



Civil Liability Compensation Culture

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The company Steve works for – AXA Insurance – recently produced a document which is the second in a series discussing the present compensation culture.

Steve went on to summarise the relevant points of the document. A survey had been conducted in December 2013/January 2014 where about 200 small and up to 249 medium enterprises were interviewed – particularly those personnel responsible for arranging Employer's Liability insurance and those with health and safety responsibilities. In answer to a series of questions posed to the audience, about a quarter said their companies had received Employer's Liability claims over the last five years, a third felt that insurers were making money out of the claims and half felt that the UK does indeed have a compensation culture.

The survey confirmed that a quarter of the organisations interviewed had been the subject of a claim by an employee or former employee. Surprisingly, insurers had reported significant underwriting losses of £525 million in the last seven years even though accident rates were reportedly on a downward turn. 85% of companies felt that the number of fraudulent claims were now on the increase. Feeling was that Claims Management Companies were fuelling this increase and that efforts to limit the marketing activities of such companies may help to curb this trend. A major concern is the number of unsolicited telephone calls, texts and e-mails received from these organisations following a claim and how they are able to access our data. There will in future be attempts to close down CMC's which flout privacy laws.

Interestingly, the economic downturn has led to more employees making claims, especially noise-induced hearing loss claims which have almost doubled over the last 12 months.

An on-line portal has been introduced to standardise the claims process and reduce costs to the insurer. Originally, this system was for low value motor claims but now Employers' Liability claims up to £25,000 are processed on-line. There will now be a limit to the costs that solicitors and claims management companies can charge – thus reducing their profits. (In some cases this has led to mergers or companies going out of business.) Strict timelines must now be adhered to and investigations need to be carried out immediately following an incident. Employers' Liability claims needs to be registered within 30 days to fall within the limited window for investigation ('portal'). After this length of time costs begin to escalate significantly.

Other measures to improve practices include introducing more robust medical investigations into workplace injuries and involving independent medical panels and not the employee's GP. There needs to be better recording of data and there will be a clamp down on how companies receive details. Consumers will be given details of their rights of redress if data has been obtained inappropriately.

A question was raised by Lee Dargue with regard to whether the "independent medical panel" would be a private or public body. However, this is unknown at present.

George wrapped up by reflecting on the need, in the light of the changes mentioned in this presentation - and the importance and impact of them – for the inclusion of a half or one day seminar in the programme next year. This would cover liability issues raised and discuss what organisations can do to defend themselves, from a criminal and civil point of view. There was a positive response to this being included, possibly for a nominal charge.