

Claims 'How To' Employers Liability Claims

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WHEN TO REPORT

If an employee is injured at work and you consider it likely to give rise to a claim then you should contact your James Hallam claim executive.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) provides guidance.

DEATH OF ANY PERSON

-workers and non-workers, with the exception of suicides, must be reported if they arise from a work-related accident

SPECIFIED INJURIES TO WORKERS

-fractures, other than to fingers, thumbs and toes
-amputations
-any injury likely to lead to permanent loss of sight or reduction in sight
-any crush injury to the head or torso causing damage to the brain or internal organs
-serious burns
-any scalping requiring hospital treatment
-any loss of consciousness caused by head injury or asphyxia
-any other injury arising from working in an enclosed space

OVER-SEVEN-DAY INCAPACITATION OF A WORKER

-Whether employed or self-employed if "unable to perform their normal work duties, for more than seven consecutive days as the result of their injury". This seven day period does not include the day of the accident, but does include weekends and rest days.

Any of the above scenarios should be reported to James Hallam as soon as possible. A RIDDOR report also needs to be made within 15 days via the HSE online reporting site.

OVER THREE-DAY INCAPACITATION

The RIDDOR requirement is that accidents that cause an over-three-day incapacitation but do not reach the 7 day period, need to be recorded but not reported. You should consider if a claim is likely under the circumstances and then report

to us or retain as much information as possible within your records.

KEY CLAIM INFORMATION

The following information will be needed in relation to an incident or a formal claim. Generally points 1-3 are sufficient to notify an incident but if/when a claim progresses all of the information below would ideally be required.

- 1.A copy of the accident report
- 2.Photos or videos of the incident or area if available
- 3.RIDDOR form if/when completed
- 4.Details of any witnesses to the incident
- 5.Risk Assessments, method statements and/or Safe System of work document
- 6.Details of any relevant employee training, ideally signed and dated.
- 7.Details of previous similar accidents. Please include accident book records, if available.

FORMAL CLAIM

A formal claim is made when you receive either a **Letter of Claim** or a **Claim Notification Form (CNF)**. These are generally produced by a solicitor acting for the employee and will contain details of the alleged accident, allegations of negligence and limited details of the injury and extent of their claim.

This should be provided to James Hallam as soon as it is received to allow fast acknowledgement of the claim by your insurer.

It is not necessary for you to respond to any correspondence; we recommend sending this to us unanswered at this stage for the insurer to take over correspondence.

TIME FRAMES

James Hallam will be able to advise on specific time frames which apply to your claim based on English/Scottish Law, however, as a general rule we recommend sharing information quickly to allow liability investigations to be carried out within 30 days.

LIABILITY INVESTIGATIONS

Your insurer will investigate whether you are **legally liable** for any injury claim made. The first assessment is to determine if you have breached your duty of care to the employee to provide safe systems and environments of work. This will involve review of your own documentation and procedures, potentially with your insurer using a loss adjuster. If a liability defence is possible your insurer will issue a denial of liability on your behalf. If this occurs the claimant solicitor will either withdraw the claim or seek to litigate via court proceedings.

If the insurers consider you are likely to be found liable for the incident. They will recommend an admission of primary liability. **If an admission is made you will need to supply employee wages details 13 weeks pre- and post-accident for any potential loss of earnings claim.**

The employee will then have to prove their claim with medical evidence to demonstrate that they have sustained the injuries/losses they allege.

WHAT HAPPENS NEXT

If a claim is admitted, it can take some time for medical evidence to be provided to support the claim. Upon receipt, your insurer will consider the medical evidence. If it supports the alleged claim, the insurer will seek to settle the claim on best terms. Any disputes either regarding primarily liability or the value of the claim may result in litigation, in which case the insurer will appoint a solicitor to represent you.

A claimant has three years from the date of injury or when they become aware of the injury to present a claim. If not within that time frame they may need to issue proceedings.

