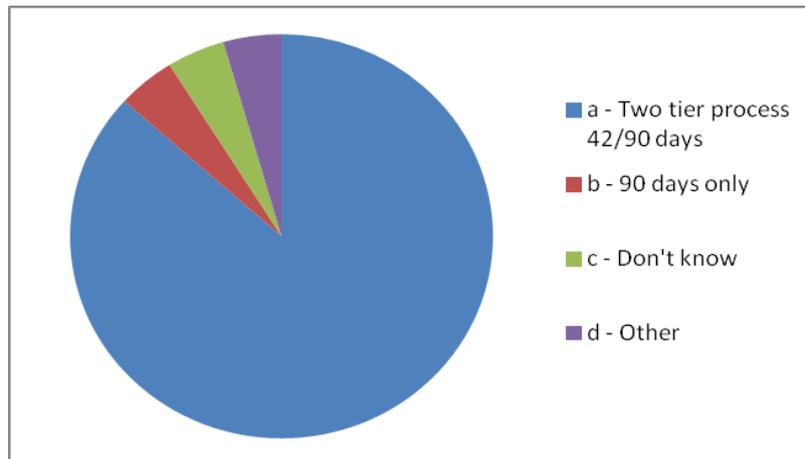
Prisons, detention centres and other secure facilities

- 3.47. **The Government intends to explicitly exclude prisons and similar facilities from compensation under the new legislation.** Unlike communities and public places, the police do not have a general duty to maintain order in these facilities. It is therefore not reasonable to hold the police liable for any breakdown of order that occurs.

4. The Claims Process

Question 12: Which option on the deadline for submitting claims is more appropriate?

Chart 13: Summary of responses to Question 12



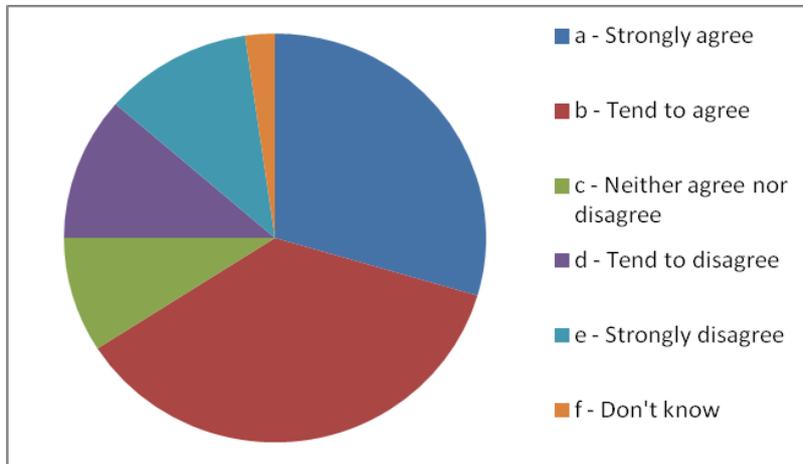
- 4.1. During the 2011 riots, the Home Office made an emergency amendment to the Regulations made under the Riot (Damages) Act 1886 to increase the deadline for claims from its original 14 days to 42 days. However, compensation authorities reported that there were many claimants unable to submit all the documentation in respect of their claim by this deadline. This question asked whether it was reasonable to further extend the deadline for claims.
- 4.2. The options given were to a) create a two-tier process where claims are notified within 42 days and then a further 90 days is given to produce supporting evidence; or b) to have a single 90-day deadline for both claims notification and production of evidence.
- 4.3. The overwhelming majority of respondents supported the two-tier option mainly to provide fairness to claimants and allow easier financial planning for compensation authorities. Where the single 90-day deadline was favoured this was to provide simplicity.
- 4.4. Some respondents, while supporting the two-tier option, urged pragmatism in its application stating that in some cases, particularly in major or total loss, 90 days may still not be sufficient to fully quantify and evidence losses.

Key quote: Direct Line Insurance

'42 days should be sufficient for insurers and other claimants to lodge their initial notification, and 90 days ought to be sufficient for the majority of claims to be validated and quantified. However there needs to be absolute clarity on the extent of evidence required to be submitted to avoid delays.'

Question 13- To what extent do you agree or disagree that it would be appropriate to introduce the ability to make an application later for those whose insurance claims are repudiated?

Chart 14: Summary of responses to Question 13



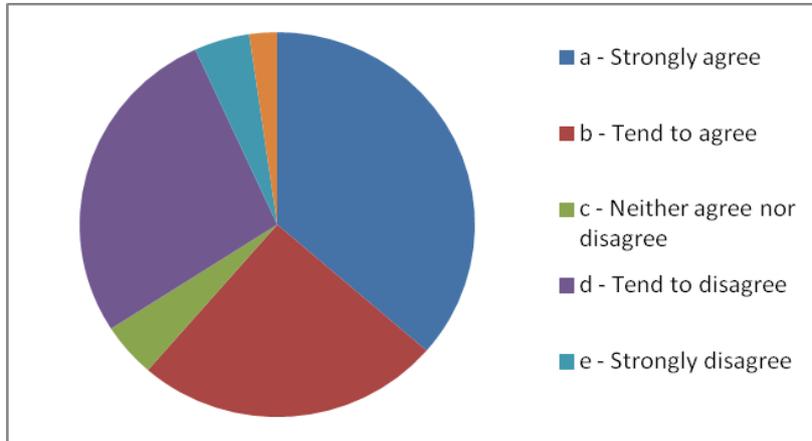
- 4.5. This question addresses the issues faced by riot victims who hold insurance but who find out in the course of their claim that their cover is insufficient or that the insurer has rejected their claim for reasons related to the specifics of their policy.
- 4.6. Those who responded to this question largely agreed that it was reasonable to allow these claimants to initiate a compensation claim beyond the 42-day deadline as the delay would be through no fault of their own. To refuse such claims would be contrary to the spirit of the Act.
- 4.7. One respondent suggested that there should be a duty for insurers to report an intention to repudiate to compensation authorities for planning purposes.

Key quote: Hampshire Constabulary

'This would appear to be reasonable on the assumption that victims should be adequately compensated. There must be an ultimate limitation date though to prevent claims being received after an unreasonably lengthy period e.g. 1 year.'

Question 14 - to what extent do you agree or disagree that introducing the ability to submit claims by phone or e-mail would simplify the process of making an application?

Chart 15: Summary of responses to Question 14



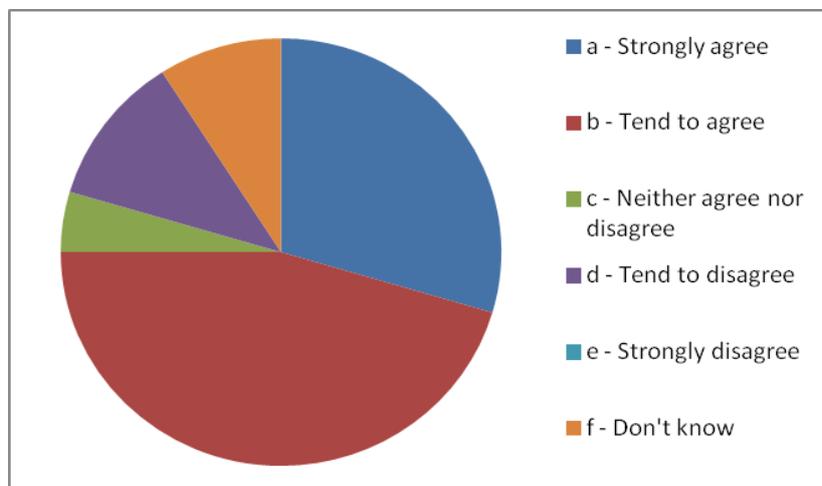
- 4.8. The current Riot (Damages) Act 1886 requires claims to be made in writing. In practice, this has meant completing and sending forms in hard copy. Although there is no specific bar to submitting a written application electronically, most compensation authorities have not accepted electronic claims.
- 4.9. Opinion was divided in response to this question. Many police respondents were concerned about the availability of resources to handle telephone claims, although most were content to accept claims by e-form or email.
- 4.10. Those who agreed with the proposals noted that it would assist victims to register their claims quickly and lessen bureaucracy.

Key quote: Police Finance and Resources Business Area

'I tend to agree but only for emails. There must be a written submission to avoid fraud. Also, the police service doesn't have a process (call-handling script) for answering riot claims calls.'

Question 15 - To what extent do you agree or disagree that interim payments would assist in processing claims and speeding up decisions?

Chart 15: Summary of responses to Question 15



4.11. Some compensation authorities dealing with claims after the 2011 riots found that in certain cases it was appropriate to issue an interim payment. Generally this was in cases of major loss, where a payment was required to facilitate reinstatement works or similar.

4.12. Two-thirds of respondents agreed that interim payments would be a useful measure. The insurance industry uses interim payments as a matter of routine and insurers were positive about the proposal. However, some respondents took the view that interim payments would add complexity to the management of claims.

Key quote: Lancashire Police

'Interim payments where liability is not in dispute should be available to get individuals/businesses 'back on their feet'.'

Question 16: What else might be useful to support PCCs in handling localised riot claims?

4.13. This open question invited views on what further support could be provided to compensation authorities. Suggestions included:

- centralised expert support for PCCs new to riot damages compensation;
- a single manual for all compensation authorities;
- access to additional funding for claims handling; and
- ability for PCCs to delegate claims handling to experienced loss adjusting companies.

Key quote: AXA UK Insurance

'Guidance to PCCs will hopefully redress the lack of consistency in approach to the handling of riot claims by police authorities in 2011. PCCs may wish to consider delegating authority to loss adjusters to handle claims (as many insurers do) in order to speed up the claims process.'

Question 17: What issues can you perceive in the setting up and running of a Riot Claims Bureau?

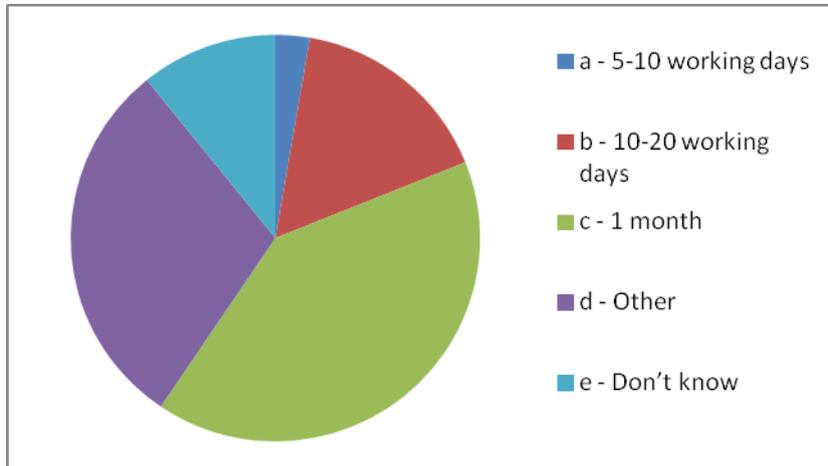
- 4.14. The Government's proposals around a Riot Claims Bureau would see, in certain circumstances, claims management taken out of local force areas and handled centrally. Triggers for establishment of a Riot Claims Bureau would be cases where disorder takes place over more than one force area, or where an incident is so large or serious that a compensation authority lacked sufficient resources or expertise to manage the expected volume of claims. This open question invited views on what the key issues might be when creating or invoking a Bureau.
- 4.15. Respondents raised a number of comments, queries and suggestion as follows:
- how would the bureau be resourced and staffed?
 - Government must ensure robust governance
 - clear definitions are required for the triggering points
 - terms of reference must be clear and unambiguous

Key quote: British Property Federation

'Members of the BPF perceive a particular issue in the running of a Riot Claims Bureau specifically concerning the potential overlap of service from loss adjusters used by the Bureau that are both involved in insurance and riots claims. The BPF are also concerned with how the Bureau would avoid third party disputes concerning opposing claims.'

Question 18: Which of the following targets do you think a Riots Claims Bureau should be given for resolving small value claims (under £10,000)?

Table 17: Summary of responses to Question 18



4.16. Under both new and existing legislation, the Government would seek to improve and streamline the claims process. One way to achieve this is to expedite high volume, lower value claims through a less bureaucratic and more efficient process to allow resources to be focused on more complex cases. This question invited views on how quickly such claims should be processed.

4.17. 15 of the 38 respondents agreed that one month was a reasonable target, while six opted for 10-20 days. Alternative suggestions included:

- two tier process of 5-10 days for decision followed by 10-20 days for payment;
- two months;
- three months;
- no target should be applied; and
- a deadline, rather than target of 90 days from receipt of full supporting information.

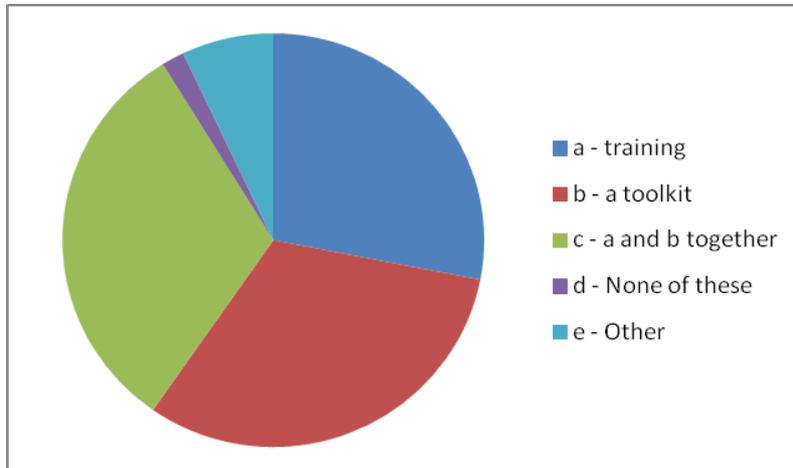
4.18. Some respondents suggested that setting a target for settlement of these claims might not take into account the possible complexity of some lower-value claims, and might see compensation authorities failing to properly assess and validate the claim.

Key quote: Association of British Insurers

'There is a risk that if targets are put on resolving claims within a certain time period, there will be pressure to repudiate or settle claims in order to meet the time target rather than in the interest of the claimant.'

Question 19: How could the Government better equip local authority frontline staff to advise on riot compensation payments in the aftermath of civil disturbances? (You may choose more than one option)

Chart 18: Summary of responses to Question 19



4.19. In the aftermath of riots, many potential claimants come into early contact with representatives from their local authority. The Government would seek to ensure that officials engaging with victims are equipped to advise them on their rights to compensation and how they might access information. This question suggests some light touch ways in which the Home Office might assist local authorities on this area and invites suggestions for other options.

4.20. Almost all respondents were in favour of the methods suggested in the consultation. The question allowed respondents to select more than one answer, so although there was an even split of responses several respondents chose option a, then option b; rather than the option which combined the two. Overall, of the 43 responses to this question, 32 favoured a combination of training and a toolkit. Only three respondents felt that neither option should be used.

Key quote: LV= Insurance

'Local authority frontline staff could also be equipped with an information leaflet that clearly sets out for victims what options are available to them for obtaining compensation for damage they've individually suffered. This could act as general referral point and ease pressure placed on frontline staff to cover every vital detail in their advice.'

Conclusions on the claims process

4.21. The Government believes that many of the proposed changes to claims processes can be made through guidance and do not require legislative change. **The Home Office will publish guidance for compensation authorities to ensure consistency of approach.**

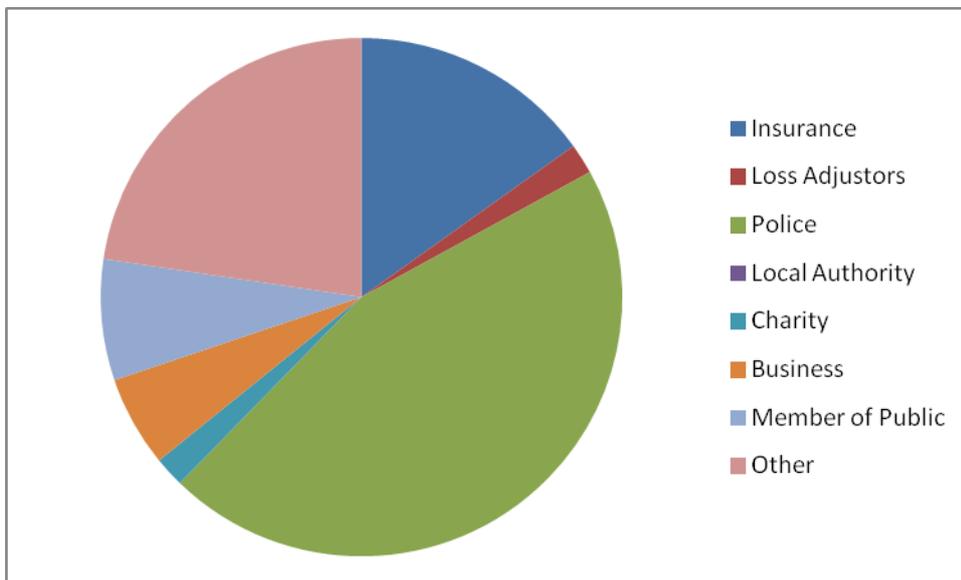
- 4.22. **The Government will adjust the claims deadline in legislation to allow 42 days for victims to notify the compensation authority, followed by a further 90 days in which to submit supporting documentation.** The Government will place in guidance an instruction for PCCs to exercise their discretion in the application of the 90 day deadline, depending on the circumstances of individual cases.
- 4.23. **The Government will include in legislation a mechanism to allow late claims in limited circumstances** (where an insurance claim is repudiated after the 42 day deadline has expired).
- 4.24. The Government accepts that for greater protection against fraud, a written claim should be lodged by victims. However, there is a strong argument for allowing claimants to notify the compensation authority by telephone to a designated claims handling line. The Government is looking at ways to help PCCs do this through greater access to loss adjusters with expertise and capability to handle telephone claims. **Therefore, the Government will make provision in new legislation for compensation authorities to accept claims verbally.**
- 4.25. The Government accepts that the current Riot (Damages) Act 1886 is unclear on whether interim payments are allowed. However it is reasonable to allow such provision in order to provide a more efficient service and expedite recovery for affected communities. **The Government will therefore formalise in legislation a mechanism by which interim payments may be made.**
- 4.26. The creation of a Riot Claims Bureau was one of the key recommendations of the independent reviewer's report on riot compensation reform. The Government is grateful to those who responded to the consultation and those stakeholders who have engaged with the Home Office separately, for their expert advice and input on the issues surrounding the creation of a Bureau. **The Government will make provision for a Riot Claims Bureau to be established by the Secretary of State in response to widespread rioting, or where it is requested by a local policing body.**
- 4.27. It is expected that a Riot Claims Bureau would only be established in response to riots which generated a high volume of claims were received. **The Government intends that a bureau could be established in the following circumstances:**
- **the power of the Secretary of State to establish a Riot Claims Bureau would be triggered when a riot breaks out in more than one force area;**
 - **if a large riot occurs in a single force area, then the PCC of that force may equally request the Home Secretary to implement a bureau. There would be no obligation on the part of the PCC to make a request or for the Home Secretary to accept the request.**

- **Before establishing a bureau, the Secretary of State would be bound to consult with any affected local policing body.**

4.28. The Home Office will also supply guidance and materials for local authorities on the basic principles of the new riot damage compensation scheme to help them advise potential claimants on how to access compensation.

5. Respondent Demographics

- 5.1 The consultation was open to all members of the public. Two questions were asked in the consultation regarding demographics, this included what the respondent would class themselves as (profession based or member of the public) and, if they were a member of a business or organisation, the size of that organisation.
- 5.2 In total there were 53 respondents to the consultation. 34 of these responses were submitted via email, 17 were submitted via the online survey, and one was submitted in written hard copy.



- 5.3. Respondents classed themselves as a mix of public and private sector, charitable institutions or members of the public:
- Members of the insurance industry: 8 (15%)
 - Loss Adjustors: 1 (2%)
 - Respondents from Policing: 24 (45%)
 - Charities: 1 (2%)
 - Businesses: 3 (6%)
 - Members of the public: 4 (8%)
 - Other: 12 (23%)
- 5.4. Five of the responses were representative organisations. These responses were on behalf of their members so represent a larger number of views than indicated. In some cases, their members also responded to supplement the collective views.
- 5.5. Looking closer at the size of responding organisation, there were a number of responses:
- 1 person: 2 (4%)

- 2 to 9 persons: 0 (0%)
- 10 to 49 persons: 3 (6%)
- 50 to 249 persons: 0 (0%)
- 250 persons or more: 21 (40%)
- Not part of an organisation: 27 (51%)

- 5.6. There was a high level of engagement from those businesses who could be negatively affected by some of the recommendations (large businesses who may be impacted by a cap on claims), but a relatively low level of engagement from smaller firms who may benefit from some of the proposed changes.
- 5.7. No further definitive conclusions can be drawn from the questions asked in the consultation, but it would be fair to suggest that respondents were typically aged 18 or over and had previously had some engagement with the policy, either through their business or as a claimant.

Annex A: The consultation analysis methodology

The responses to the Home Office’s public consultation on the Riot (Damages) Act 1886 were analysed using a code frame.

A code frame is a list of numbers referring to keywords which capture the main types of response to a question. It allows for meaningful conclusions to be drawn from a wide range of survey responses. The ‘code’ is just the number used to assign the keyword. As an example, consider the following code frame:

Question	Keyword	Response type	Code
Does the Riot (Damages) Act 1886 need reforming?	Modernise	The language used in the Act is outdated and needs modernising	1
	Understanding	The language used in the Act is easy to understand	2

Upon reading the following survey response:

‘I think the Act should be reformed because it uses old fashioned language which can lead to confusion.’

Code 1, referring to the key word ‘modernise’, would be assigned. This captures the fact that the type of response is to do with modernising the language of the Riot (Damages) Act 1886. Coding every response to the question in this way shows whether the majority of respondents’ are for reforming the 1886 Act because of its outdated language, or against reforming the 1886 Act because it is easy to understand.

The code frames for each of the 19 questions of the public consultation were created by following the same three-step process:

- 1) For every response to a survey question ask: what is the overarching point? Is this point positive, negative, or neutral?
- 2) Write down the keyword that captures the answer to each of these questions.
- 3) Identify the keywords that consistently reoccur and assign a number to each of them. These are the codes.

This process is called coding.

Whilst coding the survey responses, care was taken not to code based on what conclusion one wanted to draw from the data. To ensure this, no inferences or logical leaps about what respondents might mean were made when reading through the responses.

Annex B: List of organisations that responded to the consultation

This Annex lists organisations which responded to the consultation. Only those organisations clearly identified in their responses are listed. It is therefore likely that other organisations who responded via the online survey are not listed by name.

Allianz Insurance
Association of British Insurers
Association of Convenience Stores
Avon and Somerset Police
AXA UK Insurance
British Insurance Brokers Association
British Property Federation
British Retail Consortium
Federation of Private Residents' Associations (in narrative only)
Leicestershire Police
Lincolnshire Police
Derbyshire Constabulary
Derbyshire Police and Crime Commissioner
Devon and Cornwall Police
Direct Line Insurance
Dorset Police
Essex Police (in narrative only)
Greater Manchester Police and Crime Commissioner
Hampshire Constabulary
Kent Police (in narrative only)
Lancashire Police and Crime Commissioner
London Assembly (in narrative only)
LV= Insurance
The Mayor's Office for Policing and Crime (in narrative only)
Merseyside Police
The National Housing Federation
The National Federation of Retail Newsagents
National Policing Uniformed Operations business area
National Policing Finance and Resourcing business area
Public Order and Public Safety Working Group
Nottinghamshire Police
Northamptonshire Police
The Police and Crime Commissioners Treasurers' Society (in narrative only)
QBE Insurance
Royal and Sun Alliance Insurance
RPC
South Yorkshire Police
Surrey Police
Zurich Insurance