

# Important changes to personal injury claims.

From 31 July 2013 all employers liability and public liability personal injury claims with a value up to £25,000 will be managed through an online system called the Claims Portal.

The major effect is that the time to investigate these types of claims has been drastically reduced. However, in cases where liability is admitted and the claim is resolved within the portal, you and your insurer will benefit from fixed legal fees which are considerably less than the fees which would otherwise be payable.

To ensure that you benefit from these changes, please note the following points regarding the notification of claims and assisting with subsequent investigations.

## How will you know there is a claim?

### You receive a Claim Notification Form

If a personal injury claim is made against you on or after 31 July 2013, you will receive a Claim Notification Form (EL1) or (PL1).

The image shows two sample forms side-by-side. The left form is titled 'Claim notification form (EL1) - Low value personal injury claims in employers' liability - accident only (£1,000 - £25,000)'. The right form is titled 'Claim notification form (PL1) - Low value personal injury claims in public liability accidents (£1,000 - £25,000)'. Both forms have a header with instructions: 'This is a formal claim against you, which must be acknowledged by email immediately and passed to your insurer.' Below this is a section 'Before filling in this form you are encouraged to seek independent legal advice.' followed by a 'Date sent' field. The forms then have sections for 'What is the value of your claim?' with radio buttons for 'up to £10,000' and 'up to £25,000', and a section 'Please tick here if you are not legally represented'. The main body of the forms is divided into two columns: 'Claimant's representative - contact details' and 'Defendant's details'. The EL1 form has a 'Reference number' field at the bottom, while the PL1 form has a 'Policy number reference (if not known insert not known)' field. Both forms have a footer with the number '61 Claim notification form (EL1)'. A large 'Specimen' watermark is overlaid diagonally across the forms.

### You receive a request for your insurer contact details

Receiving a letter requesting your public liability or employers liability insurers' contact details could indicate that a claim is likely to follow. You should notify us of the potential claim straight away.

## What should you do with the Claim Notification Form (CNF)?

On the **same day** you receive the CNF you must:

- Send a copy of the CNF to us:
  - email: [claims@markeldirect.co.uk](mailto:claims@markeldirect.co.uk) or
  - fax: 0845 351 2601
- Acknowledge, by email, receipt of the claim to the claimant or their representative.

### DO NOT:

- Make any comment on the contents of the CNF or accompanying correspondence
- Complete the compensator response section of the form. We will deal with this step for you

On the same day or **within the next 5 days**:

- Provide us with information and documents to investigate the claim (see further details below)

### DO NOT:

- Delay sending the CNF to us if supporting documents are not immediately available

## What supporting documentation should you send?

Inevitably there will be different types of documentation relevant to different types of claims or potential claims. Some examples are:

- Letter of claim
- Accident book entry
- Accident report form
- First aider report
- Surgery record
- Safety representative's accident report
- RIDDOR report to HSE
- Other communications between insured and HSE
- Minutes of health and safety committee meetings where accident / matter considered
- Report to DSS
- Documents relating to the employees health and safety training
- Risk assessments
- Care plans
- Any relevant policies and procedures
- Cleaning, inspection and maintenance records

## Timescales

Adhering to the deadlines for reporting a claim is important because there are rules and a strict timetable for us to provide a full reply to the allegations made:

- **30 days** for employers liability claims
- **40 days** for public liability claims

If these are not complied with the benefit of the low fixed costs will be lost.

## What happens next?

### Acknowledgement

We will formally acknowledge the CNF in the Claims Portal within 24 hours of receipt.

### Investigation

We will consider the allegations in the CNF and the supporting documents you provide to make an initial assessment of legal liability. If we cannot come to a conclusion on the basis of that information or if a denial looks a realistic possibility it is likely that we will instruct a loss adjuster to make investigations and provide a report.

### Conclusion

#### – Admit liability

If we conclude you are liable, we will communicate our views and advise you how we intend to proceed. Unless the situation is very time critical, we will provide you with short period to make any comments and supply any additional information that may have been overlooked previously.

If we conclude that you are liable and there is no prospect of successfully defending the claim, we will proceed to admit liability within the 30 or 40 day time period to ensure that the claim will benefit from the lower fixed legal fees.

#### – Defend liability

If liability is to be denied, a full explanation of the reasons for this and copies of all documents relevant to the dispute must be provided to the claimant and at this stage the claim exits the electronic Claims Portal.

## Notification of accidents

### Failure to notify us may invalidate your policy

You are required to notify of any circumstance likely to give rise to a claim (not just actual claims) under the terms of your policy. Notifying us of such circumstances is critical because failure to do so could invalidate the cover under the policy.

Time is critical, so if we are made aware of an accident / incident prior to a claim being received, we will have a "head start" in investigating the matter. As such, it is more likely that we will be able to keep the claim within the portal thus keeping costs down.

### What incidents should you notify?

The type of events that may give rise to a claim will vary from organisation to organisation, but as a rule of thumb we should be notified of:

- Any incident of personal injury resulting in a member of staff being absent from work
- In respect of service users or others such as visitors, any incident giving rise to injury in relation to which you are required to complete a RIDDOR report
- Any incident in relation to which you receive a request for your insurance details
- Any incident resulting in injury or harm which requires police involvement
- Any incident involving injury or harm which results in a safeguarding investigation into your activities by external authorities
- Any incident causing injury or harm which results in a complaint by a service user / service user's family or others with responsibility for a service user such as social services
- Any formal request you receive for access to a service user's records

## Further information

If you have any questions or concerns please feel free to contact the Markel claims team at:

Email: [claims@markeldirect.co.uk](mailto:claims@markeldirect.co.uk)

Phone: 0845 688 2500

Post: Markel (UK) Ltd, Claims Department, Riverside West, Whitehall Road, Leeds, LS1 4AW