

# Client Briefing (4)

March 1999

## THE WOOLF CIVIL JUSTICE REFORMS AND PERSONAL INJURY CLAIMS

The Lord Chancellor (Lord Woolf) has recently announced that fundamental changes to the English Legal System will be introduced from the 26<sup>th</sup> April 1999. They are the most radical changes to our civil justice system this century and dramatically effect the way in which the Courts, Lawyers, Insurers and businesses deal with insurance claims for personal injury.

The purpose of this briefing is to introduce you to the obligations that the changes place upon you and to help you understand those obligations.

### WHAT ARE THE REFORMS?

The reforms will, with effect from the 26<sup>th</sup> April 1999, replace the current rules governing the High Court and the County Courts and are aimed at fast tracking personal injury litigation to make it quicker, simpler and cheaper.

### HOW DO THE REFORMS AFFECT YOU AND WHAT MUST YOU DO TO COMPLY WITH THE NEW RULES?

The main impact of the reforms, as far as insurance claims are concerned, relates to speed of response and disclosure of information and documents in the event of a claim. Litigation will no longer start at the issue of a Writ or Summons but at the "protocol" stage. Compulsory pre-action protocols (or steps) will be introduced for all personal injury claims with effect from the 26<sup>th</sup> April 1999 and are as follows:

- a). The process and time limit (90 days) starts when you receive a detailed statement of claim (the letter of claim) from the Claimant or Claimant's Solicitors. This letter of claim must be in duplicate and contain a clear summary of the facts on which the claim is based together with an indication of the nature of any injury suffered and financial loss incurred.
- b). The letter of claim must be acknowledged by you in writing within 21 days of notification and your acknowledgement must identify your current Insurers. **This letter of claim must be passed to your Insurers together with a copy of your acknowledgement without delay.** We recommend you firstly check with us the name and address of your current Insurer.

- c). Your Insurers have a maximum period of 90 days from the date of notification to investigate and consider the claim. At the end of the 90 day period, your Insurers must inform the Claimant's Solicitors whether liability is denied or accepted.
- d). If the claim is declined by your Insurers, any documentation including documentation you would have provided, must be disclosed by your Insurers to the Claimant's Solicitors.

## **WHAT DO I NEED TO DO NOW?**

Failure to respond within the time limits allowed will be penalised by sanctions on legal costs and prevent a proper defence to the claim. You must respond promptly to all requests from your Insurers for documentation and information relative to the claim including:

1. Keeping full records including statements following any accident or incident and keep track of potential witnesses after they cease to be employed (addresses/telephone numbers).
2. Attending Case Management Conferences and Mediation where necessary.
3. Earnings, sickness, medical and personnel records which must be easily accessible.

We believe that to ensure compliance with the time limit imposed by the protocols, it will be necessary for you to deal direct with your Insurers on all personal injury claims and that information and/or documentation on such claims should no longer be routed through Tysers. Therefore, if you receive a letter of claim, you must acknowledge receipt and advise Insurers but please check your Insurers details with us first. We will, of course, continue to provide you with any advice/support that you may require in relation to these claims.

Please do not hesitate to contact us should you require further information or clarification of any of the points raised within this document.

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