Northern Ireland County Court Rules Committee
Initial consultation on scale costs and recent practice and procedural changes in the county court

A response by the Association of Personal Injury Lawyers
June 2015

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 25-year history of working to help injured people gain access to justice they need and deserve. We have around 3,400 members, committed to supporting the association's aims and all of whom 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:

Alice Warren, Legal Policy Officer
APIL
3 Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX
Tel: 0115 9435428; Fax: 0115 958 0885
e-mail: alice.warren@apil.org.uk

Introduction

We welcome the opportunity to respond to the County Court Rules Committee initial consultation on the review of scale costs and practice and procedural changes. A full review of scale costs is well over due, and the costs need to be examined in light of the increased county court jurisdiction and recent practice and procedural changes. Costs must be fixed fairly, to ensure that solicitors can continue to operate in the sector, and help to provide access to justice for injured people. The recent practice and procedural changes must also be reviewed as there are a number of improvements which could be made to increase the efficiency and effectiveness of both the court process and the pre-action protocols. One major issue with the protocols, which must be addressed, is that there are no sanctions for non-compliance.

APIL believes that:

- A full review of scale costs is well overdue. Scale costs should remain, but the rate must be considered carefully to reflect the recent practice and procedural and jurisdictional changes which have led to an increase in work in the county court.
- The scale costs review should be accompanied by a detailed review of the procedural changes that took place in 2013. Some changes, such as practice directions, are working well, but these are not being applied uniformly in all courts, leading to confusion and uncertainty for practitioners. There are also a number of bad behaviours and inefficiencies in the current county court process which should be addressed in order to save time and costs.
- The pre-action protocols introduced in 2013 should be reviewed to ensure greater effectiveness. They currently suffer from a lack of teeth, as there are no sanctions for non-compliance. APIL has made a number of recommendations for changes to the protocols, which can be found towards the end of this response.

APIL's remit extends only to personal injury and clinical negligence, and so the answers provided only address the issues in relation to these areas of work.

General comments

We query whether the scope of consultees for this initial consultation strikes the right balance between plaintiff and defendant representatives. Whilst solicitor organisations have been invited to take part, no individual firms have been asked. In contrast, a number of individual insurers such as Zurich, Quinn Direct and AXA have been invited to contribute alongside insurer representative organisations such as the ABI and FOIL. In putting together this response, APIL has consulted widely with its members in Northern Ireland, to obtain the views of as many plaintiff solicitor firms as possible.

Part A – Scale Costs

Q1) Do you agree that the 2015 Review should look at the operation of the scale costs system? Are there any other factors relevant to the operation of the scale costs system which the Committee should look at?

We agree that the 2015 Review should look at the operation of the scale costs system. The last full review was in 2011, and another is therefore long overdue. In real terms, scale costs

have increased by only 4 per cent in 7 years[1], despite the increase in work in the county court as a result of the practice and procedural changes and the increase in the county court jurisdiction.

Scale costs should be retained, as they provide certainty for both the plaintiff and their legal representative, but they must be set at the correct level to ensure that the solicitor is properly remunerated and can continue to run these cases, and access to justice can be maintained.

Q2) Do you agree that the Committee should adopt the 2001 guiding principles when undertaking the 2015 Review? Are there any other principles or guiding elements to which the Committee should have regard?

We believe that the 2001 guiding principles are a good starting point, but further considerations must be taken into account. This is especially in light of the jurisdictional increase from £15,000 to £30,000.

The consideration of the "swings and roundabouts" argument in the 2001 review[2], we feel, no longer holds weight. The principle that the costs balance out, and the money received from complex cases evens out the low costs received on more simple cases, is no longer relevant. As the jurisdiction of the county court has increased, far fewer personal injury cases go through the High Court and therefore attract High Court costs.

A review of the scale costs must therefore take into account that the vast majority of personal injury cases are now issued in the county court. Because of the increase in jurisdiction and the procedural changes introduced in 2013, the procedural requirements for cases in the county court are on par with the procedural requirements in the High Court – but the solicitor is not remunerated as such. Bundles must be prepared, and solicitors are also expected to attend regular review hearings in front of a judge, all as part of the fixed costs process.

Alongside this review of scale costs, there must be a review of both defendant behaviours and county court processes which currently waste time and cause delays, which the plaintiff solicitors are not adequately remunerated for and which, ultimately, have an impact on the injured person's ability to access justice.

Disclosure

Despite the reforms to the pre-action process, there is still no requirement for the defendant to fully state their case prior to trial. Plaintiff solicitors therefore have to waste time investigating issues that may never arise at trial. The pre-action rules on disclosure should be tightened to prevent plaintiff solicitors being ambushed with new issues, and defendants should be penalised for admitting liability and then later retracting this admission.

Case review hearings

The requirements for solicitors to attend review hearings in person should be evaluated – particularly in light of the proposed county court closures which would greatly increase travel times for the plaintiff solicitor. Members report that in certain courts, they are required to wait

[1] Costs for cases between £10,000 - £12,500 increased from £2529 in 2007 to just £2630 in 2014.
[2] Paragraph 11 of the consultation document.

for half a day to be seen by a judge to simply say that the case is still going ahead. These case reviews could easily be done instead via email or telephone conference.

Interlocutory Applications

The general county court practice directions are working well, but are not currently being used in all of the county court jurisdictions. The general direction that all interlocutory applications should be dealt with by post is being complied with by most courts except, our members report, Ards. This has resulted in time wasting appearances in court as solicitors are required to travel to Ards to make applications. There must be a consistent, efficient approach across all of the county court jurisdictions. Further, solicitors should be appropriately remunerated for drafting and issuing these applications, and additional costs should be awarded if the application cannot be dealt with on paper and attendance is required at court.

Q3) Do you agree that the Committee should approach its review of the rate of scale costs by reference to the rate of inflation, as measured by the GDP Deflator, together with information from other sources? What, if any, other factors should the Committee take into account?

There should be a full review of the current cost of processing cases in the county court, undertaken by a costs drawer. Once this has taken place, there should be a yearly inflationary increase of scale costs. Whilst carrying out the full review, it must be noted that most personal injury cases now go through the county court, yet the amount of work involved in each case is reflective of that in a High Court case.

Q4) What, if any, other matters should attract specific fees or sums and why?

There is an agreed assumption that complex cases, such as those involving clinical negligence, will be more difficult to run than the typical claim. Whilst a discretionary uplift is available currently, members report that this is very rarely – if ever – awarded. These cases can also sometimes settle before going before a judge, and when this happens, the discretionary uplift is not considered. Complex cases require significant amounts of work, regardless of the level of damages and, therefore, warrant a prescribed fee which is higher than the usual scale fees. Complex cases attracting higher fees should include clinical negligence and occupational disease/illness (including hearing loss, asthma and asbestos related illness), and RSI cases. Additional day hearings also require extra work and so should be guaranteed an uplift, as should cases involving more than one defendant. Indeed, cases involving multiple defendants currently receive an automatic uplift in the High Court.

There should also be a prescribed fee for answering interrogatories. Case law suggests that they should be used in the rarest of circumstances, but we suggest that they are being improperly and overly used by defendants and this wastes the plaintiff solicitor's time.

Q5) What factors should the Committee take into account when considering the number and width of the current bands and why?

The bands at present are too wide. There needs to be certainty at the top end of the brackets as to which costs apply in any given case – thus giving a sure outcome on costs for

both the plaintiff and the defendant. We suggest that a fairer system would be for there to be six additional bands:

£15,001 to £17,500

£17,501 to £20,000

£20,001 to £22,500

£22,501 to £25000

£25,001 to £27,500

£27,501 to £30,000

Q6) Are you content with the present mechanism in respect of discretion on costs?

Judicial discretion in these matters is inappropriate, and there should be an automatic and guaranteed uplift across stated matters, to include every clinical negligence, occupational disease/illness (including asthma, asbestos and deafness), and repetitive strain injury case.

Q7) If not, is there an alternative mechanism which could be adopted which addresses the question of complexity whilst at the same time retaining the fundamental nature of the scale cost system?

As above, there should be a guaranteed uplift in clinical negligence, occupational disease/illness and RSI cases, as well as those involving multiple defendants, and those where liability is denied. Cases involving multiple defendants in the High Court are guaranteed an uplift, and the same should apply in cases in the county court.

Part B – Practice and Procedure Review

Q8) What is your experience of the operation of the 2013 procedural changes and the Pre-Action Protocols? Have the changes resulted in any reduction or increase in the work required by solicitors and/or counsel in the preparation of cases?

Members report that the changes have resulted in an increase in work required by solicitors, and that there is now very little difference between the work required in a county court case and the work required in a High Court case.

Experience of the procedural changes and pre-action protocols indicates that there need to be developments to both, to improve fairness and efficiency.

<u>Procedural changes</u>

Interlocutory Applications

As above, members are reporting problems with interlocutory appeals applications in some courts. The general county court direction that all interlocutory applications should be dealt with by post is being complied with by most courts except, our members report, Ards. This has resulted in members having to waste time travelling to the court, when paper applications would have been much more efficient. There must be a consistent approach to interlocutory applications across all of the jurisdictions. Further, solicitors should be

appropriately remunerated for drafting and issuing these applications, and additional costs should be awarded if the application cannot be dealt with on paper and attendance is required at court.

Case review hearings

As above, there are also problems with solicitors being required to attend court for case reviews, having to waste time travelling and then waiting to be seen at court, to simply advise the court that the case is ready to be listed for hearing or to advise what interlocutory issues are still outstanding, when this communication could take place via email or telephone conference.

Amendments to the pre-action protocol

The main issue with the current county court protocol is that it lacks "teeth". The pre-action protocols are at best aspirational, and there are no sanctions for non-compliance. Members also report at present that some judges tend to misinterpret what is required under the protocols, which leads to uncertainty as different courts require different things. As above, there continues to be an issue with defendants failing to disclose information, and failing to comply with the rules for automatic discovery. Particulars of defence are not sufficiently detailed, the defence is free to "ambush" the plaintiff solicitor with further issues at trial, and is not impeded by the judiciary in doing so.

There is also an issue for some plaintiff solicitors in recovering pre-proceedings costs. The procedural changes have meant that more work must be done pre-issue, but at the same time there is no guarantee that the plaintiff solicitor will be able to recover the costs for this work. Pre-proceedings costs should be enshrined in the protocols.

APIL has drafted a revised version of the county court pre-action protocol, which addresses the above issues. This can be found at Annex A at the end of this response.

Our suggested changes include:

1) Disclosure

   At paragraph 9 there should be a provision for the plaintiff to issue applications for pre-action disclosure where there is no reply from the defendant within 21 days.

   The requirement to disclose documents must be tightened, and we suggest that the protocol includes a provision at paragraph 12 that if the defendant denies liability or alleges contributory negligence, he must enclose with the letter of reply all (rather than the current wording of any) documents in his possession. A non-exhaustive list of disclosure documents should also be annexed to the protocol, as is the case in England and Wales, and where such documents do not exist, the defendant should complete the N265 form for standard disclosure.

2) Pre-proceedings costs
   Paragraph 9 of the protocol should be amended so that "the plaintiff is entitled to proceed to issue court proceedings", so that it is clear that the letter of claim is part of proceedings, and the plaintiff solicitor is able to recover costs as such.

3) Admission of liability
   There must be greater clarity in the protocol as to what is meant by an admission of liability, to ensure that defendants provide sufficient information to the plaintiff solicitor pre-trial. We suggest that paragraph 10 should be amended to state that: "The defendant's solicitor/insurers will have a maximum of 3 months from the date of acknowledgement of the letter of claim to investigate. **No later than the end of that period, the defendant's insurer/solicitors 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**. If liability is denied, the defendant's solicitor/insurers must state with sufficient clarity and detail so that the plaintiff is made aware of the defendant's case, including if the fault lies with, or an indemnity is claimed from another."

Other suggestions for improvement of the protocol include that there should be an objective to include the promotion of rehabilitation treatment (not just in high value cases) for best litigation practice. There should be improved clarity in the protocol at paragraph 4, which should state that a letter of claim should "contain details of financial loss incurred, even where such details are necessarily provisional", so that time is not wasted on gathering exact details of loss before the claim has even begun.

APIL has also produced an amended High Court pre-action protocol, which mirrors our recommended changes to the county court protocol to ensure that there is consistency in the procedure at both levels.

Q9) Are there any other factors which the Committee should take into account

As mentioned throughout the paper, the county courts are experiencing difficulties in inefficient practices which add to costs and delays which ultimately cause distress to those trying to obtain justice. We appreciate that as part of the second access to justice review, Colin Stutt is examining the county court process, but we feel it is important to address the inefficiencies in this paper, also. Costs and time could be saved throughout the process in the following ways:

1) There should be consideration of standard directions for the progression of court matters, which should be applied uniformly in all county courts. The general county court practice direction on Interlocutories is working well at present, as described at question 2, but the application needs to be uniform. Penalties should be given to those who do not comply with the directions.
2) Reviews by the bench should be conducted via telephone conference or similar. At present, as explained above, there are fixed costs in the county court, and solicitors are expected to travel to court for case reviews. This means that the solicitor may spend hours travelling to and from the court, with the cost of this time not being recoverable. This problem will be exacerbated if the proposals to close courts, particularly in the west of the province, are to go ahead, as the travel times will increase further.
3) There should also be more effective listing of cases, with an appropriate allocation of resources. At present, cases are often delayed and postponed, and this causes

inconvenience and distress for those injured who are seeking access to justice. Those delayed once should then be given priority so as not to turn away the plaintiff again. Delays could be reduced if greater attention is paid when organising lists to ensure that where there is a “half day” case, only a reasonable, achievable amount of other cases are listed for that day.

4) Further costs could be saved by making the system paperless, or at least maximising the use of email. There are a number of paperless trial systems in place at present.

We remain concerned, also, about the increase of the jurisdictional limit and the lack of specialisation of county court judges. Personal injury cases, even those of a lower value, are not necessarily legally straightforward, and often involve complex arguments on apportionment or causation. There should be greater specialised training for judges, to ensure equitable and efficient disposal of cases. Training and performance monitoring should be conducted on a continuing basis to ensure the specialist’s skills and experience remain relevant. “Docketing” should be introduced, whereby judges who have undertaken such specialised training are allocated cases which reflect their specialism through certification. This would mean that there would be specialist court lists, and so the court’s time would be used more effectively and efficiently.

Annex A – APIL amended County Court Pre-action Protocol for Personal Injury

IN THE COUNTY COURT OF NORTHERN IRELAND

PRE ACTION PROTOCOL FOR PERSONAL INJURY LITIGATION ~~AND DAMAGE-ONLY ROAD[3] TRAFFIC ACCIDENT CLAIMS~~

[1] At all times during the course of civil litigation in this jurisdiction it is important to bear in mind the overriding objective set out at Order 58 Rule 1 to the County Court Rules (Northern Ireland) 1981. In order to enable the court to deal justly with litigation that objective requires the court, so far as practicable, to:

(a) ensure the parties are on an equal footing;

(b) save expense;

(*c*) deal with the litigation in ways which are proportionate to –

(i) the amount of money involved;

(ii) the importance of the case;

(iii) the complexity of the issues; ~~and~~

(iv) the financial position of each party; and

(v)

(d) ensure that the litigation is dealt with expeditiously and fairly; and

---

[3] According to the Competition Commission/Competition & Markets Authority Private Motor Investigation:

At First Notification of Loss (FNOL) – i.e. the customer's first phonecall to the insurer:

20. The claims handler will seek to make an immediate assessment of who is at fault. If an immediate assessment is not possible , the claims will be passed to specialist claims handlers for further investigation.

21. We estimated that, at FNOL, insurers established who was at fault in 75 per cent of cases; 20 per cent of cases were categorized as split liability; and 5 per cent of cases were not decided.[3]

A 3 month wait to investigate liability is therefore unnecessary, plus no such similar protocol exists in England and Wales

(e) allocate to the litigation an appropriate share of the court resources, while taking into account the need to allocate resources to other cases.

[2] This pre-action protocol aims to achieve best litigation practice by encouraging:

- § More pre-action contact between the parties.
- § Better and earlier exchange of information and documentation.
- § Better pre-action investigation by both sides.
- § Placing the parties in a position where they may be able to settle cases fairly and early without litigation.
- § Enabling proceedings to proceed according to the court's timetable and efficiently, if litigation does become necessary.
- § The promotion of an overall "cards on the table" approach to litigation in the interest of keeping the amount invested by the participants in terms of money, time, anxiety and stress to a minimum, consistent with the requirement that the issues be resolved in accordance with accepted standards of fairness and justice.
- § *The promotion the provision of medical or rehabilitation treatment (not just in high value cases) to address the needs of the claimant*

Letter of claim

[3] After the writing of any preliminary notification letter to the defendant the plaintiff's solicitors should send to any legal or corporate representative **of** the proposed defendant a detailed letter of claim as soon as sufficient information is available to substantiate a realistic claim and before issues of quantum are addressed in detail.

[4] The letter of claim shall contain the following information:

(1) a clear summary of the facts upon which the claim is based;

(2) an indication of the nature of any injuries suffered;

(3) details of any financial loss incurred, even where such details are necessarily provisional;

(4) the plaintiff's full address and post code ;

[5] ~~In cases of road traffic accidents T~~the letter of claim should always provide the name and address of any hospital attended by the plaintiff, whether or not treatment was afforded thereat, together with the plaintiff's hospital reference number when available.

[6] Solicitors are recommended to use a standard format for such a letter – an example is given at appendix A to this protocol: **this can be amended to suit the particular case. This should also be accompanied by a request for documents required for disclosure.**

[7] The letter of claim should seek the details of any relevant insurer and, if the identity and address of the insurer is known, a copy of the letter of claim should be sent directly to the insurer.

[8] The fundamental purpose to be served by the letter of claim is to provide sufficient information for the defendant's insurer/solicitors to commence investigations, assess liability and at least put a broad valuation on likely "risk".

[9] If there has been no reply by the defendant or any solicitor or insurer within 21 days, the plaintiff is entitled to commence court proceedings or if appropriate within the circumstances of the case issue an application for pre-action disclosure. ~~should proceed to issue proceedings.~~

[10] The defendant's solicitor/insurers will have a maximum of 3 months from the date of acknowledgement of the letter of claim to investigate. No later than the end of that period, the defendant's insurer/solicitors 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. ~~stating whether liability is admitted or denied as appropriate and~~ If liability is denied, the defendant's solicitor/insurers must state~~ing~~ with sufficient clarity and detail

so that the plaintiff is made aware of the defendant's case, including if the fault lies with, or an indemnity is claimed from another. If contributory negligence is being alleged by the defendant, details should be provided of what is alleged and upon what basis.

[11] Where the relevant accident occurred outside Northern Ireland and/or where the defendant is outside the jurisdiction, the time periods of 21 days and 3 months will normally be extended up to 42 days and 6 months.

Documents

[12] If the defendant denies liability or alleges contributory negligence, he must ~~ought to~~ enclose with the letter of reply all~~ny~~ documents in his possession which are material and relevant 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 discovery or on discovery during proceedings. The aim of early discovery 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 are considered to be relevant.~~ Disclosure before proceedings have started is desirable in order to dispose fairly of the anticipated proceedings, assist the dispute to be resolved without proceedings, or save costs. Attached at appendix (B) are specimen, but non-exhaustive, lists of documents likely to be material in different types of claim. Where such documents in appendix (B) do not exist, the defendant should complete the N265 form for standard disclosure

Alternative dispute resolution

[13] The parties should consider whether some form of alternative dispute resolution procedure would be more suitable than litigation, and if so, endeavour to agree which form to adopt. During the course of any litigation both the plaintiff and the defendant may be required by the court to produce evidence that alternative means of resolving their dispute have been considered. Different forms of alternative dispute resolution are

available and a mediation service is provided by the Law Society of Northern Ireland. It is expressly recognised that no party can or should be forced to mediate or enter into any form of alternative dispute resolution.

Offers to settle

[14] Where a defendant admits liability which has caused some damage, before proceedings are issued, the claimant should send to the 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.

[15] This protocol shall come into operation on 25th February 2013.

D K McFarland

Presiding Judge of the County Courts

18th day of January 2013

Appendix A

LETTER OF CLAIM

To

Defendant

Dear Sirs

Re: Plaintiff's full name[1]

Plaintiff's full address

1. 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)**

2. 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.

3. The circumstances of the accident are:

   (brief outline)

4. The reason why we are alleging fault is:

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

5. A description of our clients' injuries is as follows:

   (brief outline)

   (In cases of road traffic accidents)

6. A description of the damage to vehicle/s is as follows:

(brief outline)

(In cases of road traffic accidents)

7. Our client received treatment for the injuries at (name and address of hospital). His Hospital Number is ( ) if available

8. He is employed by (**plaintiff's employer's name and address**) and his work reference number is ( ). He works as (**occupation**) and has had the following time off work (dates of absence). His approximate weekly income is **(insert if known).** (this paragraph may be deleted if no loss of earnings)

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

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

11. 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)**

12. At this stage of our enquiries we would expect you to disclose any documentation you hold relevant and material to this action.

13. We expect an acknowledgement of this letter within 21 days by yourself or your insurers otherwise proceedings may be issued against you without further notice and costs may be awarded against you.

Yours faithfully

[1] The plaintiff's address and post code need not be included if there are genuine concerns about the plaintiff's personal security.

Appendix B – Recommended pre-action disclosure list

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 HSENI 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 HSENI 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 (Northern Ireland) 2000 ~~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 (Northern Ireland) 1993 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 (Northern Ireland) 1999 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 (Northern Ireland) 1993 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 (Northern Ireland) 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 (Northern Ireland) 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 (Northern Ireland) 2003 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 (Northern Ireland) 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 (Northern Ireland) 1996.

(36) Documents produced to comply with requirements of the Work at Height Regulations (Northern Ireland) 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 (Northern Ireland) 1999 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 (Northern Ireland) 1990-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 (Northern Ireland) 2006 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