

Torbay Council – Claims Handling (Appendix 2 to Report ??/2010)

On the 1 October 2010 an audit of Public and Employer Liability Claims handled by Torbay Council was conducted by Nigel Gliddon, Claims Inspector of Zurich Insurance at the Town Hall Torquay. A similar audit was conducted by Greg Jones, Claims Service Manager and Nigel Gliddon on the 1 July 2009.

Introduction

In accordance with an agreement between Torbay Council and Zurich Insurance the Council's Legal Services Department handle in full all Employer and Public Liability claims involving personal injury and property damage that have a value up to £25000. The level of authority corresponds with the £25000 policy excess attached to Torbay Council's policy with Zurich Insurance.

Public and Employer Liability claims brought against Torbay Council that fall within the agreed handling authority are investigated, considered and dealt with by Jayne Wills (Solicitor), Samantha Goodwin (Senior Legal Officer) and Carole Hardy (Risk Management Officer).

A monthly report is submitted to Zurich Insurance which contains detail of all cases received by the Council, the status of each claim and the reserve allocated.

Audit of Cases

Fifteen files were audited. The cases subject to audit were selected from the monthly report submitted by the Council and a selection of Employer Liability and Public Liability cases were seen. Both open and closed cases were selected.

The cases seen were selected prior to attendance on the Council and all the selected cases were made available.

The cases examined provided a good representation of the nature of claims brought against Torbay Council and the number of files was proportionate to the number of claims received by the Council.

In previous audit reports the auditors have commented on how impressed they have been with the way in which cases have been handled. From examination of the selected files it can be seen that claims continue to be handled in a very competent manner.

Accurate and justifiable decisions following an appropriate and sufficiently detailed investigation continue to be made and where the rejection of a claim is warranted succinct letters of denial which contain reference to salient case law and statutory provisions are issued. The manner in which the rejection of a claim is put forward is impressive and such that claimant's and their solicitors have little room in retort.

However, the claims handlers adopt a flexible attitude and in the event that there is a justifiable retort to the rejection of a case the handlers will adapt a pragmatic approach and recognise when it is right to reverse their decision.

The Council handles cases in accordance with the relevant pre action protocols. A decision is conveyed to solicitors and claimants in person within the prescribed timescales and the files audited contain action sheets which prompt the handler to consider matters such as report of the claim to the Department of Work & Pensions. There is evidence of good management of the case through diarised actions.

As commented above cases are handled in accordance with the pre action protocols and there is no evidence within the files seen of financial 'leakage' as a result of the issue of pre action applications against the Council for the disclosure of documentation.

The Council's claims handlers conduct their own investigations of cases, but are assisted by suitable reports supplied by relevant departments. In particular the Highway's Section will supply a report which contains a post incident investigation and detail of the Council's maintenance regime. Appropriate documentation is supplied with the report.

The Council has educated its departments in terms of what is required in the event of a claim being received and the department against whom the claim is registered receives feedback from Legal Services during the course of and at the conclusion of the claim in order that future risk management can be considered.

Case reserves are noted on file. There is a breakdown of the reserve on file although the Council may wish to consider marking a file appropriately each time it is out for handling to show that the reserve has been considered and remains accurate. The closed files seen show that the Council's reserving is reasonably accurate as the payments made do not exceed the initial reserve placed on the case.

In terms of file closure in the event of a declinature of liability the Council closes; small claims 6 months after denial of liability, or the last contact with the claimant; Fast track public liability claims 9 months after denial, or last contact; Fast track Employer Liability claims 12 months after denial, or last contact.

The Council can justifiably be pleased with the expertise and competency displayed by its claims handlers. The Council continues to benefit from the partnership arrangement it has with Veitch Penny Solicitors who can be called upon to provide technical support and physical assistance.

A summary of the claims seen is appended to this report.

## Conclusions & Recommendations

At the conclusion of the audit the exercise was discussed with Jayne Wills (Solicitor).

The Council's claim handling continues to be of a high standard. The expertise and competency of the claims handlers is such that an increase in the Council's claims handling authority would be justified. Indeed our claims department have been content to allow the Council to continue to handle cases that exceed the policy excess.

Overall we would score the claims handling undertaken by the Council as 96%

Nigel Gliddon,  
Claims Inspector.