



ASSOCIATION OF MEDICAL REPORTING ORGANISATIONS

Civil Justice Council  
Ministry of Justice  
Post Point 10.24  
102 Petty France  
London  
SW1H 9AJ

12 October 2022

Dear Sir/Madam

**Response to the CJC Working Group Consultation - June 2022**

The Association of Medical Reporting Organisations (AMRO) are grateful for the opportunity to provide the Civil Justice Council (CJC) with our thoughts, concerns, and suggestions regarding the consultation on costs.

AMRO represent several Medical Reporting Organisations (MROs), often referred to as Agencies, including all of the High Volume National (Tier 1) MROs accredited by and registered with MedCo, to provide independent medical evidence across fast-track RTA personal injury cases, via the Official Injury Claim (OIC) Portal. In addition, our members provide the majority of other medico-legal evidence, in via alternative litigation routes.

AMROs members provide circa 85% of all the medico-legal reports procured by all stakeholders handling personal injury claims. AMRO members collectively employ circa 2000 staff, processing around 300,000 medico-legal reports annually.

Our purpose, in participating in the consultation, is to highlight to the CJC the important work our members, other MROs and experts provide, to the insurance and litigation sectors. MROs and medical experts are *the* key component, in the provision of independent medical evidence, without which no injury claim can be progressed. Some, for far too long, have considered the work of MROs to be that of 'middle men' but those who consider the detail, as did his Honour Lord Justice Jackson, take a different view (Review of Civil Litigation Costs: Final Report, published 14<sup>th</sup> January 2010 – \*\*Extract below from page 229, chapters 7.3 – 7.5).



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MROs provide a key service to both those seeking the evidence and those required to provide the assessments. MROs ensure that there are adequate numbers of well-trained and competent medical experts able to handle the number of personal injury claims across the sector, including the recruitment, ongoing development and training and quality management of those experts, which comes at a significant and ever-increasing cost.

MROs have invested millions of pounds over decades, in developing the most efficient administrative processes within the personal injury sector. This has been achieved to ensure that the instructing party has as little involvement as possible, the claimant is provided with quick appointments in locations close by and the experts can operate their clinics at the highest levels of efficiency. All parties benefit.

Under the scrutiny of MedCo, circa 95% of all medico-legal reports are provided by MROs within the OIC portal. Experts actively choose to work with MROs, yet they could register and obtain the same fixed cost fee as an MRO by registering with MedCo and making themselves available for selection on the OIC portal, as Direct Medical Experts. It is important to recognise they do not. However, this stable, reliable platform, for the provision of the most important element of independent medical evidence in the personal injury sector, is at genuine risk.

Of the four parts considered in your response document, AMRO members are primarily focused on Part 4.2 however, our members have suffered from reduced cash flow since the introduction of the OIC portal and the full implementation of the Civil Justice Act. Some of this is a consequence of specific compensators choosing to take advantage of issues highlighted to the MoJ when the OIC portal rules were released (the lack of a payment period from the delivery of the report, for example) however, another significant proportion are a consequence of case related delays over the confusion surrounding mixed tariff injuries and the lack of ADR. Overall, well-publicised, extensive delays in the courts system are also greatly exacerbating these issues right across the sector. None are because of discredited experts, poor performance or overpricing. We anticipate that this topic will be very well represented by all sides and AMRO members are unlikely to add more substance to those arguments.



## **Part 4 – Consequences of the extension of Fixed Recoverable Costs**

### **4.2 Are there any other cost issues arising from the extension of fixed recoverable costs, including any other areas in which some form of fixed costs or cost capping scheme may be worthy of consideration? If so, please give details.**

The provision of medico-legal services for the initial medical report in fast-track RTA personal injury cases were last set in 2014 at £180, plus VAT. If RPI inflation had been applied through to 2022, then the fee for this initial report should now cost circa £222. If we factor in anticipated inflation for 2023, the report cost should, in all reasonableness, be set in the region of £245 plus VAT. It is worth noting that when Lord Justice Jackson conducted his review in 2009, the cost of an initial report was £195 plus VAT.

As part of this review, we would urge the CJC to consider the implementation of a fixed cost review process/mechanism. This process/mechanism would amend costs every two years to take into account both inflationary pressures but also relevant changes in the environment, in which these vital service providers work.

Regulatory costs, as well as staff, costs of maintaining suitable venues and general business costs have all been impacted because of inflationary pressures throughout the period since fees were originally set. These costs have traditionally been mitigated by continued efficiency measures and investment in technology however, it is simply not possible to continually find the additional savings needed to offset these increased costs.

It is worth noting that, as heavily regulated organisations, MROs, particularly our Tier 1 members, incur very significant costs in the form of a levy from MedCo and layers of regulatory compliance costs associated with ensuring such regulations are met. These costs, together with inflationary pressures, the slowdown in payment due the back log of cases through the OIC and some compensator behaviours around payment, have led to MROs exiting the market, including one Tier 1 MRO, just two months ago. As an association, we are aware of more that are considering this. The FRC situation is unsustainable, particularly when placed alongside the other factors referred to above.

AMRO have long felt that MROs and experts working in this sector are undervalued, both from the perspective of the key service they provide and financially. We now place our trust in the CJC to set this right.



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If you require any additional details or information around any of the points raised, please do not hesitate to contact us.

Thank you and best wishes

Yours faithfully

Ian Medforth  
General Secretary  
Association of Medical Reporting Organisations

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### (ii) Medical reporting organisations

7.3 Yet another group of middlemen? MROs are yet another group of middlemen who have recently arrived upon the scene and draw remuneration from the personal injuries process. They are enabled to do so because the rules permit their fees to be recoverable as a disbursement.

7.4 Rule change not recommended at the moment. My initial inclination was that the rules should be changed, so that fees paid to medical practitioners should be recoverable as a disbursement, but fees paid to MROs should not be so recoverable. However, having considered the evidence with the assistance of my assessors, I am persuaded that the intervention of MROs has had the overall effect of controlling the costs of obtaining medical evidence in personal injury cases. Therefore I do not, at the moment, recommend any change in the rules so as to reverse the effect of *Woollard v Fowler*.<sup>81</sup>

7.5 Need for continuing scrutiny. The effect of MROs upon the costs of personal injuries litigation is a matter which must be kept under close scrutiny. I would suggest that such scrutiny is carried out by the Costs Council, if one is established.<sup>82</sup> If ever it appears that the involvement of MROs is increasing the costs of the personal injuries process, then serious consideration should be given to rule change. In that event, the appropriate course might be for the rules to provide that the only fees recoverable for an expert report are the fees properly charged by the expert, as evidenced by an invoice from the expert.