

Damages Claims Portal Pilot Scheme update 3

May 2022

The Civil Procedure Rules Committee (CPRC) has approved an update to Practice Direction 51ZB requiring defendants who are legally represented to use the Damages Claims Portal (DCP) for claims within its scope. Whilst the exact wording of the Practice Direction update has yet to be published, it will include a requirement for the defendant's legal representative to register with MyHMCTS to access the DCP and receive notification of claims. The updated Practice Direction will come into force on **2 June 2022**.

Key dates

28 May 2021

DCP pilot scheme went live

4 April 2022

claimant process mandated

2 June 2022

defendant process mandated

What does 'legally represented' mean?

You may have your own in-house legal team, who have SRA and PBA numbers – if so, you might be wondering if you will also be required to register for MyHMCTS and respond to all issued claims within the DCP.

Without seeing the exact wording of the amendment to the Practice Direction we cannot say for certain, however HMCTS have always been very clear that they expect law firms to be mandated to use the DCP initially, and not insurers and others. The service is then expected to be widened to cover other types of representative and unrepresented parties at a later date (which there is no current timeline for).

You may in any event 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.

If your in-house legal team is signed up with MyHMCTS to handle claims within the portal, that shouldn't preclude you from instructing external solicitors, or dealing with the claim outside of your legal team, within your other claims handling teams. If you want to deal with the claim yourself, but outside the DCP, claimant solicitors will still be required to issue these

claims within the Portal, after which they will fall out of the Portal and continue to be dealt with in the usual way. If you want to instruct external solicitors, it is important that you nominate them as soon as possible, providing agreed email addresses for service (for Keoghs these are nominations@keoghs.co.uk and newinstructions@keoghs.co.uk unless you have specifically agreed an alternative email address for service within the DCP).

You can still 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.



Technical issues and limitations of the service

In the second update sent to you in April, we provided details of some of the technical issues we were experiencing with the DCP ([see here](#)). Below you will find a summary of some of these technical issues, together with responses from HMCTS and anticipated resolution times where known.

There is no technical support team for the DCP

At present, any issues arising need to be raised with the project management team at HMCTS or details sent to a central email address for the team. This can lead to delays progressing claims when issues arise, with concerns that as a volume of claims enter the system from 2 June, a backlog may build of cases awaiting progress.

Current status/next steps

HMCTS have responded confirming that there are no intentions to introduce a specific technical support team for the DCP. Issues should be raised by email to:

DamagesClaims@justice.gov.uk

leanne.kershaw@Justice.gov.uk

or Will.Sheath@Justice.gov.uk

HMCTS say that their aim is to deal with all emails sent raising issues within 5 days.

Sign-in delays

It is necessary to sign-in to two different platforms, each requiring verification codes. It is taking some users more than 1 hour to access each platform, with verification codes expiring before they are supposed to.

Current status/next steps

HMCTS say a 'ticket' has been raised with MyHMCTS regarding time delays – no timeline has been provided for the resolution of this issue.

Case details not visible until claim assigned to a user

Defendant reference/client name/client ref are not visible on initial notification document (our ref is visible on the unassigned case list before we assign the claim, if obtained and inputted by claimant sols when issuing).

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

- We are registered with MyHMCTS and have identified test cases which we are progressing through the DCP
- 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 mandating the claimant process

Current status/next steps

Work is ongoing to add information to the notification document, which will hopefully enable our file opening team to assign claims to the correct person without needing to open and assign the case first. This should hopefully save significant time. No completion date for this system enhancement.

Defences and Directions Questionnaires are required to be issued at the same time

It's unlikely to be possible for complex and larger value claims.

Current status/next steps

HMCTS have responded informing us that the portal has been deliberately designed with this requirement and there will be no change to this part of the process.

Inability to add costs to a claim when issuing

Current status/next steps

Extending the service to include this in the future will be considered.

100 case restriction

A maximum of 100 cases can be seen in a firm's case list – and until those cases are assigned, no others can be seen. With a volume of cases about to be mandated through the portal, this could cause issues with firms having sight of how many new cases have been served each day.

Current status/next steps

Options and timescales for resolving the issue were to be provided by 29 April, but no update has as yet been received.

Where case details are 'shared' with a colleague the 'sharee' does not receive notification emails

Current status/next steps

Target date for resolution provided of summer 2022.

Do our insurer clients need to do anything now?

- You'll need to ensure your claims handlers are aware of the DCP and the timeline for mandating the defendant process (2 June 2022)
- If a claimant solicitor asks a claims handler if Keoghs will accept service of a claim within the DCP (prior to the date for mandating the defendant process), please ensure details are passed to us as soon as possible for us to consider
- 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
- Please ensure you provide us with (or obtain) the claimant's date of birth for recoveries cases, as this piece of information is needed to issue a claim

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, save for claims within the OIC portal which are excluded from the DCP. 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; and
 - Is not the Crown
- The claim is not one to which Practice Direction 27B applies (cases dealt with in the OICP); and
 - The claim - is brought by one claimant against either one or two defendants; or
 - Is brought by two claimants against one defendant

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 (though HMCTS say they do intend to develop it in the future)
- 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 (2 June 2022) the claimant’s solicitor must get express agreement from the defendant’s legal representative to serve within the DCP
- From **2 June 2022** 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 MyHMCTS

Please contact Natalie Larnder for further information:



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