

## Managing Injuries In The Workplace

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Important changes to the Civil Justice Rules relating to the conduct of bodily injury claims came into effect after 31 July 2013. These are aimed predominantly at reducing the cost of personal injury litigation on Employers and Public Liability claims with a value up to £25,000. The cost savings are being facilitated by the extension of the online claims portal which has been used for low value motor injury claims since April 2010.

### **New timescales for decisions on liability**

Insurers now need to make decisions on liability within 30 business days of receipt of the Claim Notification Form for Employers Liability claims and within 40 days for Public Liability claims (previously 90 days for either).

### **If you receive a Claim Notification Form from a Claimant's Solicitor you should:**

1. Acknowledge it by email within 24 hours, confirming your Insurer's name and the policy number without making any comment on liability.
2. Email it to us immediately with a copy of your acknowledgement email, for onward transmission to your Insurer. Please also advise us of the contact information for the person in the business who will be managing the claim.
3. Provide all relevant information within the shorter timescales.

Please do not withhold forwarding on the Claim Notification Form if you are still collating information as this will reduce the time available to investigate the claim and could prejudice your position.

Delays in forwarding the CNF could result in the claim falling outside of the Portal timescales and the Fixed Costs Regime. This means that there would be no upper limit to the costs and total claim settlement could be considerably higher than the settlement for a claim that was retained within the Portal.

Given the short timescale provided for investigation and decision making it is essential that your procedures are reviewed to ensure they are efficient:

- Focus on detailed accurate capturing of information when an incident occurs as this may well develop into a claim in the future.
- Ensure documents are archived and readily available upon notification of a claim.
- Ensure key personnel are identified within the business who can act as the focal point; facilitating investigation and communication on liability decisions.
- Review claims defensibility processes to ensure they are sufficiently robust to assist Insurers in making the right decisions and avoid conceding liability unnecessarily.

### What should you do if an Accident occurs?

There are several reasons why accidents should be investigated:

1. To learn what went wrong so that steps can be taken to ensure that it does not happen again.
2. To satisfy legal requirements (e.g. the need to report certain accidents under RIDDOR).
3. To prepare for possible civil action (claims).

### What is an Accident Investigation?

An investigation is nothing more than a formal process involving the collection, storage and evaluation of information following an accident. The aim of an investigation is to determine why the accident occurred and allow suitable control actions to be taken to avoid it happening again. The collection and retention of documentary material will help deal with any follow up by the enforcing bodies e.g. Health and Safety Executive and help with the defence of any claims for compensation.

Accident investigation is not about apportioning blame. The process should be seen as a learning exercise in order to prevent a recurrence and should be undertaken immediately after the incident:

At the Scene	Employee Injury	Injury to member of the Public / Third Party
Attend to wellbeing of injured party – arrange for first aid and transfer to hospital if necessary	√	√
Make area safe / remove defective equipment / clean up spillages	√	√
Employee Statements	√	√
Witness – note of contact details to obtain statements	√	√ if Employee at the scene
Collect on-site evidence: <ul style="list-style-type: none"> <li>- Photographs</li> <li>- Measurements</li> <li>- Risk prevention e.g. wet floor signs on display?</li> <li>- On-site security report</li> <li>- CCTV footage (to ensure retained and not deleted)</li> <li>- Weather details if relevant</li> <li>- Lighting / Time of day etc</li> <li>- Cleaning schedule</li> </ul>	√	√
Accident Book and First Aider report	√	√

**Additional information to also be compiled from your records to complete the report:**

Information	Employee Injury	Injury to member of the Public / Third Party
Training Records – general and specific in relation to the accident	√ e.g. manual handling and lifting if back injury	√ e.g. relating to mopping / drying of floors if slip on floor
Method Statements and written Risk Assessments	√	√
Personal Protective Equipment (PPE) – evidence of issue / enforcement	√	√
Equipment maintenance records / PAT Certificate	√ If injury alleged to have been caused by equipment	
Copies of communication relating to the damage on site e.g. flooring	√	√
Injured Employee's payroll details for previous 13 weeks prior to incident	√	√

**Reporting & Control Action:**

Complete Accident Report for management to consider any improvement action and store documentation securely	√	√
RIDDOR or HSE / Local Authority notification?	√	√
Report to Broker / Insurer if potential claim	√	√
Sickness / HR	√ Monitor ongoing impact post incident	

**How Will Insurers Support You?**

- Insurers have enhanced their claims processes to deal with the new timescales.
- Claims Teams will conduct desktop handling and instruct Loss Adjusters when necessary.
- We will keep lines of communication open to ensure swift and effective claims handling.

Claims of this nature can be difficult to manage, time consuming and sometimes stressful but active and thorough management of the process can help achieve a speedy, fair and cost-effective solution.