

Feb 2017

1. Introduction

1.1

1.1.1 This Protocol is primarily designed for personal injury claims which are likely to be allocated to the fast track and to the entirety of those claims: not only to the personal injury element of a claim which also includes, for instance, property damage. It is not intended to apply to claims which proceed under—

(a) the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents from 31 July 2013;

(b) the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims;

(c) the Pre-Action Protocol for the Resolution of Clinical Disputes; and

(d) the Pre-Action Protocol for Disease and Illness Claims.

1.1.2 If at any stage the claimant values the claim at more than the upper limit of the fast track, the claimant should notify the defendant as soon as possible. However, the “cards on the table” approach advocated by this Protocol is equally appropriate to higher value claims. The spirit, if not the letter of the Protocol, should still be followed for claims which could potentially be allocated multi-track. All parties are expected to consider the Serious Injury Guide in any claim to which that Guide applies (<http://www.seriousinjuryguide.co.uk/>).

1.2 Claims which exit either of the low value pre-action protocols listed at paragraph 1.1.1(a) and (b) (“the low value protocols”) prior to Stage 2 will proceed under this Protocol from the point specified in those protocols, and as set out in paragraph 1.3.

1.3

1.3.1 Where a claim exits a low value protocol because the defendant considers that there is inadequate mandatory information in the Claim Notification Form (“CNF”), the claim will proceed under this Protocol from paragraph 5.1.

1.3.2 Where a defendant—

- (a) alleges contributory negligence;
- (b) does not complete and send the CNF Response; or
- (c) does not admit liability,

the claim will proceed under this Protocol from paragraph 5.5.

1.4

1.4.1 This Protocol sets out conduct that the court would normally expect prospective parties to follow prior to the commencement of proceedings. It establishes a reasonable process and timetable for the exchange of information relevant to a dispute, sets standards for the content and quality of letters of claim, and in particular, the conduct of pre-action negotiations. In particular, the parts of this Protocol that are concerned with rehabilitation are likely to be of application in all claims.

1.4.2 The timetable and the arrangements for disclosing documents and obtaining expert evidence may need to be varied to suit the circumstances of the case. Where one or both parties consider the detail of the Protocol is not appropriate to the case, and proceedings are subsequently issued, the court will expect an explanation as to why the Protocol has not been followed, or has been varied.

1.5 Where either party fails to comply with this Protocol, the court may impose sanctions. When deciding whether to do so, the court will look at whether the parties have complied in substance with the relevant principles and requirements. It will also consider the effect any non-compliance has had on another party. It is not likely to be concerned with minor or technical shortcomings (see paragraphs 13 to 15 of the Practice Direction on Pre-Action Conduct and Protocols).

Early Issue

1.6 The Protocol recommends that a defendant be given three months to investigate and respond to a claim before proceedings are issued. This may not always be possible, particularly where a claimant only consults a legal representative close to the end of any relevant limitation period. In these circumstances, the claimant's solicitor should give as much notice of the intention to issue proceedings as is practicable and the parties should consider whether the court might be invited to

extend time for service of the claimant's supporting documents and for service of any defence, or alternatively, to stay the proceedings while the recommended steps in the Protocol are followed.

Litigants in Person

1.7 If a party to the claim does not have a legal representative they should still, in so far as reasonably possible, fully comply with this Protocol. Any reference to a claimant in this Protocol will also mean the claimant's legal representative.

2. Overview of Protocol – General Aim

2.1 The Protocol's objectives are to—

- (a) encourage the exchange of early and full information about the dispute;
- (b) encourage better and earlier pre-action investigation by all parties;
- (c) enable the parties to avoid litigation by agreeing a settlement of the dispute before proceedings are commenced;
- (d) support the just, proportionate and efficient management of proceedings where litigation cannot be avoided; and
- (e) promote the provision of medical or rehabilitation treatment (not just in high value cases) to address the needs of the Claimant at the earliest possible opportunity.

3. The Protocol

An illustrative flow chart is attached at Annexe A which shows each of the steps that the parties are expected to take before the commencement of proceedings.

Letter of Notification

3.1 The claimant or his legal representative may wish to notify a defendant and/or the insurer as soon as they know a claim is likely to be made, but before they are able to send a detailed Letter of Claim, particularly, for instance, when the defendant has no or limited knowledge of the incident giving rise to the claim, or where the claimant is incurring significant expenditure as a result of the accident which he hopes the defendant might pay for, in whole or in part.

3.2 The Letter of Notification should advise the defendant and/or the insurer of any relevant information that is available to assist with determining issues of liability/suitability of the claim for an interim payment and/or early rehabilitation.

3.3 If the claimant or his legal representative gives notification before sending a Letter of Claim, it will not start the timetable for the Letter of Response. However the Letter of Notification should be acknowledged within 14 days of receipt.

4. Rehabilitation

4.1 The parties should consider as early as possible whether the claimant has reasonable needs that could be met by medical treatment or other rehabilitative measures. They should discuss how these needs might be addressed.

4.2 The Rehabilitation Code (which can be found at: http://www.iaa.co.uk/IAA_Member/Publications) is likely to be helpful in considering how to identify the claimant's needs and how to address the cost of providing for those needs.

4.3 The time limit set out in paragraph 6.3 of this Protocol shall not be shortened, except by consent to allow these issues to be addressed.

4.4 Any immediate needs assessment report or documents associated with it that are obtained for the purposes of rehabilitation shall not be used in the litigation except by consent and shall in any event be exempt from the provisions of paragraphs 7.2 to 7.11 of this Protocol. Similarly, persons conducting the immediate needs assessment shall not be a compellable witness at court.

4.5 Consideration of rehabilitation options, by all parties, should be an on going process throughout the entire Protocol period.

5. Letter of Claim

5.1 Subject to paragraph 5.3 the claimant should send to the proposed defendant two copies of the Letter of Claim. One copy of the letter is for the defendant, the second for passing on to the insurers, as soon as possible, and, in any event, within 7 days of the day upon which the defendant received it.

5.2 The Letter of Claim should include the information described on the template at Annexe B1. The level of detail will need to be varied to suit the particular circumstances. In all cases there should be sufficient information for the defendant to assess liability and to enable the defendant to estimate the likely size and heads of the claim without necessarily addressing quantum in detail.

5.3 The letter should contain a clear summary of the facts on which the claim is based together with an indication of the nature of any injuries suffered, and the way in which these impact on the claimant's day to day functioning and prognosis. Any financial loss incurred by the claimant should

be outlined with an indication of the heads of damage to be claimed and the amount of that loss, unless this is impracticable.

5.4 Details of the claimant's National Insurance number and date of birth should be supplied to the defendant's insurer once the defendant has responded to the Letter of Claim and confirmed the identity of the insurer. This information should not be supplied in the Letter of Claim.

5.5 Where a claim no longer continues under either low value protocol, the CNF completed by the claimant under those protocols can be used as the Letter of Claim under this Protocol unless the defendant has notified the claimant that there is inadequate information in the CNF.

5.6 Once the claimant has sent the Letter of Claim no further investigation on liability should normally be carried out within the Protocol period until a response is received from the defendant indicating whether liability is disputed.

Status of Letters of Claim and Response

5.7 Letters of Claim and Response are not intended to have the same formal status as a statement of case in proceedings. It would not be consistent with the spirit of the Protocol for a party to 'take a point' on this in the proceedings, provided that there was no obvious intention by the party who changed their position to mislead the other party.

6. The Response

6.1 Attached at Annexe B2 is a template for the suggested contents of the Letter of Response: the level of detail will need to be varied to suit the particular circumstances.

6.2 The defendant must reply within 21 calendar days of the date of posting of the letter identifying the insurer (if any). If the insurer is aware of any significant omissions from the letter of claim they should identify them specifically. Similarly, if they are aware that another defendant has also been identified whom they believe would not be a correct defendant in any proceedings, they should notify the claimant without delay, with reasons, and in any event by the end of the Response period. Where there has been no reply by the defendant or insurer within 21 days, the claimant will be entitled to issue proceedings. Compliance with this paragraph will be taken into account on the question of any assessment of the defendant's costs.

6.3 The defendant (insurer) will have a maximum of three months from the date of acknowledgment of the Letter of Claim (or of the CNF where the claim commenced in a portal) to investigate. No later than the end of that period, The defendant (insurer) should reply by no later than the end of that period, stating if liability is admitted by admitting that the accident occurred,

that the accident was caused by the defendant's breach of duty, and the claimant suffered loss and there is no defence under the Limitation Act 1980.

6.4 Where the accident occurred outside England and Wales and/or where the defendant is outside the jurisdiction, the time periods of 21 days and three months should normally be extended up to 42 days and six months.

6.5 If a defendant denies liability and/or causation, their version of events should be supplied. The defendant should also enclose with the response, documents in their possession which are material to the issues between the parties, and which would be likely to be ordered to be disclosed by the court, either on an application for pre-action disclosure, or on disclosure during proceedings. No charge will be made for providing copy documents under the Protocol.

6.6 An admission made by any party under this Protocol may well be binding on that party in the litigation. Further information about admissions made under this Protocol is to be found in Civil Procedure Rules ("CPR") rule 14.1A.

6.7 Following receipt of the Letter of Response, if the claimant is aware that there may be a delay of six months or more before the claimant decides if, when and how to proceed, the claimant should keep the defendant generally informed.

7. Disclosure

7.1 Documents

7.1.1 The aim of early disclosure of documents by the defendant is not to encourage 'fishing expeditions' by the claimant, but to promote an early exchange of relevant information to help in clarifying or resolving issues in dispute. The claimant's solicitor can assist by identifying in the Letter of Claim or in a subsequent letter the particular categories of documents which they consider are relevant and why, with a brief explanation of their purported relevance if necessary.

7.1.2 Attached at Annexe C are specimen, but non-exhaustive, lists of documents likely to be material in different types of claim.

7.1.3 Pre-action disclosure will generally be limited to the documents required to be enclosed with the Letter of Claim and the Response. In cases where liability is admitted in full, disclosure will be limited to the documents relevant to quantum, the parties can agree that further disclosure may be given. If either or both of the parties consider that further disclosure should be given but there is disagreement about some aspect of that process, they may be able to make an application to the court for pre-action disclosure under Part 31 of the CPR. Parties should assist each other and avoid the necessity for such an application.

7.1.4 The protocol should also contain a requirement that the defendant is under a duty to preserve the disclosure documents and other evidence (CCTV for example). If the documents are destroyed, this could be an abuse of the court process.

Experts

7.2 Save for cases likely to be allocated to the multi-track, the Protocol encourages joint selection of, and access to, quantum experts, and, on occasion liability experts e.g. engineers. The expert report produced is not a joint report for the purposes of CPR Part 35. The Protocol promotes the practice of the claimant obtaining a medical report, disclosing it to the defendant who then asks questions and/or agrees it and does not obtain their own report. The Protocol provides for nomination of the expert by the claimant in personal injury claims.

7.3 Before any party instructs an expert, they should give the other party a list of the name(s) of one or more experts in the relevant speciality whom they consider are suitable to instruct.

7.4 Some solicitors choose to obtain medical reports through medical agencies, rather than directly from a specific doctor or hospital. The defendant's prior consent to this should be sought and, if the defendant so requests, the agency should be asked to provide in advance the names of the doctor(s) whom they are considering instructing.

7.5 Where a medical expert is to be instructed, the claimant's solicitor will organise access to relevant medical records – see specimen letter of instruction at Annexe D.

7.6 Within 14 days of providing a list of experts the other party may indicate an objection to one or more of the named experts. The first party should then instruct a mutually acceptable expert assuming there is one (this is not the same as a joint expert). It must be emphasised that when the claimant nominates an expert in the original Letter of Claim, the defendant has a further 14 days to object to one or more of the named experts after expiration of the 21 day period within which they have to reply to the Letter of Claim, as set out in paragraph 6.2.

7.7 If the defendant objects to all the listed experts, the parties may then instruct experts of their own choice. It will be for the court to decide, subsequently and if proceedings are issued, whether either party had acted unreasonably.

7.8 If the defendant does not object to an expert nominated by the claimant, they shall not be entitled to rely on their own expert evidence within that expert's area of expertise unless—

(a) the claimant agrees;

(b) the court so directs; or

(c) the claimant's expert report has been amended and the claimant is not prepared to disclose the original report.

7.9 Any party may send to an agreed expert written questions on the report, via the first party's solicitors. Such questions must be put within 28 days of service of the expert's report and must only be for the purpose of clarification of the report. The expert should send answers to the questions simultaneously to each party.

7.10 The cost of a report from an agreed expert will usually be paid by the instructing first party: the costs of the expert replying to questions will usually be borne by the party which asks the questions.

7.11 If necessary, after proceedings have commenced and with the permission of the court, the parties may obtain further expert reports. It would be for the court to decide whether the costs of more than one expert's report should be recoverable.

8. Negotiations following an admission

8.1

8.1.1 Where a defendant admits liability which has caused some damage, before proceedings are issued, the claimant should send to that defendant—

(a) any medical reports obtained under this Protocol on which the claimant relies; and

(b) a schedule of any past and future expenses and losses which are claimed, even if the schedule is necessarily provisional. The schedule should contain as much detail as reasonably practicable and should identify those losses that are ongoing. If the schedule is likely to be updated before the case is concluded, it should say so.

8.1.2 The claimant should delay issuing proceedings for 21 days from disclosure of (a) and (b) above (unless such delay would cause his claim to become time-barred), to enable the parties to consider whether the claim is capable of settlement.

8.2 CPR Part 36 permits claimants and defendants to make offers to settle pre-proceedings. Parties should always consider if it is appropriate to make a Part 36 Offer before issuing. If such an offer is made, the party making the offer must always try to supply sufficient evidence and/or information to enable the offer to be properly considered.

The level of detail will depend on the value of the claim. Medical reports may not be necessary where there is no significant continuing injury and a detailed schedule may not be necessary in a low value case.

9. Alternative Dispute Resolution

9.1

9.1.1 Litigation should be a last resort. As part of this Protocol, the parties should consider whether negotiation or some other form of Alternative Dispute Resolution (“ADR”) might enable them to resolve their dispute without commencing proceedings.

9.1.2 Some of the options for resolving disputes without commencing proceedings are—

(a) discussions and negotiation (which may or may not include making Part 36 Offers or providing an explanation and/or apology);

(b) mediation, a third party facilitating a resolution;

(c) arbitration, a third party deciding the dispute; and

(d) early neutral evaluation, a third party giving an informed opinion on the dispute.

9.1.3 If proceedings are issued, the parties may be required by the court to provide evidence that ADR has been considered. It is expressly recognised that no party can or should be forced to mediate or enter into any form of ADR but unreasonable refusal to consider ADR will be taken into account by the court when deciding who bears the costs of the proceedings.

9.2 Information on mediation and other forms of ADR is available in the Jackson ADR Handbook (available from Oxford University Press) or at—

- <http://www.civilmediation.justice.gov.uk/>
- http://www.adviceguide.org.uk/england/law_e/law_legal_system_e/law_taking_legal_action_e/alternatives_to_court.htm

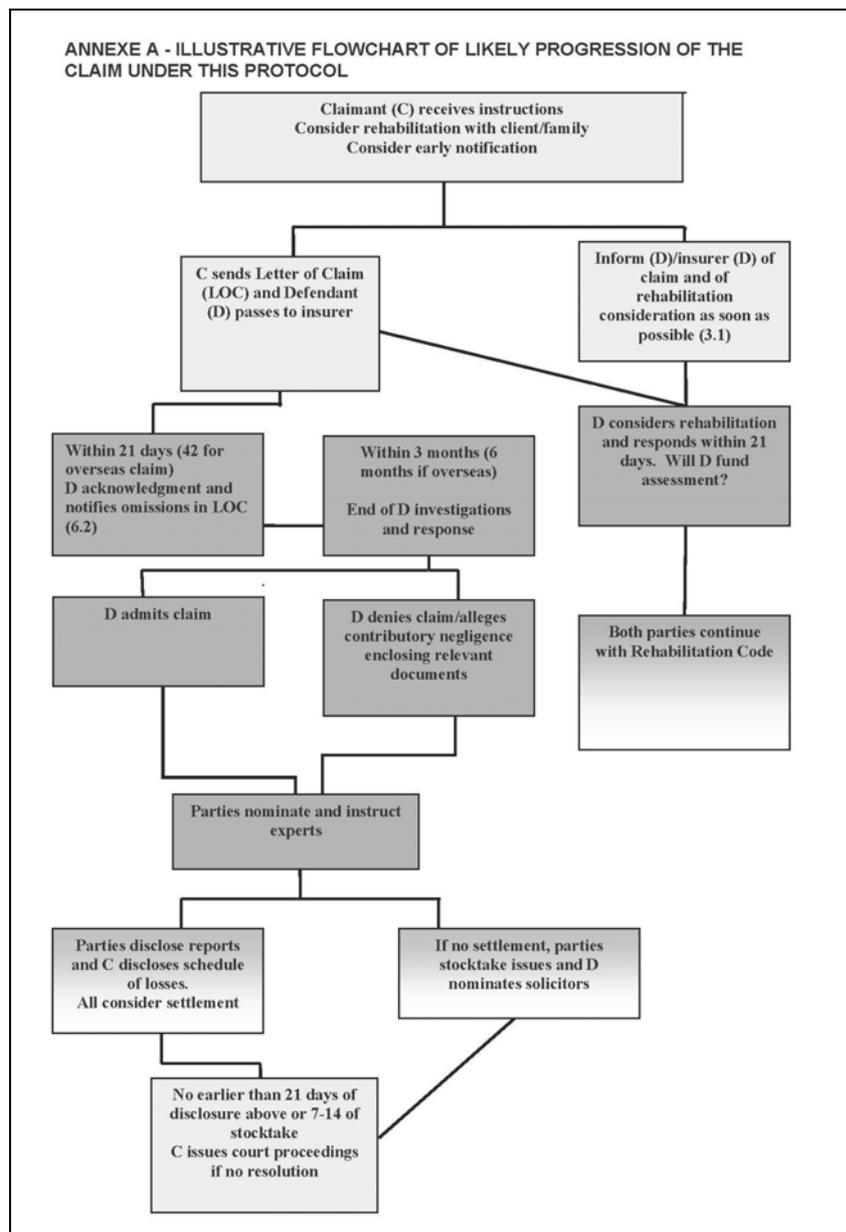
10. Quantification of Loss - Special damages

10.1 In all cases, if the defendant admits liability, the claimant will send to the defendant as soon as reasonably practicable a schedule of any past and future expenses and losses which he claims, even if the schedule is necessarily provisional. The schedule should contain as much detail as reasonably practicable and should identify those losses that are ongoing. If the schedule is likely to be updated before the case is concluded, it should say so. The claimant should keep the

defendant informed as to the rate at which his financial loss is progressing throughout the entire Protocol period.

11. Stocktake

11.1 Where the procedure set out in this Protocol has not resolved the dispute between the parties, each party should undertake a review of its own positions and the strengths and weaknesses of its case. The parties should then together consider the evidence and the arguments in order to see whether litigation can be avoided or, if that is not possible, for the issues between the parties to be narrowed before proceedings are issued. Where the defendant is insured and the pre-action steps have been taken by the insurer, the insurer would normally be expected to nominate solicitors to act in the proceedings and to accept service of the claim form and other documents on behalf of the defendant. The claimant or their solicitor is recommended to invite the insurer to nominate solicitors to act in the proceedings and do so 7 to 14 days before the intended issue date.



Annex B: Templates for letters of claim and response

B1 Letter of Claim

To

Defendant

Dear Sirs

Re:

Claimant's full name

Claimant's full address

Claimant's Clock or Works Number

Claimant's Employer (name and address)

We are instructed by the above named to claim damages in connection with an **accident at work/road traffic accident/tripping accident** on day of **(year)** at **(place of accident which must be sufficiently detailed to establish location)**

Please confirm the identity of your insurers. Please note that the insurers will need to see this letter as soon as possible and it may affect your insurance cover and/or the conduct of any subsequent legal proceedings if you do not send this letter to them.

Clear summary of the facts

The circumstances of the accident are:

(brief outline)

Liability

The reason why we are alleging fault is:

(simple explanation e.g. defective machine, broken ground)

We are obtaining a police report and will let you have a copy of the same upon your undertaking to meet half the fee.

Injuries

A description of our clients' injuries is as follows:

(brief outline) The description should include a non-exhaustive list of the main functional effects on daily living, so that the defendant can begin to assess value / rehabilitation needs.

(In cases of road traffic accidents)

Our client (state hospital reference number) received treatment for the injuries at name and address of hospital).

Our client is still suffering from the effects of his/her injury. We invite you to participate with us in addressing his/her immediate needs by use of rehabilitation.

Loss of Earnings

He/She is employed as **(occupation)** and has had the following time off work **(dates of absence)**. His/Her approximate weekly income is (insert if known).

If you are our client's employers, please provide us with the usual earnings details which will enable us to calculate his financial loss.

Other Financial Losses

We are also aware of the following (likely) financial losses:

Details of the insurer

We have also sent a letter of claim to **(name and address)** and a copy of that letter is attached. We understand their insurers are **(name, address and claims number if known)**.

At this stage of our enquiries we would expect the documents contained in parts **(insert appropriate parts of standard disclosure list)** to be relevant to this action.

A copy of this letter is attached for you to send to your insurers. Finally we expect an acknowledgment of this letter within 21 days by yourselves or your insurers.

Yours faithfully

B2 Letter of response

To Claimant's legal representative

Dear Sirs

Letter of Response

[Claimant's name] v [Defendant's name]

Parties

We have been instructed to act on behalf of [defendant] in relation to your client's accident on []. We note that you have also written to [defendant] in connection with this claim. We [do/do not] believe they are a relevant party because []. [In addition we believe your claim should be directed against [defendant] for the following reasons:

Liability

In respect of our client's liability for this accident we

admit the accident occurred and that our client is liable for loss and damage to the claimant the extent of which will require quantification.

Or

admit the accident occurred but deny that our client is responsible for any loss or damage alleged to have been caused for the following reasons:-

Or

do not admit the accident occurred either in the manner described in your letter of claim [or at all] because:

Limitation

[We do not intend to raise any limitation defence]

Documents

We attach copies of the following documents in support of our client's position:

You have requested copies of the following documents which we are not enclosing as we do not believe they are relevant for the following reasons:

[It would assist our investigations if you could supply us with copies of the following documents]

Next Steps

In admitted cases

Please advise us which medical experts you are proposing to instruct.

Please also supply us with your client's schedule of past and future expenses [if any] which are claimed, even if this can only be supplied on a provisional basis at present to assist us with making an appropriate reserve.

If you have identified that the claimant has any immediate need for additional medical treatment or other early rehabilitation intervention so that we can take instructions pursuant to the Rehabilitation Code.

In non-admitted cases

Please confirm we may now close our file. Alternatively, if you intend to proceed please advise which experts you are proposing to instruct.

Alternative Dispute Resolution

Include details of any options that may be considered whether on a without prejudice basis or otherwise.

Yours faithfully

Annex C: Pre-Action Personal Injury Protocol Standard Disclosure Lists

RTA CASES

SECTION A

In all cases where liability is at issue—

(i) documents identifying nature, extent and location of damage to defendant's vehicle where there is any dispute about point of impact;

(ii) MOT certificate where relevant;

(iii) maintenance records where vehicle defect is alleged or it is alleged by defendant that there was an unforeseen defect which caused or contributed to the accident.

SECTION B

Accident involving commercial vehicle as defendant—

(i) tachograph charts or entry from individual control book;

(ii) maintenance and repair records required for operators' licence where vehicle defect is alleged or it is alleged by defendant that there was an unforeseen defect which caused or contributed to the accident.

SECTION C

Cases against local authorities where highway design defect is alleged—

(i) documents produced to comply with Section 39 of the Road Traffic Act 1988 in respect of the duty designed to promote road safety to include studies into road accidents in the relevant area and documents relating to measures recommended to prevent accidents in the relevant area;

(ii) any Rule 43 reports produced at the request of a coroner pursuant to Schedule 5 of the Coroners & Justice Act 2009, for accidents occurring in the same locus as one covered by an earlier report.

HIGHWAY TRIPPING CLAIMS

Documents from Highway Authority for a period of 12 months prior to the accident—

(i) records of inspection for the relevant stretch of highway;

(ii) maintenance records including records of independent contractors working in relevant area;

(iii) records of the minutes of Highway Authority meetings where maintenance or repair policy has been discussed or decided;

(iv) records of complaints about the state of highways;

(v) records of other accidents which have occurred on the relevant stretch of highway.

WORKPLACE CLAIMS

GENERAL DOCUMENTS

(i) accident book entry;

(ii) other entries in the book or other accident books, relating to accidents or injuries similar to those suffered by our client (and if it is contended there are no such entries please confirm we may have facilities to inspect all accident books);

(iii) first aider report;

(iv) surgery record;

(v) foreman/supervisor accident report;

(vi) safety representative's accident report;

(vii) RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) reported to HSE or relevant investigatory agency;

(viii) back to work interview notes and report;

(ix) all personnel/occupational health records relating to our client;

(x) other communications between defendants and HSE or other relevant investigatory agency;

(xi) minutes of Health and Safety Committee meeting(s) where accident/matter considered;

(xii) copies of all relevant CCTV footage and any other relevant photographs, videos and/or DVDs;

(xiii) copies of all electronic communications/documentation relating to the accident;

(xiv) earnings information where defendant is employer;

(xv) reports to DWP;

- (xvi) manufacturer's or dealers instructions or recommendations concerning use of the work equipment;
- (xvii) service or maintenance records of the work equipment;
- (xviii) all documents recording arrangements for detecting, removing or cleaning up any articles or substances on the floor of the premises likely to cause a trip or slip;
- (xix) work sheets and all other documents completed by or on behalf of those responsible for implementing the cleaning policy and recording work done;
- (xx) all invoices, receipts and other documents relating to the purchase of relevant safety equipment to prevent a repetition of the accident;
- (xxi) all correspondence, memoranda or other documentation received or brought into being concerning the condition or repair of the work equipment/the premises;
- (xxii) all correspondence, instructions, estimates, invoices and other documentation submitted or received concerning repairs, remedial works or other works to the work equipment/the premises since the date of that accident;
- (xxiii) work sheets and all other documents recording work done completed by those responsible for maintaining the work equipment/premises;
- (xxiv) all relevant risk assessments;
- (xxv) all reports, conclusions or recommendations following any enquiry or investigation into the accident;
- (xxvi) the record kept of complaints made by employees together with all other documents recording in any way such complaints or actions taken thereon;
- (xxvii) all other correspondence sent, or received, relating to our client's injury prior to receipt of this letter of claim;
- (xxviii) documents listed above relating to any previous/similar accident/matter identified by the claimant and relied upon as proof of negligence including accident book entries;

WORKPLACE CLAIMS – DISCLOSURE WHERE SPECIFIC REGULATIONS APPLY

SECTION A - Management of Health and Safety at Work Regulations 1999

Documents including—

- (i) Pre-accident Risk Assessment required by Regulation 3(1);
- (ii) Post-accident Re-Assessment required by Regulation 3(2);
- (iii) Accident Investigation Report prepared in implementing the requirements of Regulations 4, and 5;
- (iv) Health Surveillance Records in appropriate cases required by Regulation 6;
- (v) documents relating to the appointment of competent persons to assist required by Regulation 7;
- (vi) documents relating to the employees health and safety training required by Regulation 8;
- (vii) documents relating to necessary contacts with external services required by Regulation 9;
- (viii) information provided to employees under Regulation 10.

SECTION B– Workplace (Health Safety and Welfare) Regulations 1992

Documents including—

- (i) repair and maintenance records required by Regulation 5;
- (ii) housekeeping records to comply with the requirements of Regulation 9;
- (iii) hazard warning signs or notices to comply with Regulation 17 (Traffic Routes).

SECTION C – Provision and Use of Work Equipment Regulations

Documents including—

- (i) manufacturers' specifications and instructions in respect of relevant work equipment establishing its suitability to comply with Regulation 4;
- (ii) maintenance log/maintenance records required to comply with Regulation 5;

- (iii) documents providing information and instructions to employees to comply with Regulation 8;
- (iv) documents provided to the employee in respect of training for use to comply with Regulation 9;
- (v) risk assessments/documents required to comply with Regulation 12;
- (vi) any notice, sign or document relied upon as a defence to alleged breaches of Regulations 14 to 18 dealing with controls and control systems;
- (vii) instruction/training documents issued to comply with the requirements of Regulation 22 insofar as it deals with maintenance operations where the machinery is not shut down;
- (viii) copies of markings required to comply with Regulation 23;
- (ix) copies of warnings required to comply with Regulation 24.

SECTION D – Personal Protective Equipment at Work Regulations

Documents including—

- (i) documents relating to the assessment of the Personal Protective Equipment to comply with Regulation 6;
- (ii) documents relating to the maintenance and replacement of Personal Protective Equipment to comply with Regulation 7;
- (iii) record of maintenance procedures for Personal Protective Equipment to comply with Regulation 7;
- (iv) records of tests and examinations of Personal Protective Equipment to comply with Regulation 7;
- (v) documents providing information, instruction and training in relation to the Personal Protective Equipment to comply with Regulation 9;
- (vi) instructions for use of Personal Protective Equipment to include the manufacturers' instructions to comply with Regulation 10.

SECTION E – Manual Handling Operations Regulations

Documents including—

(i) Manual Handling Risk Assessment carried out to comply with the requirements of Regulation 4(1)(b)(i);

(ii) re-assessment carried out post-accident to comply with requirements of Regulation 4(1)(b)(i);

(iii) documents showing the information provided to the employee to give general indications related to the load and precise indications on the weight of the load and the heaviest side of the load if the centre of gravity was not positioned centrally to comply with Regulation 4(1)(b)(iii);

(iv) documents relating to training in respect of manual handling operations and training records.

SECTION F – Health and Safety (Display Screen Equipment) Regulations 1992

Documents including—

(i) analysis of work stations to assess and reduce risks carried out to comply with the requirements of Regulation 2;

(ii) re-assessment of analysis of work stations to assess and reduce risks following development of symptoms by the claimant;

(iii) documents detailing the provision of training including training records to comply with the requirements of Regulation 6;

(iv) documents providing information to employees to comply with the requirements of Regulation 7.

SECTION G – Control of Substances Hazardous to Health Regulations

Documents including—

(i) risk assessment carried out to comply with the requirements of Regulation 6;

(ii) reviewed risk assessment carried out to comply with the requirements of Regulation 6;

(iii) documents recording any changes to the risk assessment required to comply with Regulation 6 and steps taken to meet the requirements of Regulation 7;

(iv) copy labels from containers used for storage handling and disposal of carcinogenics to comply with the requirements of Regulation 7(2A)(h);

(v) warning signs identifying designation of areas and installations which may be contaminated by carcinogenics to comply with the requirements of Regulation 7(2A)(h);

(vi) documents relating to the assessment of the Personal Protective Equipment to comply with Regulation 7(3A);

(vii) documents relating to the maintenance and replacement of Personal Protective Equipment to comply with Regulation 7(3A);

(viii) record of maintenance procedures for Personal Protective Equipment to comply with Regulation 7(3A);

(ix) records of tests and examinations of Personal Protective Equipment to comply with Regulation 7(3A);

(x) documents providing information, instruction and training in relation to the Personal Protective Equipment to comply with Regulation 7(3A);

(xi) instructions for use of Personal Protective Equipment to include the manufacturers' instructions to comply with Regulation 7(3A);

(xii) air monitoring records for substances assigned a maximum exposure limit or occupational exposure standard to comply with the requirements of Regulation 7;

(xiii) maintenance examination and test of control measures records to comply with Regulation 9;

(xiv) monitoring records to comply with the requirements of Regulation 10;

(xv) health surveillance records to comply with the requirements of Regulation 11;

(xvi) documents detailing information, instruction and training including training records for employees to comply with the requirements of Regulation 12;

(xvii) all documents relating to arrangements and procedures to deal with accidents, incidents and emergencies required to comply with Regulation 13;

(xvii) labels and Health and Safety data sheets supplied to the employers to comply with the CHIP Regulations.

SECTION J – Work at Height Regulations 2005

Documents including—

(i) documents relating to planning, supervision and safety carried out for Regulation 4;

(ii) documents relating to training for the purposes of Regulation 5;

(iii) documents relating to the risk assessment carried out for Regulation 6;

(iv) documents relating to the selection of work equipment for the purposes of Regulation 7;

(v) notices or other means in writing warning of fragile surfaces for the purposes of Regulation 9;

(vi) documents relating to any inspection carried out for Regulation 12;

(vii) documents relating to any inspection carried out for Regulation 13;

(viii) reports made for the purposes of Regulation 14;

(ix) any certificate issued for the purposes of Regulation 15.

SECTION L – Lifting Operations and Lifting Equipment Regulations

Documents including—

(i) records kept to comply with the requirements of the Regulations including the records kept to comply with Regulation 6.

SECTION R – Control of Noise at Work Regulations 2005

Documents including—

(i) risk assessment records required to comply with the requirements of Regulations 4 and 5;

- (ii) all documents relating to steps taken to comply with regulation 6;
- (iii) all documents relating to and/or arising out of actions taken to comply including providing consideration of alternative work that the claimant could have engaged to comply with Regulation 7.

SECTION T – Control of Vibrations at Work Regulations 2005

Documents including—

- (i) risk assessments and documents produced to comply with requirements of Regulations 6 and 8;
- (ii) occupational health surveillance records produced to comply with Regulation 7.

[Back to top](#)

ANNEX D: Letter of instruction to medical expert

Dear Sir,

Re: **(Name and Address)**

D.O.B.–

Telephone No.–

Date of Accident –

We are acting for the above named in connection with injuries received in an accident which occurred on the above date. A summary of the main facts of the accident circumstances is provided below. The main injuries appear to have been **(describe main injuries and functional impact on day to day living as in Letter of Claim)**.

In order to assist with the preparation of your report we have enclosed the following documents:

Enclosures

1. Hospital Records
2. GP records
3. Statement of Events

We have not obtained [] records yet but will use our best endeavours to obtain these without delay if you request them.

We should be obliged if you would examine our Client and let us have a full and detailed report dealing with any relevant pre-accident medical history, the injuries sustained, treatment received and present condition, dealing in particular with the capacity for work and giving a prognosis.

It is central to our assessment of the extent of our Client's injuries to establish the extent and duration of any continuing disability. Accordingly, in the prognosis section we would ask you to specifically comment on any areas of continuing complaint or disability or impact on daily living. If there is such continuing disability you should comment upon the level of suffering or inconvenience caused and, if you are able, give your view as to when or if the complaint or disability is likely to resolve.

If our client requires further treatment, please can you advise of the cost on a private patient basis.

Please send our Client an appointment direct for this purpose. Should you be able to offer a cancellation appointment please contact our Client direct. We confirm we will be responsible for your reasonable fees.

We are obtaining the notes and records from our Client's GP and Hospitals attended and will forward them to you when they are to hand/or please request the GP and Hospital records direct and advise that any invoice for the provision of these records should be forwarded to us.

In order to comply with Court Rules we would be grateful if you would insert above your signature, the following statement: "I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer".

In order to avoid further correspondence we can confirm that on the evidence we have there is no reason to suspect we may be pursuing a claim against the hospital or its staff.

We look forward to receiving your report within _____ weeks. If you will not be able to prepare your report within this period please telephone us upon receipt of these instructions.

When acknowledging these instructions it would assist if you could give an estimate as to the likely time scale for the provision of your report and also an indication as to your fee.