

Section 10

How to manage a claim



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Ansvar policyholders can refer to the section on the ‘Home’ page ‘What To Do In The Event Of A Claim’. Specific instructions are available including dedicated helplines in case of emergencies.

Always refer to your policy booklet in the first instance.

Sadly it is inevitable that in time a church or charity, despite being run efficiently, will face the need to respond speedily and properly to an accident or incident in which the organisation is in some way involved. This will include the necessity to act in a manner that minimises the results of an injury, loss or damage and stress and accelerates the recovery process.

These notes are to provide some practical assistance and guidance in how to cope best in these circumstances.

Generally claims fall into the following categories:

- Where the organisation or it’s employees, volunteers or agents are being held liable, rightly or wrongly, of negligence, which has led to:
 - (i) death, injury or disease of a person and/or loss or damage to property
 - (ii) mental anguish, financial loss or loss of expectations
- the loss of or damage to property through, for example, fire or burglary
- additional costs incurred to keep the organisation’s operations going and income steady

Obviously the relevant authorities and organisations must be advised very quickly such as:

- The insurer, insurance broker or agent
- The Health & Safety Executive
- The Police
- The Charity Commissioners or relevant Church authorities
- The repair company e.g. emergency glass replacement company

Notification of a potential claim needs to be given as soon as possible, not only to obtain as much assistance as available but also to ensure that any claim is notified in accordance with insurers requirements.

Claims conditions apply to most insurance policies, and will, for example, require:

- That notification is made to the insurer as required by the policy conditions e.g. in writing and as soon as possible (so as not to prejudice their legal rights which they automatically pick-up) via a claim form
- That the insured will act in a way which reduces any loss to a minimum e.g. safeguards any property left exposed in the open
- That in the event of an insurance being in force which is on a “claims made” basis e.g. covering professional liability or errors and omissions in giving advice, that any incident which “may” or “might” eventually lead to a writ, accusation or claim, however unlikely, must also be notified before the end of the period of insurance
- In some cases the Insured is responsible for paying the excess under a policy i.e. first part of a claim

Additionally, in respect of personal injury claims there are important changes with regard to handling claims. The government recognised the previous system was far too slow and expensive and the changes are designed to “encourage” better co-operation between the parties and faster settlement. These are effective from 26th April 1999 following the implementation of the recommendations of Lord Woolf, and mainly effect the handling of personal injury claims. Effectively the conduct of the parties to a dispute is to be taken into account by the Courts if the dispute reaches litigation.

These recommendations reform the civil litigation process with the object of:

- Generally improving the conduct of parties to a dispute
- Assisting the parties to avoid litigation if possible
- Removing the confrontational approach and make the system more user friendly
- Introducing effective guidelines (protocols)
- Making sure effective timetables are followed
- Encouraging the early exchange of information

In all cases where an employee, volunteer worker, a member of the public of an organisation on the behalf of such a person, makes a claim or an accusation against your organisation immediately refer to Attachment V(A) which summarises the procedures and critical time scales under the Woolf Reforms

- Proceed as the claims and claims notification clauses in your policy

- Where the Woolf reforms apply (e.g. someone is making a claim for personal injury) and when a letter is received from a claimant pass it to your insurer or broker immediately
- Any queries or difficulties immediately contact the Ansvar helpline telephone number (tba) insurance broker or consultant

- (iii) multi –over £15,000 or where there are complexities (known as Multi Track) the Court will view each case and decide what is necessary with regard to timing etc.

The investigation may include a visit by a representative of insurers to help in settlement. (Repudiation or defence in full or in part).

You will receive a claims reference number and please keep this handy to assist in speedy handling and settlement.

Insurers and insureds will be penalised (sometimes heavily) if the protocols and their timetables are not followed. Whilst these apply mainly to personal injury and medical negligence claims the spirit of the reforms may apply to other areas of dispute.

The main areas of change are for claims up to £15,000

- The Pre-action Protocol setting rules and procedures with regard to handling the claim including imposing a strict time scale, which requires that the procedure described in Attachment 5A is followed
- If it has not been possible to settle the claim in the 3 months Court Proceedings against you can commence. Then the claim is estimated with regard to size, and will be allocated to a track:
 - (i) small – (known as Arbitration) for personal injury claims under £1,000 (other claims under £5,000) and which will be dealt with at a Court hearing which is designed to be both speedy and formal
 - (ii) fast – up to £15,000 (known as Fast Track) dealt with by the Courts formally but within strict new time scale and, for example, if proceedings are necessary and your defence is not ready the trial will go ahead which could have serious financial implications

What to do in the event of a personal injury claim

	ACTION	TIMING
INITIAL RESPONSE	Pass the letter (or telephone message) advising of a claim to your insurer or broker. Do not acknowledge unless there has been a delay in dealing with this correspondence and the deadline imminent.	Immediately. You are now responsible to acknowledge the initial letter within 21 consecutive days of the date of the letter.
	Complete and send off a RIDDOR form. This is necessary when there are serious injuries as defined by these regulations and injuries which involve the injured person in being absent from work for 3 days or more.	Immediately.
	Enter details in the accident book	Immediately.
	Advise H & S executive or other enforcing authority (a completed F2508 form must be sent)	Within 10 days
	If a motor accident ensure driver understands any correspondence from a third party must be passed on immediately.	Urgently
Dealing with the Claim	Appoint a management rep. (who has authority to agree the settlement figure	Urgently
	Provided acknowledgement is issued within 21 days the claimant cannot commence Court proceedings within the 3 month period	Within 3 months from the end of the 21 days period
	This period allows, with help from insurers, a full investigation to be undertaken	
	Complete a claim form with full details of the injured party and the accident plus all available documents e.g. H & S training, risk assessments and reports.	Urgently

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