

Damages Claims Portal Pilot Scheme update

Unlike the wheels of Government which seem to turn much more slowly, the Damages Claims Portal Pilot Scheme is being rolled out at a rapid rate – in part we understand as a result of the backing and ambitions of members of the senior judiciary, who consider the digitisation of the court service vital to increasing levels of dispute resolution, and cutting some of the enormous court backlog. We therefore bring you an update below, following our previous Alert dated [30 March](#).

Key dates

28 May 2021

DCP pilot scheme went live

4 April 2022

claimant process mandated

2 June 2022

anticipated date for mandating of the defendant process

Technical issues and limitations of the service

We strongly feel (and are sure our clients will agree) that the digitisation of the court service is a good thing and will in the long-term lead to streamlining of processes and easier ways of working. However, with all good things there is always a journey of learning, of development, and usually some teething issues to experience, before the happy ending materialises. Those of us who have been involved in the development of the OIC Portal will be all too familiar with the process of development and teething issues.

We are aware of some existing technical issues with the use and operation of the DCP, having not yet taken a case fully through the existing process. We therefore wish to continue testing cases to the degree that we are able to, before encouraging a volume of claims into the pilot scheme, and before it is mandated.

We have already provided a volume of feedback on technical issues to HMCTS and will continue to do so.

Some of the technical/operational issues we have experienced to-date include:

No technical support team – currently when any technical issues occur we send details of these to the project managers responsible for the roll-out of the DCP by email. There is no actual technical support team set-up to take direct emails or calls from legal representatives and no time-frame for responding to them.

Restrictions viewing new cases/progressing issued claims – though we know agreed test cases have been served within the DCP these have not been appearing in our case list and we have recently discovered that we are restricted from receiving more than 100 cases into our case list. Cases have

to be allocated temporarily before sufficient information is available to allocate them to the eventual file handler, just so that other new cases can be viewed – this results in additional time spent opening files and will become a bigger problem when a larger volume of claims is served within the DCP. Similarly, cases we have issued are held as ‘pending’ with no details as to when they will progress.

Sign-in delays – it is necessary to sign-in to two different platforms when logging in to a case, and verification codes are needed when signing in. It takes a considerable amount of time to receive the codes, and to log-in (up to 10 minutes to receive codes). It is taking some users more than 1 hour to access each platform.

Case details not visible – there is no requirement for our reference, the client name or client reference to be visible on the claims notification within the case list – meaning a new case has to be allocated to someone and opened up in order to find out what it’s about.

Defences and Directions Questionnaires – at present Directions Questionnaires have to be filed with the Defence – we consider this will be difficult when it comes to larger value claims.

Cost budgeting – no known process for filing cost budgets with Directions Questionnaires or timeframe for roll-out of this part of the DCP process.

We have written to members of the senior judiciary, as well as HMCTS, expressing our concerns about the timeframe for mandating the defendant process, in view of the ongoing technical issues being experienced and lack of testing of the system.



What are Keoghs doing now and to prepare for the DCP?

- We are registered with MyHMCTS and have identified some test cases which we hope to progress within the DCP very soon
- Our Operations and File Opening Teams have put in place processes to identify claims as they are served within the DCP
- Staff will receive ongoing training on the process, so they know when it applies, and how it operates
- For those claims where we represent the claimant (such as recoveries cases) we are making sure they are issued within the DCP within the current Rules



Do our insurer clients need to do anything now?

- With existing technical issues we would discourage the welcoming of a volume of cases being served within the DCP prior to the date for mandating of the defendant process
- You can assist us by making your claims handlers aware of the DCP and the above timeline
- If a claimant solicitor asks a claims handler if Keoghs will accept service of a claim within the DCP, please ensure details are passed to us as soon as possible for us to consider
- Your claims handlers will also need to be aware of the dates by which the DCP is expected to become mandatory in terms of the defendant process (anticipated 2 June 2022)
- Please ensure that you are nominating solicitors to accept service as soon as possible, and include our usual email addresses for service when nominating Keoghs, which are: nominations@keoghs.co.uk and newinstructions@keoghs.co.uk

What if you'd like to handle the claim in-house, or don't know who you want to instruct until after proceedings are served?

In those circumstances you would request the claimant solicitor to serve proceedings against the insurer firm or directly against the defendant, and the case would be issued within the DCP, but then immediately fall out of the DCP to be served 'the usual way'. At this time the DCP is only for legal representatives, not for insurers or other entities.

You can still then choose to instruct a solicitor to take over the handling of a case after service, but it will then stay out of the DCP and cannot re-enter the DCP after service.

You may wish for your in-house legal team to register with MyHMCTS so that you can both issue proceedings via the DCP, and accept service of proceedings within the pilot scheme. In order to do so you will need to ensure you have an SRA number and PBA number, and email address for a main administrator when registering.

What types of claim does the DCP cover?

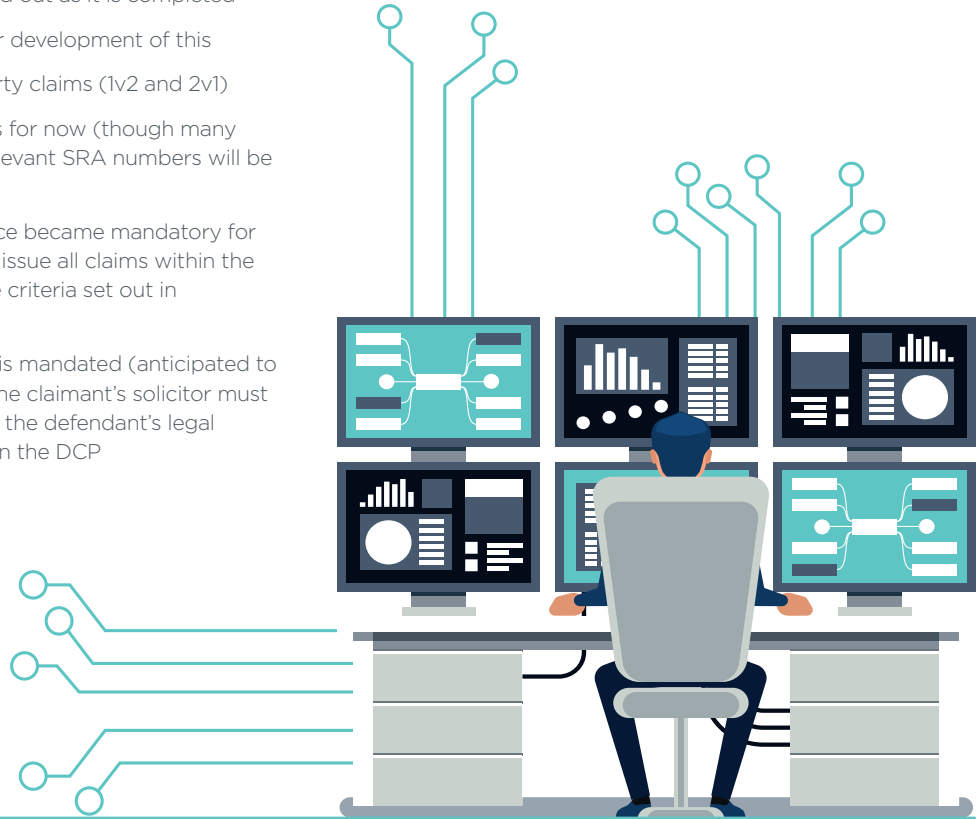
As you will note from the below list – there are in effect not many types of claims which would be dealt with by a general and motor insurer which would not be captured by the DCP when it comes to proceedings being issued. There is no financial limit to the value of a claim which can be issued within the DCP.

Practice Direction 51ZB sets out the criteria for claims covered by the DCP. A claim is suitable for the DCP provided all of the following conditions are met:

- The claim is a claim for damages only (rather than any other remedies sought – liability dispute claims are included)
- The claim would not ordinarily follow the Part 8 procedure
- The claim is not made under one of the provisions of the Consumer Credit Act 1974
- The claimant is represented by a legal representative who is registered with MyHMCTS and has access to the DCP
- The claimant is aged 18 years or over, or if under 18 has a litigation friend
- The claimant is not a protected party
- The fee for issuing the claim is paid using the “payment by account” system
- The claim is conducted in English
- The claimant does not have in force against them –
 - A civil proceedings order
 - An all proceedings order; or
 - A civil restraint order, and
- The claimant believes that the defendant –
 - Has a postal address for service within England and Wales
 - Is aged 18 years or older; and
 - Is not a protected party

What does the process look like?

- Currently for cases from issue of claim form until directions questionnaires (after which cases fall out of DCP and continue to be dealt with in the usual way)
- The claim journey will continue to be developed within the DCP by HMCTS – so that eventually a claim can progress through the DCP from pre-litigation to enforcement. Each developed stage will be rolled out as it is completed
- No API and no timeframe for development of this
- Can accommodate multi-party claims (1v2 and 2v1)
- Just for legal representatives for now (though many in-house legal teams with relevant SRA numbers will be able to register)
- From **4 April 2022** the service became mandatory for claimant users, who need to issue all claims within the DCP provided they meet the criteria set out in [Practice Direction 51ZB](#)
- Until the defendant process is mandated (anticipated to happen from 2 June 2022) the claimant's solicitor must get express agreement from the defendant's legal representative to serve within the DCP
- From **02 June 2022** (provided the necessary Rule change is in place) the defendant process will be mandated – this means all claims meeting the criteria set out in Practice Direction 51ZB, and issued within the DCP, will need to be responded to within the DCP, provided the defendant representative is able to register with My HMCTS



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