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A WEEKLY DISEASE UPDATE



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Welcome

Welcome to this week's edition of BC Disease News. In the last week HM Treasury and the Ministry of Justice have decided to jointly commission a review into how to implement a much more rigorous regulatory regime for CMCs. Elsewhere, it has been announced that Pure Legal have been awarded an alternative business structure (ABS) licence by the Solicitors Regulation Authority.


This week we present a feature article comparing the new 13th edition of the *Judicial College Guidelines for the Assessment of General Damages in Personal Injury Cases* with the previous edition.

Any comments or feedback can be sent to [Boris Cetnik](#) or [Charlotte Owen](#).

As always, warmest regards to all.

SUBJECTS

Med Neg ATE Recoverability – Legal Challenges over Med Neg Fixed Fees – Slater & Gordon £20m Profit – Claims Management Regulation – Pure Legal Expands – HSE Dermatitis Guidance – Judicial College Guidelines Comparison



Recoverability for Medical Negligence Premiums To Be Abolished?

The total abolition of recoverability for medical negligence insurance premiums is the option justice ministers ‘really want to go for’, a leading after-the-event (ATE) insurer has warned. David Pipkin, underwriting director at Temple Legal Protection, also predicted that ‘many, many’ medical negligence claimants would not be able to pursue their claims if recoverability was abolished.¹

Speaking at the PI Futures conference in Manchester last week, Mr Pipkin described how managers at Temple were called in for a meeting at the Ministry of Justice (MoJ) at the end of August. Mr Pipkin said the Department of Health (DoH), which is due to launch a consultation on fixed fees for medical negligence cases in November, and the MoJ, which is discussing with ATE insurers whether it should scrap the limited LASPO exemption for these claims, had decided to run their consultations in parallel. He said the MoJ’s preferred timetable for changing the recoverability rules for ATE premiums was 12 months.

Mr Pipkin states they were ‘told that there were very few options on the table to go into the consultation. Abolishing the recoverability of clinical negligence premiums altogether; restricting recoverability to cases above whatever the fixed cost limit was – which could be anything from £25,000 up to quarter of a million. The third option was that the premium could not actually be recovered if the lawyers had not obtained a medical report. Frankly, that is very rarely the case – we’ve had perhaps a dozen instances or so of that happening. That isn’t what this is about’.

Mr Pipkin said the MoJ might add the further option of introducing a ‘notice period’ before recoverability became effective as was done in defamation cases, where a 42-day period during which defendants would be allowed to make admissions and make an apology was introduced. But he said this

would not work in medical negligence, where defendants would rarely, if ever, be able to make admissions that quickly.

He went on to say that ‘there were “valid” reasons why limited recoverability had been preserved by LASPO. He predicted that if recoverability was completely abolished, most clients would not be able to pay for premiums. Mr Pipkin said Temple would do its best to be innovative and remain in the market, but it needed lawyers to stay involved and the firm could not sell insurance to litigants in person.

Finally he observed that: ‘It’s doom and gloom, looking 12 months to two years into the future, if we lose recoverability altogether. Many, many clinical negligence claimants won’t be able to pursue their claims’.

Potential For Legal Challenges over Fixed Fees in Med Neg Cases

The Department of Health (DoH) will face legal challenges if fixed fees for medical negligence cases are set at too low a level, the chair of the Society of Clinical Injury Lawyers (SCIL), has predicted. Stephen Webber warned that the DoH plans would drive specialist lawyers out of the market if, following a consultation expected in November, fees were set at a ‘ridiculously low level’.²

Speaking at last week’s PI Futures conference in Manchester, Mr Webber said he found it ‘hugely worrying’ that the government believed a low-value medical negligence case could potentially be worth £250,000. He went on to say that: ‘If the fees are set at a ridiculously low level, and I have very little doubt that this seems to be the plan, that will move specialist lawyers out of the market and will leave it for litigants in person and for non-specialist firms which think they can operate at a low margin. The pre-consultation pretty much showed that whoever is considering the changes has no in-depth understanding of clinical negligence at all. The pre-consultation links the fixed fee to be set to value. That might

work for personal injury, I don’t know, but it certainly doesn’t work in clinical negligence’.

Mr Webber said that ‘anyone who has any sort of understanding of clinical negligence’ knew that the amount of fees incurred were linked to complexity, which tended to be linked to the number of experts that needed to be instructed. However, Mr Webber predicted that the DoH sliding scale of fees would be linked to value and not the number of experts involved. Mr Webber said the Department of Health had already indicated that the process would save £80m, from claimant legal costs last year of around £300m – almost a third of the total amount. He said it was ‘absurd’ to compare claimant costs to defendant costs in clinical negligence.

Mr Webber said claimant lawyers had to pay court fees, ATE insurance premiums and VAT, as well as having to ‘triage out’ about 85% of cases. Mr Webber went on: ‘There is no issue with fixed fees, the problem is going to be the level at which they are set. That’s going to be the problem. If they are set at a low level, there’s going to be a lot of litigants in person and a lot more work for the NHS. I can see a lot of firms risk-assessing cases in the future, based on the number of experts. If you’ve got a £25,000 claim and three experts, you just won’t be able to do it. If it was £100,000 and five experts, it wouldn’t be in any way profitable’.

Mr Webber said the most important thing was that fees should be set by an independent body. He asked, ‘can it be stopped, can it be challenged?’ and determined that ‘if the fees are set at a reasonable level, I don’t think it can be. But if they’re set too low and proper specialist firms can’t operate in that market then, bearing in mind the defendant will be setting that unreasonably low figure, I’m absolutely certain there will be legal challenges’.

Mr Webber called on firms to respond to the consultation. ‘It seems that no fight was put up for MedCo. A fight needs to be put for this to make sure it’s done properly’.

This is an interesting development in the field of fixed fees for clinical negligence claims which is of particular importance for



disease litigants considering the recent announcement that the Civil Justice Council (CJC) group have been asked by the MoJ to investigate how a fixed costs regime might work in noise-induced hearing loss (NIHL) claims.

Slater & Gordon Record Almost £20m Profit

Following on from the recent news of Quindell's possible legal action, Slater & Gordon recorded a profit after tax of nearly £20m on turnover of £128m from its UK operation in the last financial year, its audited results have shown. The first month of Slater Gordon Solutions (SGS), the new name for the professional services division acquired from Quindell, brought in £17m of income, at a net loss of £2.1m. Overnight the Australian-listed firm published its audited accounts for the year to 30 June 2015, which showed a better performance than indicated in the unaudited figures put out a month ago.³

The Australian end of the business saw a net profit of £21m on income of £145m. Last month's announcement revealed that around 80% of Slater & Gordon's UK income came from personal injury. With the SGS acquisition, its aim is to become the leading personal injury practice. It also said that internal research indicated that one in four people in the UK recognised the Slater & Gordon name; in Australia it was nearly three in four.

The results said that the purchase of SGS was structured as an acquisition of the 52 different entities that made up the business, rather than an acquisition of the common stock of Quindell.

Slater and Gordon stated: 'Moreover, Quindell plc provided detailed warranties to the company in relation to the operations of the assets comprising SGS. Those warranties are secured by a warranty escrow account holding £50m'. They reiterated their confidence that it would not be affected by the Serious Fraud Office investigation into Quindell's business and accounting practices by

adding: 'In the course of preparing these financial statements, the directors have sought to identify, understand and properly account for all relevant prior transactions undertaken by entities within SGS. Despite reasonable enquiries, including of current directors of Quindell plc, the directors are unable to identify or rationalise every historic transaction undertaken by the former directors of the various entities and have made fair value adjustments as appropriate. The directors believe that none of the known transactions relate to the fundamental business activities or economics of SGS and none of the known transactions are material in value or effect to the company.'

It put the goodwill acquired by Slater & Gordon on the purchase of SGS at £462m, mainly attributed to 'the capacity of SGS to underpin strategic growth of the personal injuries practice within the UK market'.

The Slater & Gordon share price remains in the doldrums, however. It rose slightly to A\$2.94 following publication of the results, but had been as high as A\$8 earlier in the year, before the SGS acquisition and various accounting issues were identified.

Review of Claims Management Regulation

Claims management companies (CMCs) are regulated by the Claims Management Regulation Unit (CMRU) which is based in the Ministry of Justice. The CMRU has recently received significant additional powers, but evidence suggests that CMC regulation regime should be put on a more robust footing to be in a position to meet future regulatory challenges.⁴

Consumers and affected sectors, particularly financial services, remain concerned that CMCs continue to fuel speculative claims for compensation, and in doing so create a significant social nuisance through the use of cold-calls and texts and add waste into the redress systems.

As a result, HM Treasury and the Ministry of Justice have decided to jointly

commission a review into how to implement a much more rigorous regulatory regime for CMCs, with particular reference to the high standards applied to other regulated industries such as Financial Services.

The review will focus on how to improve consumer protection and mitigate the wasteful impact of poor conduct and service on those businesses which are subject to claims from CMCs. Specifically, it has been said that the review should consider the resources and powers required for a strengthened regulatory regime, including the power to implement the cap on charges that CMCs can apply to their customers and what architecture might be most appropriate to deliver this, including its governance and scope.

It has been proposed that the review may suggest further reform of the existing regime with new powers and resources provided to the CMRU, dual regulation between CMRU and the FCA, creation of a new independent regulator or transfer of responsibility for regulation of CMCs to the FCA.

The review will be led by Carol Brady, a non-executive director of the Claims Management Regulation Board and Chair of the Trading Standards Institute. The review will make final recommendation to HM Treasury and the Ministry of Justice in early 2016.

Pure Legal Expansion

The new legal business set up by the former head of Quindell Legal Services is poised to start its acquisition programme after being awarded an alternative business structure (ABS) licence by the Solicitors Regulation Authority.⁵

Pure Legal, founded by Phil Hodgkinson, was created in April 2015 with a costs consultancy and more recently a claims business, but is to expand rapidly, with plans revealed in June to buy two law firms and two other businesses. If they all complete, it will create a firm of 300 people with a turnover of £30m.



The business's strategy is to 'take the greed out of the market' by going head to head with claims management companies and other work providers in personal injury and other areas of law. Mr Hodgkinson said: 'This is a significant step forward in the development of Pure Legal and the Pure Group. We will now be able to proceed and formalise our ABS structure and business model prior to launch early in the New Year. We will also be able to progress to completion a number of joint ventures and long-term contracts which we have secured pending receipt of our ABS licence, which will take the business to the next level, and also progress our plan of Pure being a strategically acquisitive business, in order to take advantage of opportunities we believe exist in the market today. We have developed and constructed a five-year business plan, which, once executed, will not only bring about significant positive changes in many areas of our industry, but also make Pure a very prominent and significant player in the legal market...Our ethos at Pure is to put our clients first, be that partner law firms or individual claimants. We believe that in law, quality and customer service are the future'.

We have reported previously on Mr Hodgkinson's Pure Claims business which is a branch of the Pure Legal organisation which concentrated initially on noise-induced hearing loss cases. We also reported in edition 106 of BC Disease News on Pure Legal Costs Consultants, the arm of Mr Hodgkinson's Pure Legal venture which provides loans to claimant firms with the aim of helping with NIHL cash flow issues. There can be little doubt that the announcement of Pure Legal's further expansion will affect the NIHL market.

New HSE Guidance: Dermatitis

The HSE have published a revised leaflet which explains how employers can protect their employees from skin problems known as contact dermatitis and urticarial. Contact dermatitis is the most common type of occupational skin disease and is defined as inflammation of the skin resulting from exposure to detergents, toiletries, chemical and even natural products. Urticaria is a

different kind of allergy and occurs within minutes of the material touching the skin. Common causes are certain plants, foods and natural rubber latex gloves.

For both of these conditions the jobs which present most risk are those working in health care, hairdressing, the beauty industry, printing, cleaning, catering, construction and metalworking are at greater risk. The risks can be reduced or controlled in a number of manners for example, substituting a hazardous material with a safer alternative, automate the process, enclose the process as much as possible, use mechanical handling, use equipment for handling and keep a safe working distance, amongst other measures.

The leaflet outlines what the law requires from employers under the Control of Substances Hazardous to Health Regulations 2002 (COSHH), namely, to assess risks, provide adequate control measures – ensuring the use and maintenance of these, provide information, instruction and training and in appropriate cases, provide health surveillance.

The revised leaflet can be found [here](#).

Feature The Judicial College Guidelines: A Comparison

Introduction

The 13th edition of the *Judicial College Guidelines for the Assessment of General Damages in Personal Injury Cases* has now been published. In this article, as we have done previously, we compare the previous edition to the new edition.

Preliminary points

Firstly, it should be reiterated that the Guidelines are only guidance, they are not law. They can be departed from if the circumstances of the case so require. In *Cameron v Vinters Defence Systems Ltd* Holland J noted,⁶ at [7], that the starting point is the Guidelines, but that they can be

departed from with justification. Accordingly, the circumstances of the case must be regarded as the ultimate determinative factor in any award of damages.

Secondly, each subsequent edition of the Guidelines reflects inflationary changes, any new decisions on quantum and any changes in policy. Ordinarily, therefore, in each subsequent edition the figures increase. As there has been two years between the publication of the 12th and the 13th edition the increases will reflect the changes over this period. It also continues to include an additional column of figures indicating the 10% uplift in general damages recommended by Sir Rupert Jackson and endorsed by the Court of Appeal in *of Simmons v Castle*.⁷

We will go on to compare the 12th edition and the 13th edition figures below for the relevant disease brackets. Each edition has a column which does not include the 10% uplift and a column which does. We have provided a final column which calculates the percentage and pounds difference between each edition's figures (including the 10% uplift) at the highest end of the award for each bracket.

Comparison Between the Guidelines: Asbestos Related Diseases

The Guidelines for asbestos related diseases appear in chapter 6(C). The table below shows a comparison between the previous edition and the new edition:



JC Bracket 6(C) Asbestos-Related Disease	12th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Changes for Top Bracket with % uplift
(a) Mesothelioma	£51,500 to £92,500	£56,650 to £101,750	£53,200 to £95,700	£58,520 to £105,270	£3,520 (3.4%)
(b) Lung cancer	£51,500 to £71,500	£56,650 to £78,650	£53,200 to £74,000	£58,520 to £81,400	£2,750 (3.4%)
(c) Asbestosis and pleural thickening -Respiratory disability >50% top end of bracket -Disability between 30-50% middle of bracket -Disability 10-30% lower end of bracket	£28,250 to £77,800	£31,075 to £85,580	£29,200 to £80,450	£32,120 to £88,500	£2,920 (3.4%)
(d) Asbestosis and pleural thickening where respiratory disability between 1-10%	£11,100 to £28,250	£12,210 to £31,075	£11,450 to £29,200	£12,600 to £32,120	£1,045(3.3%)

The following observations may be made. Firstly, there have been no policy changes to these categories; the brackets have risen with inflation alone. It should also be noted that the 10% uplift in damages does not apply to mesothelioma cases due to recoverability of success fees and insurance premiums remaining intact.

Additionally there has been no change to the bracket structure in the 13th edition with the consolidation of pleural thickening and asbestosis in one bracket remaining. The bracket is still divided into two based on the level of respiratory disability and the narrative accompanying the two conditions remains the same other than for 6(C)(d) whereby it is said the level of award will be influenced by, not only whether it is to be final or on a provisional basis but also the extent of anxiety.

Comparison Between the Guidelines: Asthma

The Guidelines for asthma appear in chapter 6(D). The below table shows a comparison between the previous edition and the new edition:

JC Bracket 6(D) Asthma	12 th Edition Figures	12 th Edition Figures with 10% Uplift	13 th Edition Figures	13 th Edition Figures with 10% Uplift	% and £ Changes for Top Bracket with % Uplift
(a) Severe and permanent disabling asthma, causing prolonged and regular coughing, disturbance of sleep, severe impairment of physical activity and enjoyment of life and where employment prospects, if any, are grossly restricted.	£31,650 to £48,250	£34,815 to £53,075	£32,725 to £50,000	£36,000 to £55,000	£1,925 (3.6%)
(b) Chronic asthma causing breathing difficulties, the need to use an inhaler from time to time and restriction of employment prospects, with uncertain prognosis	£19,300 to £31,600	£21,230 to £34,760	£20,000 to £32,700	£22,000 to £35,970	£1,210 (3.4%)
(c) Bronchitis and wheezing, affecting working or social life, with the likelihood of substantial recovery within a few years of the exposure to the cause.	£14,100 to £19,300	£15,510 to £21,230	£14,600 to £20,000	£16,060 to £22,000	£770 (3.6%)
(d) Relatively mild asthma-like symptoms often resulting, for instance, from exposure to harmful irritating vapour	£7,800 to £14,100	£8,580 to £15,510	£8,100 to £14,600	£8,910 to £16,060	£550 (3.5%)
(e) Mild asthma, bronchitis, colds and chest problems (usually resulting from unfit housing or similar exposure, particularly in cases of young children) treated by a general practitioner and resolving within a few months.	Up to £3,800	Up to £4,180	Up to £3,900	Up to £4,290	£110 (2.6%)

There has been no change to the narrative of this bracket and the figures reflect inflationary changes. It is noticeable that the increase for the mildest form of asthma is slightly below the rate of inflation at only 2.6% meaning the highest award for this is now £4,290.

Comparison Between the Guidelines: Deafness/Tinnitus

The Guidelines for deafness/tinnitus appear in chapter 5(B)(d). The following table shows a comparison between the previous edition and the new edition:

JC Bracket 5(B)(d) Partial Hearing Loss and/or Tinnitus	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Changes for Top Bracket
(i) Severe tinnitus and hearing loss.	£21,800 to £33,500	£23,980 to £36,850	£22,600 to £34,600	£24,860 to £38,060	£1,200 (3.2%)
(ii) Moderate tinnitus and hearing loss or moderate to severe tinnitus or hearing loss alone.	£11,000 to £21,800	£12,100 to £23,980	£11,300 to £22,600	£12,430 to £24,860	£880 (3.6%)
(iii) Mild tinnitus with some hearing loss.	£9,250 to £11,000	£10,175 to £12,000	£9,575 to £11,300	£10,530 to £12,430	£430 (3.5%)
(iv) Slight or occasional tinnitus with slight hearing loss.	£5,400 to £9,250	£5,940 to £10,175	£5,600 to £9,575	£6,160 to £10,530	£355 (3.4%)
(v) Slight hearing loss without tinnitus or slight tinnitus without hearing loss.	Up to £5,150	Up to £5,665	Up to £5,325	Up to £5,860	£195 (3.4%)



As with the previous comparison, there have been no significant changes to this category, with the brackets simply reflecting inflationary changes. There has been no change to the narrative text accompanying the brackets. The highest award now in the case of severe tinnitus and hearing loss is £38,060. Meanwhile, the highest award in the case of slight hearing loss without tinnitus or slight tinnitus without hearing loss is £5,860.

Comparison Between the Guidelines: Back Injuries

The Guidelines for back injuries appear in chapter 7(B). The following table shows a comparison between the previous edition and the new edition:

Bracket 7(B) Back Injuries		12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in Top Bracket
(a) SEVERE						
(i)	Cases of the most severe injury involving damage to the spinal cord and nerve roots, leading to a combination of very serious consequences not normally found in cases of back injury. There will be severe pain and disability with a combination of incomplete paralysis and significantly impaired bladder, bowel and sexual function.	£67,000 to £118,300	£73,700 to £130,130	£69,200 to £122,350	£76,120 to £134,590	£4,460 (3.4%)
(ii)	Cases which have special features taking them outside any lower bracket applicable to orthopaedic injury to the back. Such features include nerve root damage with associated loss of sensation, impaired mobility, impaired bladder and bowel function, sexual difficulties and unsightly scarring.	£54,500 to £65,000	£59,950 to £71,500	£56,375 to £67,200	£62,010 to £73,920	£2,420 (3.3%)
(iii)	Cases of disc lesions or fractures of discs or of vertebral bodies or soft tissue injuries leading to chronic conditions where, despite treatment (usually involving surgery), there remain disabilities such as continuing severe pain and discomfort, impaired agility, impaired sexual function, depression, personality change, alcoholism, un-employability and the risk of arthritis.	£28,500 to £51,250	£31,350 to £56,375	£29,475 to £53,000	£32,420 to £58,300	£1,925 (3.4%)

Continued on following page



(b) MODERATE					
<p>(i) Cases where any residual disability is of less severity than that in (a)(iii) above. The bracket contains a wide variety of injuries. Examples are a case of a compression/crush fracture of the lumbar vertebrae where there is a substantial risk of osteoarthritis and constant pain and discomfort; that of a traumatic spondylolisthesis with continuous pain and a probability that spinal fusion will be necessary; a prolapsed intervertebral disc requiring surgery or damage to an intervertebral disc with nerve root irritation and reduced mobility.</p>	£20,400 to £28,500	£22,440 to £31,350	£21,100 to £29,475	£23,210 to £32,420	£1,070 (3.4%)
<p>(ii) Many frequently encountered injuries to the back such as disturbance of ligaments and muscles giving rise to backache, soft tissue injuries resulting in a prolonged acceleration and/or exacerbation of a pre-existing back condition, usually by five years or more, or prolapsed discs necessitating laminectomy or resulting in repeated relapses. The precise figure will depend upon a number of factors including the severity of the original injury, the degree of pain experienced, the extent of any treatment required in the past or in the future, the impact of the symptoms on the injured person's ability to function in everyday life and engage in social/recreational activities and the prognosis for the future.</p>	£9,200 to £20,400	£10,120 to £22,440	£9,500 to £21,100	£10,450 to £23,210	£770 (3.4%)
(c) MINOR					
<p>(i) Where a full recovery or a recovery to nuisance level takes place without surgery within about two to five years. This bracket will also apply to shorter term acceleration and/or exacerbation injuries, usually between two to five years.</p>	In the region of £5,800 to £9,200	In the region of £6,380 to £10,120	£6,000 to £9,500	£6,600 to £10,450	£330 (3.2%)

(ii)	Where a full recovery takes place without surgery between three months and two years. This bracket will also apply to very short-term acceleration and/or exacerbation injuries, usually less than two years.	In the region of £1,550 to £5,800	In the region of £1,705 to £6,380	£1,860 to £6,000	£2,050 to £6,600	£220 (3.4%)
(iii)	Where a full recovery is made within 3 months	A few hundred pounds to £1,550	A few hundred pounds to £1,705	A few hundred pounds to £1,860	A few hundred pounds to £2,050	£345 (20%)

The most significant change in this bracket is that in 7(B)(c)(iii) for minor back injuries where a full recovery is made within 3 months. The highest award (including the 10% uplift) is now £2,050 which is an increase of 20% from the 12th edition. This is an interesting increase considering the remainder of the bracket has risen with inflation only.

Comparison Between the Guidelines: Dermatitis

The Guidelines for dermatitis appear in chapter 12. The following table shows a comparison between the previous edition and the new edition:

Bracket 12 Dermatitis	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in
(a) Dermatitis of both hands, with cracking and soreness, affecting employment and domestic capability, possibly with some psychological consequences, lasting for some years, perhaps indefinitely.	£10,100 to £14,100	£11,110 to £15,510	£10,450 to £14,600	£11,500 to £16,060	£550 (3.5%)
(b) Dermatitis of one or both hands, continuing for a significant period, but settling with treatment and/or use of gloves for specific tasks.	£6,350 to £8,400	£6,985 to £9,240	£6,575 to £8,675	£7,230 to £9,540	£300 (3.2%)
(c) Itching, irritation of and/or rashes on one or both hands, but resolving within a few months with treatment.	£1,250 to £2,900	£1,375 to £3,190	£1,300 to £3,000	£1,430 to £3,300	£400 (13.7%)

Bracket 4(A) Psychiatric Damage Generally	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in
(a) Severe	£40,300 to £85,000	£44,330 to £93,500	£41,675 to £88,000	£45,840 to £96,800	£3,300 (3.5%)
(b) Moderately Severe	£14,000 to £40,300	£15,400 to £44,300	£14,500 to £41,675	£15,950 to £45,840	£1,540 (3.4%)
(c) Moderate	£4,300 to £14,000	£4,730 to £15,400	£4,450 to £14,500	£4,900 to £15,950	£550 (3.5%)
(d) Less Severe	£1,125 to £4,300	£1,238 to £4,730	£1,170 to £4,450	£1,290 to £4,900	£170 (3.5%)

In a similar fashion to back injuries the only change above inflation in this bracket is in relation to the mildest form of dermatitis whereby the increase at the highest end of the award (including the 10% uplift) is 13.7%.

Comparison Between the Guidelines: Vibration White Finger (VWF) and/or Hand Arm Vibration Syndrome (HAVS)

The Guidelines for vibration white finger (VWF) and/or hand arm vibration syndrome (HAVS) appear in chapter 7(J). The following table shows a comparison between the previous edition and the new edition:

Bracket 7(J) Vibration White Finger (VWF)and/or Hand Arm Vibration Syndrome (HAVS)	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in Top Bracket
(a) Most Serious	£23,250 to £28,250	£25,575 to £31,075	£24,050 to £29,200	£26,460 to £32,120	£1,045 (3.3%)
(b) Serious	£12,300 to £23,250	£13,530 to £25,575	£12,750 to £24,050	£14,030 to £26,460	£885 (3.4%)
(c) Moderate	£6,350 to £12,300	£6,985 to £13,530	£6,575 to £12,750	£7,230 to £14,030	£500 (3.6%)
(d) Minor	£2,200 to £6,350	£2,420 to £6,985	£2,275 to £6,575	£2,500 to £7,230	£245 (3.5%)

Again, there have been no significant changes to this category; the brackets reflect inflationary changes. In addition there have been no changes to the narrative text accompanying the brackets. The highest guideline award now in the most serious cases is £32,120. Meanwhile the lowest award in a minor case is now £2,275.

Comparison Between the Guidelines: Other Diseases

The following tables show a comparison between the previous edition and the new edition for the remaining brackets relevant to disease litigation. These tables have been provided for quick reference purposes as the only changes have been inflationary.

Bracket 7(G) Injuries to the Elbow	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in Top Bracket
(a) A severely Disabling Injury	£28,750 to £40,300	£31,625 to £44,330	£29,800 to £41,675	£32,780 to £45,840	£1,510 (3.4%)
(b) Less Severe Injuries Injuries causing impairment of function but not involving major surgery or significant disability.	£11,500 to £23,500	£12,650 to £25,850	£11,900 to £24,350	£13,090 to £26,790	£940 (3.6%)
(c) Moderate or Minor Injury	Up to £9,250	Up to £10,175	Up to £9,575	Up to £10,530	£355 (3.4%)
(i) Injuries fully resolving after about one year	In region of £2,600	In the region of £2,860	In the region of £2,675	In the region of £2,940	£80 (2.7%)
(ii) Injuries with the majority of symptoms resolving within 18 to 24 months but with nuisance level symptoms persisting after that	In region of £4,600	In region of £5,060	In the region of £4,775	In the region of £5,250	£190 (3.7%)
(iii) Injuries recovering after three years with nuisance symptoms thereafter and/or requiring surgery	In region of £9,250	In region of £10,175	In the region of £9,575	In the region of £10,530	£355 (3.4%)



Bracket 7(K) Work Related Upper Limb Disorders	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in Top Bracket
(a) Continuing bilateral disability with surgery and loss of employment	£16,100 to £17,00	£17,710 to £18,700	£16,650 to £17,575	£18,320 to £19,330	£630 (3.3%)
(b) Continuing but fluctuating and unilateral symptoms	£11,00 to £12,000	£12,100 to £13,200	£11,300 to £12,425	£12,430 to £13,670	£470 (3.5%)
(c) Symptoms resolving in the course of up to three years	£6,350 to £7,900	£6,985 to £8,690	£6,575 to £8,175	£7,230 to £8,990	£300 (3.4%)
(d) Complete recovery within a short period (of weeks or a few months)	£1,620 to £2,600	£1,782 to £2,860	£1,675 to £2,675	£1,840 to £2,940	£80 (2.7%)

Bracket 8 Chronic Pain	12 th Edition Figures	12 th Edition Figures with 10% uplift	13 th Edition Figures	13 th Edition Figures with 10% uplift	% and £ Change in Top Bracket
(a) Complex Regional Pain Syndrome (CRPS) – also known as Reflex Sympathetic Dystrophy					
(i) Severe	£38,600 to £61,750	£42,460 to £67,925	£39,900 to £63,850	£43,890 to £70,240	£2,315 (3.4%)
(ii) Moderate	£20,600 to £38,600	£22,660 to £42,460	£21,300 to £39,900	£23,430 to £43,890	£1430 (3.3%)
(b) Other Pain Disorders					
(i) Severe	£31,000 to £46,300	£34,100 to £50,930	£32,000 to £47,875	£34,200 to £52,660	£1730 (3.3%)
(ii) Moderate	£15,500 to £28,300	£17,050 to £31,130	£16,000 to £29,250	£17,600 to £32,180	£1,050 (3.3%)

Conclusion and Practical Handling Points

There have been modest increases in the disease Guidelines which reflect inflation. To the end of April 2013 the general increase in RPI over the previous 2 years has been 3.4%. The introduction to the Guidelines outlines that the 13th edition carries on separating the figures between 'pre-uplift' and 'uplift' awards. This is said to be because the former are likely to remain relevant throughout the lifetime of this edition.

Despite the relatively few changes in the 13th edition of the Guidelines, the authors do note that there is to be a thorough review of the Guidelines by the editorial team over the next two years.



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⁶ [2007] EWHC 2267 (QB).

⁷ [2012] EWCA Civ 1039.



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