

**PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL
CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS**

The Master of the Rolls as Head of Civil Justice approves the amendments to the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents (“the Protocol”).

The Protocol may be found in the Schedule to the Pre-Action Protocol Update, approved by the Master of the Rolls on 18th February 2021. The amendments made to the Protocol will come into force the day after they are approved.

Signed by:

The Right Honourable Sir Geoffrey Vos

Master of the Rolls

Date: 11th May 2021

**PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL
CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS**

- 1) In paragraph 1.2—
 - a) after sub-paragraph (4), insert—

“(“**authorised representative**” – see (26) under **representative**;)”;
 - b) after sub-paragraph (18), insert—

“(“**legal representative**” – see (26) under **representative**;)”;
 - c) in sub-paragraph (26)—
 - i) for “legal representative”, substitute “**legal representative**”;

- ii) for “any other representative”, substitute “an **authorised representative**”;
- iii) in paragraph (a), for “but excludes the provision of assistance from”, substitute “other than through”.

2) In paragraph 1.3—

a) in sub-paragraph (2)—

- i) for “**claimant’s representative**”, substitute “**claimant’s legal representative**”;
 - ii) in paragraph (b), for “statement of truth”, substitute “**statement of truth**”;
 - iii) in paragraph (c), for “claimant”, on the third occasion it appears, substitute “**claimant**”;
 - iv) in paragraph (d), for “statement of truth”, substitute “**statement of truth**”;
- and

b) after sub-paragraph (2), insert—

“(3) An **authorised representative** is not entitled to sign a **statement of truth** but must—

- (i) obtain the **claimant’s** signature on the completed document; and
- (ii) upload the document onto the **Portal** including the **statement of truth** signed by the **claimant**.”.

3) In paragraph 5.17—

- a) before “Where the **SCNF**”, insert “(1)”;
- b) for “**claimant’s representative**”, substitute “**claimant’s legal representative**”; and
- c) after what will now be sub-paragraph (1), insert—

“(2) Where the **SCNF** is completed by an **authorised representative** on behalf of the **claimant**, the **statement of truth** must be signed by the **claimant** in accordance with paragraph 1.3(3). The **authorised representative** must tick the

appropriate boxes as confirmation that they have uploaded the form including the **statement of truth** signed by the **claimant**.”.

4) In paragraph 6.13, after “determination of liability” insert “and subject to paragraph 6.14(4)”.

5) In paragraph 6.14, after paragraph (3), insert—

“(4) The parties may reach an agreement on liability after the **claimant** has made an application to determine liability. Such agreement must be in writing and may be in the form of a court order containing the points covered in paragraph (1) above. Paragraph (3) above applies equally to recording information about any written agreement reached or order made under this paragraph.”.

6) In paragraph 8.3—

a) in sub-paragraph (5), for “**claimant’s representative**”, substitute “**claimant’s legal representative**”; and

b) after sub-paragraph (6), insert—

“(7) Where the List of Losses is completed by an **authorised representative** on behalf of the **claimant**, the **statement of truth** must be signed by the **claimant** in accordance with paragraph 1.3(3). The **authorised representative** must tick the appropriate boxes as confirmation that they have uploaded the List of Losses including the **statement of truth** signed by the **claimant**.”.

7) In paragraph 8.11—

a) after sub-paragraph (3), and after the words in parenthesis immediately below that provision, insert—

“(3A) The **compensator** is asked in all cases whether they agree there is a **whiplash injury**. This determines whether a **tariff amount** is then included in the overall offer.”; and

b) for sub-paragraph (4) substitute—

“(4) The **tariff amounts** for **whiplash injuries** and (where applicable) minor psychological injuries are fixed by law and the parties may not request or offer more or less than the **tariff amount**. The **compensator’s** offer must show the **tariff** selected and include the appropriate **tariff amount**, selected from the drop down box provided. Damages for other injuries are not fixed.

(4A) Where the **compensator** selects the higher **tariff** for **whiplash injuries** and minor psychological injuries, the **compensator** cannot change from that **tariff** to the lower **tariff** for **whiplash injuries** only in any subsequent offer.”.

8) In paragraph 8.14—

- a) in sub-paragraph (1), after “may select one”, insert “of”;
- b) after sub-paragraph (3), and after the words in parenthesis immediately below that provision, insert—

“(3A) Save where paragraph (3B) applies, the **claimant** is asked in all cases whether they say there is a **whiplash injury**. This determines whether a **tariff amount** is then included in the claimant’s counter offer.

(3B) Where the parties have agreed in previous offers on whether or not there is a **whiplash injury**, the parties will not be asked to change that agreement.”;

- c) after sub-paragraph (4), insert—

“(4A) Where the **compensator** has selected the higher **tariff** for **whiplash injuries** and minor psychological injuries, the **claimant** will not be able to change from that **tariff** to the lower **tariff** for **whiplash injuries** only in any offer.”; and

- d) after sub-paragraph (5), insert—

“(6) Where the details of an offer are completed by an **authorised representative** on behalf of the **claimant**, the **statement of truth** must be signed by the **claimant** in accordance with paragraph 1.3(3). The **authorised representative** must tick the appropriate boxes as confirmation that they have

uploaded the Settlement Offer Form including the **statement of truth** signed by the **claimant**.”.

9) In paragraph 9.2(1), after “paragraph 6.22 applies”, insert “and subject to paragraph 9.3 below”.

10) In paragraph 9.3, after sub-paragraph (2), insert—

“(3)

(a) The **claimant** may only make one interim payment request at any time, but may update an existing request to include additional items either before or after the **compensator** has responded to the request or the time for response has passed.

(b) Where the **claimant** updates an interim payment request, paragraphs 9.4 to 9.6 apply to the updated request and no longer apply to the original request.”.

11) In paragraph 9.6, after sub-paragraph (1), insert—

“(1A) The **claimant** may before starting court proceedings update their interim payment request under paragraph 9.3(3) above.”.

12) In paragraph 11.3, after sub-paragraph (4), insert—

“(5) For the purposes of this paragraph, “owner” means the person by whom a vehicle is being kept and includes the person to whom a vehicle is leased or hired at the relevant time.”.

13) In paragraph 12.3, after sub-paragraph (2), insert—

“(2A) Where the **claimant** intends to start court proceedings to determine liability or due to limitation, the **claimant** must consider the overall valuation of their claim for court fee purposes and select one of the list of options on the **Portal**.

(2B) Where the **claimant** intends to start court proceedings to assess the value of the **claim** but has not made a counter offer showing their valuation of the

claim, the **claimant** must complete the necessary details of their valuation on the **Portal** for court fee purposes including whether they say there is a **whiplash injury**.”.

14) In paragraph 12.6—

- a) in sub-paragraph (5), for “legal”, in both places it appears, substitute “**legal**”;
and
- b) in sub-paragraph (6)(b), for “legal”, substitute “**legal**”.

15) In paragraph 12.10, in table B, section B (1) (value dispute, general)—

- a) in the second column, opposite the entry “The Compensator’s Response”, insert “including summary of facts or witness summary if applicable”; and
- b) in the first column, below the entry for “The Compensator’s Response”, insert the following new entry—

“The defendant’s version of events (if provided) supported by a statement of truth ”.	
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