



CLAIMS FOR PERSONAL INJURY

Keeping the Woolf from your door - The Woolf Reforms

(reviewed September 2011)

On 26th April 1999 the Civil Justice System changed radically in the manner in which claims particularly those involving personal injury, are handled. Collectively these changes are known as the Woolf Reforms and the intention is that disputes will be resolved quickly, efficiently, equitably and economically with the emphasis on achieving resolution without the need to resort to the Courts.

Changes

1. If resolution can't be achieved short of litigation, the legal process will be managed by the Judge, not the lawyers.
2. He or she will set the timetable.
3. There will be three "legal Tracks":
 - Small - less than £5,000
 - Fast - less than £15,000
 - Multitrack - more than £15,000
4. Strict rules as to time and procedure will be fixed, from which there will be no departure.
5. There will be limited expert testimony (probably one expert witness only) "shared" by both sides.
6. It will be necessary for the parties to share their evidence and to produce supportive documents.
7. Organisations will need to appoint a controlling officer who will be responsible for the collation of documents and the "signing off of the procedures".
8. The Judge will be empowered to impose penalties for breaches of the procedures.
9. Finally, the judiciary will not tolerate stalling and timewasting.

What does this mean to you?

1. The Claimant must notify the Policy Holder in writing of any intention to make a claim before legal action is commenced.
2. You must respond within 21 days on that notice and identify your insurers.

IN PRACTICE - YOU TELL YOUR BROKERS AND YOUR INSURERS RESPOND TO THE CLAIMANT WITHIN 21 DAYS.

1. 90 days thereafter liability must either be accepted or denied.
2. If it is denied any documents upon which you intend to rely must be disclosed.

What must you do

1. Report every incident, particularly those involving personal injury, to your Brokers, immediately it happens. Do not wait. The Claimant has all the time necessary but the Defendant does not. The Claimant may take up to 3 years to put his or her claim together whilst you have 21 days to acknowledge and no more than 3 months to defend.
2. Your Brokers will tell you what to do next.
3. You should appoint a Documents Officer now and tell your Brokers who he or she is. Brokers should then advise on what needs to be done and when. Employer's Liability claims, for instance, will require a catalogue of documentation in support.
4. Ensure all staff recognise any letter suggesting that a claim is being made against you, particularly formal letters from Solicitors which are headed "Letter of Claim".
5. What used to be called a Writ is now called a Claim Form. It is a Writ in Woolf's clothing. It is a legal document headed "Claim Form" and should be treated with all the urgency of a Writ.
6. Put in place a procedure to ensure all such documents reach a responsible officer immediately and then pass them to your Brokers on the same day.

Consequences

If you want your Insurer to defend and/or pay the bill, you MUST play to the rules. If the Insurer can legitimately demonstrate that your failures as to:-

Time - investigation – documents have genuinely prejudiced the defence and he may try:

- a) to walk away
- b) pay and recover from you
- c) settle as a matter of expediency and put up premium
- d) determine that all or part of an award constitutes a penalty and as such is not insured.

From an extract written by Perkins Slade, insurance adviser to CCPR – (CCPR are now known as the Sport and Recreation Alliance, since 2010)

[This document is prepared for guidance and is accurate at the date of publication only. We will not accept any liability (in negligence or otherwise) arising from any member or third party acting, or refraining from acting, on the information contained in this document.]