

Periodical payments – where are we?

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Periodical payments – a new model?



Periodical payments: a numbers game?

- $100 + 101 = 2 - 6$
- 1.4.2005
- 6/12
- < 50
- 2% +

How do Periodical payments work?

- The types of case considered by the courts
- Stage 1 – indication (not binding)
- Stage 2 – decision
- Settlements – the role of the courts
- Infants and “patients”
- Trials

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How are claimants approaching this?

- Do claimants want PPs?
- Financial advice – for whom?
- Investment risk – transferred?
- Security – what does the Act say?
- Indexation

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Indexation – an old argument

- The legal history
 - *Wells v Wells* – **3% discount rate**
 - *Damages (Personal Injuries) Order 2001* – **2.5%**
 - *Cooke v UBHT* – an accountant’s argument
 - 2005 – a labour economist’s argument
- The parliamentary position
- The wider debate

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Future trends

- Steep learning curve...
- ...unusual arguments
- Cautious approach by judges
- Claimants do not want PPs, but...
- Pressure to settle
- Financial advisers – additional cost?
- Growth market?

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The claims manager's perspective

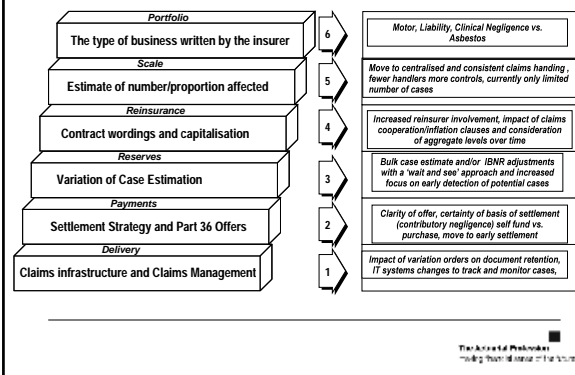
Doug Brown

The perceived impact of periodical payments on claims management varies significantly

- Wants vs. Needs
- Polarized views as to perceived impact
- 'Wild West' mentality
- No longer a claims decision
- Business impact assessments being conducted

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The level and type of response to the introduction of periodical payments is driven by a variety of factors

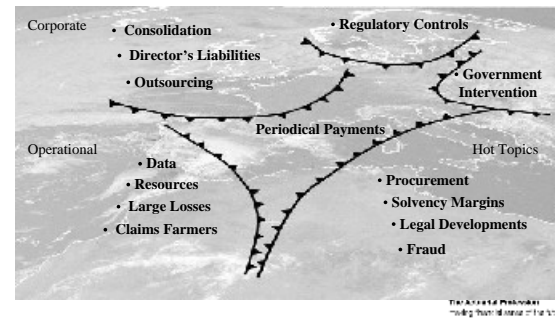



Predicting the future impact of the periodical payments cannot be simply based on historical experience

- Impact on the claimant – Needs not wishes
- Limited impact for insurers
- Increased focus on early settlements and rehabilitation could lead to higher costs
- Fewer cases proceeding to court?

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The advent of periodical payments should be seen as an opportunity rather than a threat





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Report from the working party

Anthony Williams

Periodical payments and the Courts Act Working party

Members:


Fabrice Brossart, Catherine Cernesson,
Doug Brown, Catherine Gwinnett,
Sheree Howard, Simon Marks, Joe Monk,
Jamie Reid, Anthony Williams (Chair),
Gary Yeates



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Working party report

- Background to periodical payments
- Understanding the impact on insurers
- Impact on claims management
- Reinsurer specific issues
- Financial impact
- Survey results
- International perspective
- Looking forward
- Numerous appendices providing background information



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Understanding the impact on insurers

- Classes most likely to be affected
 - Motor, Liability and Medical Malpractice
- New risks introduced to insurers and reinsurers
 - Including life insurance style risks
- Options for insurers
 - Self funding
 - Purchase of an annuity
 - Mortality pooling
- Many other challenges

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Survey results

- Our informal survey includes 9 insurers
- Very few claims to date
- Approaches to funding were mixed
- Discussions with reinsurers were ongoing
- Cost impact was uncertain
- Reserving allowance for periodical payments


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Workshop

- Aimed at being a discussion forum, considering:
 - Reserving for periodical payments
 - Reinsurance issues
 - How periodical payments may work in practice
- and an opportunity to discuss the details of the paper with the authors

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Any questions?

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