

CIVIL PROCEDURE RULES

(Ministry of Justice Reforms 1st April 2013)

Their impact on how the council deals with claims for compensation

Background

A review was undertaken by Lord Justice Jackson into civil litigation costs and civil justice procedures. The changes are the most significant that have happened in recent years and have a major impact on the way the way Employers Liability and Public Liability claims, valued at between £1,000 and £25,000, are handled across the insurance industry and more specifically by Ealing Council (EC).

How Ealing Council, its departments and schools are affected under the new procedures

Claims valued between £1,000 and £25,000 are submitted by Ealing Council's insurance section to our claims handlers via an 'on line' portal.

- Timescales for EC, as the defendant, to investigate Employers Liability claims are reduced to 30 working days.
- Timescales for EC, as the defendant, to investigate Public Liability claims are reduced to 40 working days.
- The deadline for EC and its claims handlers to negotiate settlement of a claim is 35 working days.
- For all Employers Liability claims, earnings information must be disclosed by EC, as the defendant, within 20 working days from acceptance of liability.

If these timescales are not met, the claim will be removed from the process which could have a significant impact on costs. To avoid unnecessary costs it is important that EC makes sure notification of new claims is consistent, efficient and effective.

Procedures to be followed

Where claims are not submitted via the portal it is important that the following procedures are followed by Ealing Council and its schools.

1. If a letter or email is received directly from either a claimant or legal representatives eg solicitors or loss adjustors, stating that they wish to claim compensation **UNDER NO CIRCUMSTANCES MUST YOU ACKNOWLEDGE IT. BY ACKNOWLEDGING THE CLAIM THE COUNCIL WOULD BE DENIED THE OPPORTUNITY TO INVESTIGATE THE CLAIM WITHIN THE TIMESCALES ALLOWED.**

The original correspondence must be forward immediately to the Insurance Section, 5th floor South West, Perceval House, 14-16 Uxbridge Road, Ealing, W5 2HL. Alternatively it may be emailed to insurance@ealing.gov.uk

An acknowledgement will be sent by the insurance team or the council's claims handlers. Please note that any delays in forwarding the correspondence may prejudice our ability to defend the claim.

2. Any supporting documentation that you can provide that will allow our claims handlers to defend the claim must be forwarded to the insurance section as soon as possible but no later than **FOURTEEN DAYS** after receipt of the original letter of claim or request for documentation by the council.
3. All future requests for information from our claims handlers and insurers are time limited. It is important that these requests are actioned by the due date as failure to comply will result in financial penalties being applied to the Council in respect of defending the claim. **These penalties are not recoverable from insurers and will be recovered from your budgets.**

The following penalties can be applied against the council:

- Striking out the council's statement of case
- Excluding the council's argument or evidence
- Orders for security for the sum in issue and for present and future costs against the council.
- Orders against the council for payment (or non-payment) of costs, on some occasions on an indemnity basis and for the immediate assessment and payment of costs
- Orders against the council for payment of interest at a penal rate (10% in excess of the base interest rate)
- Proceedings against the council for contempt
- Wasted costs orders against the council

4. **Under no circumstances must liability be admitted.**
5. Letters claiming compensation received directly from claimants are to be treated no differently than those received from legal representatives. They are to be forwarded to the insurance section, unacknowledged, on the date of receipt.
6. If a member of staff is on leave or off sick please check their incoming mail as courts will not accept this as a defence for failing to deal with the claim in good time.

NOTE - Complaints and claims

Where a complaint is made the Council's complaints procedure **must** be followed. In essence a complaint is an expression about the way a council service has been provided that requires detailing why the appropriate procedures have been followed.

A claim for compensation (loss, damage or injury) is not deemed a complaint as it is governed by the Civil Procedure Rules and therefore falls outside the Council's complaints process. A claim for example would be a member of the public tripping on the highway and demanding recompense.

If a letter is submitted which is a complaint and a claim the two issues **must** be dealt with separately. The original letter **must** be forwarded to the Insurance team and a copy of the letter **must** be forwarded to the division to whom the complaint has been made about in order that the Council's complaints process may be followed. The dealing with the complaint does not impact on the way in which the claim is managed and vice versa. However where a complaint could develop into a claim or where the complaint is on the back of a claim the insurance team should be copied into any response made.