Civil Procedure Rule Committee
Consultation on Revised Pre-action Protocol for Personal Injury Claims

A response by the Association of Personal Injury Lawyers

July 2014

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 20-year history of working to help injured people gain access to justice they need and deserve. We have over 3,600 members committed to supporting the association's aims and all of which sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

Any enquiries in respect of this response should be addressed, in the first instance, to:

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Introduction

APIL welcomes the opportunity to comment on the Civil Procedure Rules Committee consultation on a revised pre-action protocol for personal injury claims. We question the necessity of this revised protocol as the current protocol, on the whole, works well. If revisions are to take place, their purpose should be to link this protocol with the protocols governing cases in the portal[1], for low value personal injury claims in road traffic accidents, and low value personal injury (employers' liability and public liability) claims. At present, there is great confusion as to how the three protocols fit together. As a result, it is unclear where a case that has fallen out of the portal will fit within the pre-action protocol for personal injury claims. The proposed revisions, commented on below, do not appear to address this uncertainty, and the new protocol reads, confusingly, as a stand-alone document.

General comments

We are anxious as to the motives behind the revisions. A case falling out of the portal, which is subsequently issued, would be subject to higher costs than a case that remained within the portal. If a case is not issued, the claimant will be restricted to pre-issue costs. To minimise costs, therefore, defendants will want to avoid cases being issued. In light of this behaviour, many of the revisions to this protocol could be construed as pitfalls designed to make it more difficult for claimants to successfully issue a case. For example, paragraph 5.8 of the redrafted protocol suggests that sanctions will apply if the letter of claim and pleadings differ. The current protocol suggests that in these circumstances, there should be no sanction. The pitfalls created will only serve to make the protocol more technical and confusing; this in turn will lead to satellite litigation whilst clarification is sought from the courts. This revision would therefore work against the original purpose of the protocol.

Additionally, whilst one aim of the protocol is to "enable the parties to avoid litigation by agreeing a settlement of the dispute before proceedings are commenced", it is important that claimants are not unfairly denied access to the courts in difficult cases, simply because the defendant wants to avoid extra costs.

Whilst the protocol states it is revised, sections which are clearly out of date and in need of revision remain unchanged. The new draft appears haphazard and is not suitable for publication as it stands. The pre-action disclosure lists at annex C are out of date and contain references to numerous pieces of legislation that have been repealed. These disclosure lists are important, for reasons set out below, and should be updated. Further, the illustrative flowchart – which is a pivotal part of the Protocol section, is missing and unavailable for comment.

We are also concerned that the consultation has a very short deadline. This protocol remains a crucial document more than a decade after being first published. Any revisions need careful thought, and the revised document should be up to date, workable and fair. The

[1] The term portal is used throughout this document to loosely refer to cases within the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents or within the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims

short consultation deadline does not allow for full consideration of the effects of the proposed revisions. Additionally, the consultation has only been opened to a limited number of parties.

The Multi-Track Code

The Multi-Track Code is currently being re-examined in light of the recent reforms. We therefore support the conclusion that the Code will remain voluntary and will not be included or referenced to in the protocol, at this time.

Specific comments

Introduction

The introduction to the protocol should be clear and informative. The main issue with the revised introduction is that there is now no reference to the other protocols. It is not clear how this protocol links with those for clinical disputes, disease and illness, and in particular, the protocols for road traffic accident claims and low value employers liability and public liability claims (RTA and EL/PL protocols). It is crucial that the protocol sets out clearly what happens when a case drops out of the portal and instead falls within the remit of this protocol.

As part of bringing the protocols in line with the Jackson reforms, it will be important to recognise that those tasked with handling low value personal injury claims in future are likely to be less skilled and experienced than at present. Whilst it is sensible to reduce the length of the preamble, and remove the out of date sections, it is still important to provide some background, to ensure that the junior fee earner who may be dealing with the claim can make sense of what is required of them by the protocol.

Paragraph 1.2

The revised protocol would be an opportunity to address the issue of defendants delaying the progress of a claim by alleging that there is insufficient information in the Letter of Claim. After the second paragraph of section 1.2, we suggest that the following, or similar, should be added:

“In many cases a defendant will know that an accident has occurred and in those circumstances it ought to be sufficient for a claimant to provide details of the date and place of the accident. Thereafter it is the responsibility of the defendant and/or their insurance company to investigate the case and make a decision on liability. They should not make unnecessary or irrelevant requests for information from the Claimant which have no bearing on liability issues e.g. requests for medical records. This causes delay and satellite arguments over whether the Claimant has complied with the protocol. “

Paragraph 1.4

We query the reasoning behind the removal of paragraph 1.4 of the current introduction. This states “(T)he Courts will be able to treat the standards set out in protocols as the normal reasonable approach to pre-action conduct. If proceedings are issued, it will be for the court to decide whether non-compliance with a protocol should merit adverse consequences. Guidance on the court’s likely approach will be given from time to time in practice directions”.

This usefully and clearly sets out how the courts would treat the standards set out in the protocols, and that it is for the court to decide whether non-compliance with the protocol should merit adverse consequences. Removing this removes the “teeth” that the protocol currently has, and leads to uncertainty as to its status. 1.4 should be reinstated; otherwise parties will not be encouraged to comply.

Paragraph 1.5

The last sentence of current paragraph 1.5 has been removed, and should be reinstated into the revised protocol. This reads “the court will look at the effect of non-compliance on the other party when deciding whether to impose sanctions.” According to paragraph 4.6 of the Practice Direction on Pre-action Conduct, sanctions for non-compliance include indemnity costs and enhanced interest. Now that only fixed costs are awarded for cases in the fast track, seeking indemnity costs will become more important. Where the protocol is complied with, fixed costs are considered by the Government as suitable remuneration for the work carried out. If the protocol is not complied with and extra costs are incurred, however, it is right and proportionate that indemnity costs should be awarded. It is important that the protocol is read in the context of fixed fees, and as such, the effect of a breach of the protocol and subsequently incurring extra costs, is now more serious. Further, awards of indemnity costs fit in with the overall staging of costs. If the protocol is not complied with and, something is not done at the pre-action stage which should be, this will then have to be done in a rush later on in court proceedings. This may have an adverse effect on the rest of the case. It is important, therefore, that it is made clear in the revised protocol that indemnity costs may be awarded if there is non-compliance.

The Protocol

Illustrative flowchart

The illustrative flowchart is missing, so we are unable to comment on this. It is important that a draft of the proposed flowchart is published and available for comment before coming into force. In addition to the illustrative flowchart, it would be helpful to have a dedicated paragraph at the beginning of this section entitled “Routes in to the protocol”, setting out all of the ways that a case could end up within the remit of this protocol. This would increase clarity and help users see how this and the other protocols fit together.

Inconsistencies between this protocol and the protocols for low value road traffic, employers liability and public liability claims

There is a lack of harmonisation in relation to time limits across the protocols. The majority of cases in the PI protocol will have already been put into and fallen out of the portal. There must be clear mention of how the time limits in this protocol, for acknowledgement and response to the letter of claim, fit together with those cases. When a case which has fallen out of the portal comes under the framework of this protocol, the “clock” will already have started. For example, the defendants will already have had to acknowledge the claim within 24 hours as part of the portal process, so they should not be permitted a further 21 days to do so. In these circumstances, the defendant should only be allowed a maximum of three months from the date of acknowledgement of the CNF.

Rehabilitation

We have no comments on the rehabilitation section.

Letter of claim

Again, little effort is made here to harmonise this protocol with those governing the portal. As most claims in this protocol will have already fallen out of the portal, the Claim Notification Form would already have been filled out in the majority of cases. Before launching in to the details of a letter of claim, therefore, this section must firstly address the status of the completed Claim Notification Form. Paragraph 5.5, points out the status of the CNF where a claim no longer continues in the portal, this should be at the top of this section. Although the wording of 5.5 is lifted from the current 2.10A, we suggest that it should be slightly redrafted to read "the CNF stands as the letter of claim", instead of "the CNF… *can* be used as the letter of claim (emphasis added)". This will increase clarity. Those with a completed CNF, whose case has subsequently fallen out of the portal and into this protocol, will be clear that they do not need to now complete a letter of claim.

Paragraph 5.2

Paragraph 5.2 should include reference to the rationale behind the protocol, relating to quantum and liability. The aim of the protocol is to resolve liability, but to ensure that no significant work is carried out on quantum in cases where liability is not admitted and the case does not proceed.

Paragraph 5.8

We are unhappy with paragraph 5.8's change of wording, regarding the status of letters of claim. Whilst the current wording reads "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", the revised version has been altered to read: "nor should any sanction necessarily apply if the letter of claim and any subsequent statement of claim in the proceedings differ". Under the current system, therefore, it is stressed that if the pleaded case of one or both parties is presented slightly differently than in the letter of claim and response, this does not matter and there will be no sanction, provided that there was no obvious intention to mislead the other party. The revised protocol has a completely different tone, stating that sanctions will not *necessarily* apply, but they could, potentially. This change in tone will invite technical points about the difference between the letter of claim and pleadings, with defendants being able to argue that sanctions should apply where the two differ. This is a complete sea-change, creating pitfalls to prevent claimants from being able to issue their case.

The change in tone will lead to parties arguing about compliance with the protocol, instead of spending time on the substantive case. The protocol was not intended to be so technical. The changed wording could therefore have adverse consequences. Instead, paragraph 5.8 should simply read "letters of claim are not intended to have the same formal status as particulars of claim". The court already has discretion to take into account the parties' pre-action conduct when making decisions on costs, under CPR 44.2(5).

Template letter of claim (Annex B)

The template letter of claim should follow the format of the CNF, so that there is a common format throughout the protocols. There should also be a standard response for defendants, which requires them to deal with liability in the same manner as under the portal system. The defendant should either admit liability in line with the "three pronged approach" in paragraph 1.1 of the RTA and EL/PL protocols– by admitting that the accident occurred, that there has been a breach of duty by the defendant, that the breach caused the claimant some loss, and that the defendant has no defence under the Limitation Act 1980- or not admit at all. It would be beneficial, for ease of use and clarity, to harmonize the letter of claim with the CNF and the insurer's response with the replies in this way.

Response

As above, there should be a standard response for defendants, and this should be harmonised with the response that would have been given in the portal. This section in the protocol should be amended so that the defendant must respond at the end of the three months by stating whether or not they admit the "three prongs" of liability. The response should go on to say that where the defendant is unable to admit, they must give reasons for denial and any alternatives. This is in line with the Civil Procedure Rules.

Paragraph 6.1

Where at 6.1 the protocol reads "if the insurer is aware of any significant omissions from the letter of claim, they should identify them specifically", it should be clear that this should be within the 21 days, included in the acknowledgment letter. The final sentence of 6.1 reads "compliance with this clause will be taken into account on the question of any assessment of Defendant's costs". We require clarification as to what this means. It does not make sense to take into account the defendant's non-compliance when looking at defendant's costs.

Paragraph 6.2

At 6.2, there again must be clarification as to the status of cases falling out of portal and into this protocol. It should be stated that for those claims falling out of the portal, the acknowledgement is deemed to be the acknowledgement in the portal, for all further time periods. 6.2 should be reworded so that it reflects the admission of liability in the portal, and reads "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. For each part that is not admitted, the defendant should give reasons and provide an alternative version of events."

If the defendants intend to raise causation arguments or allege fraud, the protocol must state that they should specifically say so at this point. In doing so, the protocol would be brought in line with guidance from the Court of Appeal, in cases such as *Kearsley v Klarfeld*[2]*,* and *Casey v Cartwright*[3]*.* In *Casey*, where the defendant took the view that the accident was a low velocity crash, which could not have caused the claimant's injuries, Lord Justice Dyson stated at paragraph 30 of the judgment that "if a defendant wishes to raise the causation issue, he should satisfy certain formalities. In this way, the risk of confusion and delay to proceedings should be minimalized…he should do so within 3 months of receipt of the letter

[2] [2005] EWCA Civ 1510
[3] [2006] EWCA Civ 1280

of claim". At paragraph 33, he goes on to say that "it is important that the issue be raised at an early stage, so as to avoid causing delay to the prosecution of proceedings."

Disclosure

Admissions of liability

There must be consistency between this protocol and the portal protocols in relation to admissions of liability. In the portal, if there is not a 100 per cent admission by the defendant, the case drops out. Likewise, this protocol should include a provision that "Where a Defendant admits liability in full with no allegation of contributory negligence they must state in their response the exact words, *Liability is admitted in full*. If a defendant fails to do this the Claimant is entitled to commence proceedings without disclosing any quantum evidence to the defendant before proceedings are commenced. If the defendant wishes to raise arguments of contributory negligence they must say so explicitly in their response and also state the percentage by which they hold the Claimant to be responsible for their injuries". The purpose of the protocol is to resolve liability fully and unambiguously, and this should be reflected in the provisions of the protocol. Defendants should not be allowed to delay cases by alleging contributory negligence further down the line.

Disclosure documents

It is important that the disclosure lists at Annex C are up to date, not just for clarity in cases under this protocol, but also because these lists clearly carry weight in court, and could have implications for other cases outside of the protocol. The weight attributed to the pre-action disclosure lists is evidenced in the protocol, at 7.1: "if the defendant denies liability, he should enclose….documents in his possession which are material to the issues between the parties, and which would be likely to be ordered to be disclosed by the court..." It is evident that the court takes into account the lists contained in the protocol. Out of date lists will cause confusion and uncertainty. As part of our response to the Civil Justice Council 2010 consultation on pre-action protocols, APIL produced an updated list of disclosure documents. This is attached at Annex A for your information. This list should be included as part of the revised protocol.

We require clarification concerning paragraph 7.1, which reads that "disclosure will generally be limited to the documents required to be enclosed with the Letter of Claim and the Response". This should be redrafted; as it is currently unclear which documents are required to accompany the response. We suggest that the paragraph should read: "in cases where liability is admitted, disclosure will be limited to the documents on aspects of quantum", and "where liability is denied, the list of disclosure documents is set out below at annex (…)", and an up to date list of disclosure documents should be set out in the annex.

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 they do not preserve the documents, this could be an abuse of process.

We suggest that the final line of 7.1(6), "the claimant should respond to the allegations of contributory negligence before proceedings are issued", should be given its own paragraph,

to ensure clarity and compliance. This section is becoming increasingly important as parties will be focusing more on sanctions for non-compliance. It is important that the claimant is aware of the requirement to respond to allegations of contributory negligence before proceedings are issued, and at present, this requirement could be accidentally overlooked.

Experts

In the revised section on experts, there is yet another shift in tone. The redrafted section mentions that the protocol encourages joint selection. This is incorrect - the protocol does not encourage joint selection, it *provides for* joint nomination. The current wording should be reinstated to avoid confusion.

We question why the section on experts has been redrafted, as we are unaware of any difficulties with the current wording. If it is to be redrafted, however, it would be preferable to bring it in line with the relevant section in the EL/PL protocol, where the claimant is free to instruct any expert. A harmonisation of approach across the protocols would ensure clarity and ease of use for the parties. We suggest that paragraphs 7.1 – 7.5 of the EL/PL protocol should be transferred across into this protocol. New paragraphs 7.9 - 7.11 could be retained alongside the transferred sections from the EL/PL protocol.

In cases that are more complex, which have never been in the portal, the practice direction for pre-action conduct could be followed, instead of the EL/PL protocol. In multi-track cases, parties rarely agree on joint nomination anyway, and each party will instruct their own expert.

Negotiations following an admission

At paragraph 8.1, there should again be reference to the defendant admitting liability in line with the RTA and EL/PL protocols, by admitting that the accident occurred, that it was caused by the defendant's breach of duty and that the claimant suffered loss, and that there is no defence under the Limitation Act 1980. This consistent approach to liability will ensure clarity and increase the effectiveness of the protocols.

Quantification of Loss

It is important that the wording from the current protocol, "If the defendant admits liability…" is reinstated. Without this, the section reads that the claimant will send a schedule of special damages in all cases – which does not make sense.

Stocktake

The wording "Where the defendant is insured and the pre-action steps have been conducted by the insurer, the insurer would normally be expected to nominate solicitors to act in the proceedings and the claimant's solicitor is recommended to invite the insurer to nominate solicitors to act in the proceedings and do so 7 – 14 days before the intended issue date" has been removed from the redrafted protocol. This section should be reinstated, as it is helpful for insurers to nominate solicitors.

ANNEXE A Pre-action personal injury protocol standard disclosure lists

1) Accident book entry.

2) 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).

3) First aider report.

4) Surgery record.

5) Foreman/supervisor accident report.

6) Safety representatives accident report

7) RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) report to HSE or relevant investigatory agency.

8) Back to work interview notes and report.

9) All personnel/occupational health records relating to our client.

10) Other communications with the HSE or relevant investigatory agency (including local authorities).

11) Minutes of Health and Safety Committee meeting(s)

12) Copies of all relevant CCTV footage and any other relevant photographs, videos and/or DVDs.

13) Copies of all electronic communications/documentation relating to the accident.

14) All documents within the above categories relating to other similar accidents including any for which entries in accident books are disclosed.

15) Manufacturer's or dealer's instructions or recommendations concerning use of the work equipment.

16) Service or maintenance records of the work equipment.

17) 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.

18) Work sheets and all other documents completed by or on behalf of those responsible for the implementing cleaning policy recording work done.

19) All invoices, receipts and other documents relating to the purchase of relevant safety equipment to prevent a repetition of the accident.

20) All correspondence, memoranda or other documentation received or brought into being concerning the condition or repair of the work equipment/the premises.

21) 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.

22) Work sheets and all other documents recording work done completed by those responsible for maintaining the work equipment/premises.

23) All relevant risk assessments.

24) All reports, conclusions or recommendations following any enquiry or investigation into the accident.

25) The record kept of complaints made by employees together with all other documents recording in any way such complaints or action taken thereon.

26) All other correspondence sent, or received, relating to our client's injury prior to receipt of this letter of claim.

27) Documents produced to comply with requirements of the Management of Health and Safety at Work Regulations 1999 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 to meet the requirements of Regulations 4 and 5.

iv. Any health surveillance records 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.

(28) Documents produced to comply with requirements of the Workplace (Health, Safety and Welfare) Regulations 1992 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).

(29) Documents produced to comply with requirements of the Provision and Use of Work Equipment Regulations 1998 including:

i. Manufacturers' specifications and instructions in respect of relevant work equipment establishing its suitability to comply with Regulation 5.

ii. Maintenance log/maintenance records required to comply with Regulation 6.

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. Any notice, sign or document relied upon as a defence to alleged breaches of Regulations 14 to 18 dealing with controls and control systems.

vi. 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.

vii. Copies of markings required to comply with Regulation 23.

viii. Copies of warnings required to comply with Regulation 24.

(30) Documents produced to comply with requirements of the Personal Protective Equipment at Work Regulations 1992 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.

(31) Documents produced to comply with requirements of the Manual Handling Operations Regulations 1992 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.

(32) Documents produced to comply with requirements of the Health and Safety (Display Screen Equipment) Regulations 1992 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.

(33) Documents produced to comply with requirements of the Control of Substances Hazardous to Health Regulations 2002 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.

v. Warning signs identifying designation of areas and installations which may be contaminated by carcinogenics to comply with the requirements of Regulation 7.

vi. Documents relating to the assessment of the Personal Protective Equipment to comply with Regulation 7.

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

viii. Records of maintenance procedures for Personal Protective Equipment to comply with Regulation 7.

ix. Records of tests and examinations of Personal Protective Equipment to comply with Regulation 7.

x. Documents providing information, instruction and training in relation to the Personal Protective Equipment to comply with Regulation 7.

xi. Instructions for use of Personal Protective Equipment to include the manufacturers' instructions to comply with Regulation 7.

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 documentation relating to arrangements and procedures to deal with accidents, incidents and emergencies required to comply with Regulation 13.

xviii. Labels and Health and Safety data sheets supplied to the employers to comply with the CHIP Regulations.

(34) Documents produced to comply with requirements of the Construction (Design and Management) Regulations 2007 including:

i. Notification of a project form (HSE F10).

ii. Health and Safety Plan.

iii. Health and Safety file.

iv. Information and training records provided.

v. Records of advice from and views of persons at work.

vi. Reports of inspections made in accordance with Regulation 33.

vii. Records of checks for the purposes of Regulation 34.

viii. Emergency procedures for the purposes of Regulation 39.

(35) Documents produced to comply with requirements of the Construction (Health, Safety & Welfare) Regulations 1996.

(36) Documents produced to comply with requirements of the Work at Height Regulations 2005 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.

(37) Documents produced to comply with requirements of the Pressure Systems and Transportable Gas Containers Regulations 1989 including:

i. Information and specimen markings provided to comply with the requirements of Regulation 5.

ii. Written statements specifying the safe operating limits of a system to comply with the requirements of Regulation 7.

iii. Copy of the written scheme of examination required to comply with the requirements of Regulation 8.

iv. Examination records required to comply with the requirements of Regulation 9.

v. Instructions provided for the use of operator to comply with Regulation 11.

vi. Records kept to comply with the requirements of Regulation 13.

vii. Records kept to comply with the requirements of Regulation 22.

(38) Documents produced to comply with requirements of the Lifting Operations and Lifting Equipment Regulations 1998 including the record kept to comply with the requirements of Regulation 6.

(39) Documents produced to comply with requirements of the Noise at Work Regulations 1989 including:

i. Any risk assessment records required to comply with the requirements of Regulations 4 and 5.

ii. Manufacturers' literature in respect of all ear protection made available to claimant to comply with the requirements of Regulation 8.

iii. (iii) All documents provided to the employee for the provision of information to comply with Regulation 11.

(40) Documents produced to comply with requirements of the Construction (Head Protection) Regulations 1989 including:

i. Pre-accident assessment of head protection required to comply with Regulation 3(4).

ii. Post-accident re-assessment required to comply with Regulation 3(5).

(41) Documents produced to comply with requirements of the Construction (General Provisions) Regulations 1961 including any report prepared following inspections and examinations of excavations etc to comply with the requirements of Regulation 9.

(42) Documents produced to comply with requirements of the Gas Containers Regulations 1989 including:

i. Information and specimen markings provided to comply with the requirements of Regulation 5.

ii. Written statements specifying the safe operating limits of a system to comply with the requirements of Regulation 7.

iii. Copy of the written scheme of examination required to comply with the requirements of Regulation 8.

iv. Examination records required to comply with the requirements of Regulation 9.

v. Instructions provided for the use of operator to comply with Regulation 11.

(43) Documents produced to comply with the Control of Noise at Work Regulations 2005 including:

i. Risk assessment records required to comply with the requirements of Regulation 5

ii. (ii) All documents relating to and/or arising out of actions taken to comply with Regulation