

Legal update

We're out

The United Kingdom has spoken and has opted to exit the European Union. The fall out from the UK exit is likely to occupy a considerable amount of parliamentary and legislative time. The immediate consequence of the "leave" vote is when the UK will start the two-year negotiation with the EU over the terms of the UK exit, under Article 50 of the Treaty of Lisbon. It is expected that the Government will shortly trigger the start of this period by notification to the European Council. Although with David Cameron's announcement this morning that he is stepping down as Prime Minister, triggering a Conservative leadership election, who will be leading those negotiations remains unclear. What is clear though, is that failure to agree the terms on which the UK will leave the EU at the end of two years could see the EU impose such terms on the UK.

The legislative and civil service time that will be expended on extricating the UK from the EU is likely to be extensive and may result in delays to several areas of personal injury litigation reform where consultations have been in abeyance pending the referendum:

- **The small claims track limit**

Within the Autumn statement of 2015, proposals were announced to increase the financial limit for allocation of personal injury cases to the small claims track from £1,000 to £5,000. It was unclear whether the proposal related to all types of personal injury or just whiplash claims. We have previously considered the impact of this proposal [here](#).

- **The removal of compensation for minor whiplash claims**

Alongside the announcement in relation to the small claims track increase was the proposal to remove the right to cash compensation for minor whiplash injuries. Any such change is likely to require primary legislation. Given the legislative work that will now be required to extricate the UK and deal with any legislative gaps, there could well be a delay in the implementation of any necessary legislative change. We have previously commented on the impacts of this proposal [here](#).

- **Fixed fees in clinical negligence claims**

At the beginning of the year, fixed costs in clinical negligence claims with damages under £250,000 were due to be in place by October 2016. The consultation did not occur as expected and whilst it is unclear whether the Department of Health has the civil service resources to consider this issue, alongside the impact of the Brexit vote on the NHS, there are clear benefits in terms of savings to the NHSLA budget so this reform may be pushed through as the government looks to make savings.

- **Extension of fixed fees**

Jackson LJ has proposed the extension of fixed costs horizontally to other types of claim where damages are under £25,000 aside from RTA, EL and PL claims. He has also proposed extending fixed costs vertically, advocating fixing costs where damages are up to £250,000 and removing them from the requirement to cost budget. We have written about the proposals (Part 1 [here](#) and Part 2 [here](#)) and considered the market impact [here](#).

The position in relation to the capitalisation of UK insurers and financial organisations remains uncertain. The Bank of England has already stated that some banks with pan European operations may need to relocate some of their operations to the EU to comply with strict EU trading laws.

In terms of legislation emanating from the EU, it would be up to Parliament to determine whether such legislation will remain in force in the long term and therefore there is a question mark as to whether issues such as whether the capital requirements of Solvency II (which some have cautioned as being onerous) are likely to stay and whether the EU General Data Protection Regulation which was due to come into force in 2018 will become a part of UK law.

We have considered what the renegotiation will involve and what will happen to our laws in a separate update available [here](#).

Can we help?

We will be keeping a watching brief and will report back as soon as there are any further developments. In the meantime, should you wish to discuss this in more detail, or would like assistance with any other matter, please do not hesitate to get in touch.



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