

Changes to the process for Employer Liability (EL) and Public Liability (PL) claims – is your incident/accident investigation process ready?

From August 2013, all Employer Liability (EL) & Public Liability (PL) claims under £25,000 in value (excluding some exceptions such as industrial disease claims) will be dealt with through the Ministry of Justice Claims Portal.

The Portal already exists for Road Traffic Accident claims under £10,000 and is intended to compress the timescales for the claims process and limit solicitor's costs.

What are the changes in summary?

Once a Claims Notification Form (CNF) is received into your company, either electronically or by post, you have 24 hours to acknowledge it. This applies to those CNF sent by the Claimant's representative to you or your Insurer; it is vital that you liaise with your Insurer as soon as possible when a CNF is received.

Once acknowledgement of the claim is notified, Insurers have 40 days for PL and 30 days for EL to make a decision on the admission of liability or the claim is removed from the Portal and increased costs will occur.

What do the changes mean for me?

The new timescales increase the need for you to collate accurate and adequate documentation (eg accident and investigation reports and supporting information) and provide this to your Insurer in a suitable timescale to ensure an adequate claim liability defence is provided.

Should this information not be forthcoming, Insurers may make a judgement and take action to limit costs which, for example, could mean settlement of a claim even if it is suspected that it may be spurious.

What do I need to do?

The prompt reporting of claims and speedy supply of relevant accident documentation will be essential in order to enable Insurers to make prompt liability decisions in compliance with the very tight Portal timescales.

To prepare for the reforms, enact the following:

1. If you become aware of a potential event, pre-notify your Insurer.
2. Ensure people are aware of their roles and responsibilities with respect to the new timescales.
3. Be aware of CNF and what to do upon receipt.
4. Work with your Insurer to acknowledge the CNF within 24 hours.
5. Ensure your accident reporting and investigation processes are efficient and organised.
6. Carry out thorough investigations that identify the immediate and root causes.

7. Learn the lessons from the event and instigate controls to prevent it happening again.
8. Retain all relevant documentation in a structured filing system (an electronic system is best to manage the whole reporting, investigation and action-tracking process).
9. Publish your Insurer details to those that need to know.
10. Cooperate with your Insurer to promptly provide all requested information.

This information is not legal advice and is intended only to highlight general issues relating to the subject matter which may be of interest and does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. If you intend to take any action or make any decision on the basis of this information you should first seek professional advice.