



Audit For Plymouth City Council

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1st December 2017



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Audit Summary

The Corporate Risk and Insurance Team at Plymouth City Council (PCC) is headed up by Mike Hocking, Head of Assurance. The Team consists of Paul Cotter Claims Inspector 0.8 FTE, Julie Steer Insurance Manager, Lynne Skelton Senior Liability Claims Officer 0.8 FTE, Debby King Liability Claims Officer 0.4FTE and Craig Brindle Liability Claims Officer.

Cases are not allocated to individual claims handlers however all Employers Liability claims are handled exclusively by Paul Cotter who also handles Public Liability claims and assists with motor claim investigations. The team deal with up to 700 Public Liability claims and up to 25 Employer's Liability claims per year.

Plymouth City Council have a SIR of £250,000 and currently handle all Employer's Liability and Public Liability claims in house up to £100,000. Gallagher Bassett are to be notified of any claims that are reserved in excess of £100,000 or that meet the Insurers reporting requirements.

The review consisted of a file audit of 21 cases which were selected from claims listing which details all claims received and handled in house between 1 April 2006 and 29 September 2017. The data provided within the claims listing was found to be mostly accurate when compared to the data contained on the files selected for review. Due to the time lapse between the audit taking place and the data capture date a number of files were closed when the data stated they were still open.

None of the claims reviewed fell outside the in house handling arrangement.

The measurement key used consists of 5 ratings:-

Measurement Key	
97% or above	Exemplary
93% - 96.99%	Merit
88% - 92.99%	Satisfactory
85% -87.99%	Cautionary
Less than 84.99%	Requires Improvement

Summary of Findings

New Claim		Exemplary
<p>New claims received via the daily post are identified by the Insurance Manager and dealt with in date order unless a formal letter of claim is submitted. Any formal letters of claim are prioritised using the acknowledgement deadline date applicable.</p> <p>Best practice is that claims received via the claims portal are dealt with as soon as they are notified. Claims submitted under the Highway Act 1980 are often first received in the highways department where an investigation can begin prior to the claim being forwarded to the insurance section. All other claim types are directed to the insurance section promptly.</p> <p>It is noted that all claims had a summary sheet on the front of the file which contained such information as the reserve, date the claim was set up, handler, brief description of the accident and dates for protocol deadlines. This sheet has further been adapted to include the reserve breakdown sheet, and the Key Fraud Indicators sheet.</p> <p>Additionally the memo sheet to the highways department contains the required disclosure list and the date it is required by.</p> <p>Claims were set up in a timely manner, usually within 24 hours from date of receipt of the CNF or Highway Incident Report Form.</p>		
Policy Coverage and DAL		Exemplary
<p>All of the claims reviewed had been set up under the correct policy and period, were covered under the policy and were being handled within the scope of the agreed in house claim handling arrangement.</p>		
Key Evaluation		Exemplary
<p>The decision making process was documented on all claims. This was written in the form of a typed memo for all claim coverages.</p> <p>All liability decisions made were considered to be correct and resilient though there are risks to some defences such as audit 17 where there is no risk assessment or specific training.</p> <p>There were no issues with the speed of the investigations with all liability decision being reached within the MOJ investigation period where applicable.</p> <p>Plymouth CC also clearly considered prospects of seeking contributions where possible, see audit 17 as an example of contributory negligence being pleaded.</p> <p>There were no real delays in the setting up of claims and MOJ claims in particular were set up promptly and investigations commenced. There is an issue with EL claims being sent through to QBE rather than PCC but this is the fault of Thompsons Solicitors and PCC are making endeavors to change this behavior.</p>		

Investigation		Exemplary
<p>All claims are investigated internally. Paul Cotter undertakes site visits on Employers Liability claims (or where a conflict arises Lynne Skelton).</p> <p>For Public Liability claims this is carried out by the Highways department.</p> <p>There was evidence of good quality and detailed yet proportionate investigations being carried out on all of the files reviewed, in particular on the Employer's Liability claims seen.</p> <p>The investigation includes obtaining documentation, taking witness statements, site visits to take photographs, meetings with departmental employee's, requesting photographs and maps from the claimant and researching case law.</p> <p>Feedback is provided to the relevant departments concerned about risk control measures that could be implemented.</p> <p>There was no issue with handling claims within the protocol deadlines with no Pre Action Disclosure Application's even threatened. MOJ claims where Plymouth CC wanted to settle were all kept within the portal process, audit 18 is an example.</p>		

Validation of quantum and accident causation		Exemplary
<p>There was no evidence on files that the client was pro-actively requesting quantum evidence or draft special damage schedules to substantiate the claims and further enable them to hold case specific reserves. It is noted however that even if this information was requested it is highly unlikely to be forthcoming with claimant solicitors working to fixed fees with no incentive to interact with the defendant.</p> <p>When quantum was being considered in respect of making offers PCC were clearly scrutinising the evidence disclosed and in the case of audit 4 would make reasonable reductions were possible.</p> <p>No claims reviewed during this year's audit contained stage 2 packs or other medical reports to value or make offers on.</p>		

Communications and Disclosure		Exemplary
<p>All letters and emails to claimants, representatives and those sent internally were professionally drafted.</p> <p>PCC were keeping the CNF response packs on file which makes file administration significantly easier and provides a clear audit trail for supervision and handling by other team members.</p> <p>Denial letters to representatives were well constructed clearly setting out the facts and legal position and the client's response to each allegation of negligence or breach of duty individually.</p> <p>Disclosure was being provided to the claimant solicitors with the issuing of a denial of liability in all</p>		

claims and the documents disclosed were listed on the letters.

Data Protection Act FON notices were supplied on claim forms given to claimants and the MOJ process has this notice inbuilt into the portal system. FON notices are also contained on the bottom of the PCC headed paper.

Offers		Exemplary
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Offers had been made on six of the claims that were reviewed. All offers were considered to be realistic, properly calculated and had been made promptly with causation considered.

None of the claims audited were at the MOJ stage 2 process.

PCC showed evidence of making reductions where possible on bills submitted, see audit 4 and 10 as examples and could properly control when to make offers see audits 13 and 3.

Reserves		Satisfactory
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Best practice is that reserves are realistic based upon the evidence presented at the start of the claim. They are then reviewed following any material developments such as medical evidence being received or proceedings being issued.

Repudiated claims are diarised for six weeks to reduce the reserve by 50% if the repudiation is not challenged.

Two claims audited were considered to have reserves that were initially incorrect as they were reserved at higher than the actual claim submitted, see audits 16 and 14.

The reserves are in a broken down format on the summary sheet so it can be determined how the reserve has been arrived at.

There were some instances of reserves not being updated when a material development occurs such as audits 10 and 13.

CRU		Exemplary
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Registering claims for personal injury compensation is the client's legal duty under The Social Security (Recovery of Benefits) Act 1997.

There is evidence that claims are being registered promptly now and Plymouth CC can now do this through the CACHE PI system as they are now a registered subscriber.

PCC is registering all injury claims with CRU and the vast majority of claims reviewed had up to date certificates on file however there were a couple of exceptions but this was due to the certificate expiring the day before the audit and where CRU were not providing the certificate despite it being requested, see audits 15 and 19.

Portal Compliance		Exemplary
<p>There was good evidence of claims being investigated promptly and a decision being communicated within the portal process for denial and admissions of liability. No claims exited the MOJ portal process unnecessarily.</p>		
Supply Chain		Exemplary
<p>PCC showed a willingness to engage with their legal supplier to obtain ad-hoc legal advice on liability issues where required. This was obtained at no cost and enabled PCC to make a credible and resilient decision on liability, see audits 17 and 18 as examples. Advice was provided by Mark Fowles at DWF.</p>		
Motor Claims Only		
<p>Motor claims did not form part of the audit.</p>		
Insurer Reporting		Exemplary
<p>Only one claim audited was required to be notified to Gallagher Basset which was audit 16 which was an Officials Indemnity claim and was notified at the outset of the claim.</p>		
Supervision		Exemplary
<p>All claims handlers handle claims up to £100,000. All correspondence is signed off by either the Head of Corporate Risk or the Insurance Manager and decisions will be queried as and when felt necessary.</p> <p>There is a referral system between the Claims Officers and the Senior Liability Claims Officer / Claims Inspector.</p> <p>There was evidence of this referral and supervision system on the audited files.</p>		
Recovery and Sharing		
<p>No claims audited were relevant to this criteria.</p>		
Litigation		
<p>No claims audited were within the litigation process.</p>		
Fraud Process		Exemplary
<p>The claims handling system (LACHS) has an automatic checking facility for matches and identifying duplicate or multiple claims. The panel solicitors used by Plymouth City Council have facilities which the claims handling team can access to investigate potentially fraudulent claims and carry out 'fraud washing'.</p> <p>PCC also liaise with their in house Corporate Fraud Team to make checks on suspected fraudulent</p>		

claims, I was further advised that a member of this corporate fraud team would on an ad-hoc basis visit unrepresented claimants to further scrutinise the claims presented, though there was no evidence on the files of this at this stage.

PCC now check claims against key fraud indicators which is an extension of their initial claim summary form.

PCC is now a registered member of the CACHE PI database and can further check the claims histories of claimants via this method.

Audit 15 was identified as potentially fraudulent by PCC following an investigation though no referral was made to the in-house corporate fraud team or a panel solicitor but the decision to repudiate the claim was only taken 6 weeks prior to the audit and it would be reasonable to await a response from the claimant solicitor prior to taking the matter further.

Rehabilitation		Requires Improvement
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Rehabilitation is a good tool for mitigating the cost of employer's liability claims regardless of the liability position as it can help get the employee back to work sooner and reduce lost productivity. With respect to public liability claims where liability is admitted again this is a good opportunity to mitigate potential claim costs by providing rehabilitation that if taken up will reduce the injury lifecycle and therefore the PSLA claim or if not taken up will provide PCC with very clear negotiation arguments that the claimant has failed to mitigate their losses.

There are further tangible benefits to this approach and it is considered best practice for this approach to be taken.

It was noted that on no claims was rehabilitation offered to the claimant and this has not changed since the last audit. See audit 21 where the offer of rehabilitation even if not taken up could help reduce the cost and/or lifecycle of the claim.

Closure		Requires Improvement
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Best practice is that repudiated claims have the reserve reduced at six weeks if unchallenged and the file closed after three months if property damage only and six months for personal injury claims.

Most claims had been closed in a timely manner and in line with the internal closure policy. There were a couple of exceptions where there appeared to be a delay in closing files after a final payment was made, see audit 4 as an example.

Key Values		Exemplary
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The majority of claim files were considered to be tidy. There was however still very little separation of correspondence from disclosure or quantum evidence, and this appears to mainly only occur on Highway Act claims where the disclosure will have its own folder due to the size of the disclosure file.

Some correspondence was not bound at all and was loose and not in chronological order.

Many notes were handwritten making them hard to read and all phone calls appeared to be handwritten often on post-it notes or written directly onto other letters.

Best practice would be separate folders within files for correspondence, disclosure and medical/quantum evidence.

This position has not changed since the last audit however it is not causing any deterioration of the performance of the claims handling team.

Governance		Exemplary
<p>There was evidence of claims being reviewed 6 weeks after a denial of liability and to keep CRU certificates in date.</p> <p>There is evidence of the financial sanctions list being checked on the file where a payment had been issued and whether the claimant was a US citizen.</p>		

Overall Assessment

98.7%	Exemplary
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Areas for Improvement

- Rehabilitation should be offered proactively on suitable cases, rather than considered reactively, with a detailed file note recording the decision-making process.
- The internal closure policy should be adhered to consistently on all files.

Mandatory Corrective Actions

- Reserves should be set on a realistic basis and then reviewed and updated to reflect material developments throughout the life of the claim.

Plymouth City Council – Corrective Action Plan

Category	Rating	Actions Required	Evidence Required	Due Date	Comments	Completed
Reserves		Reserves should be set on a realistic basis and then reviewed and updated to reflect material developments throughout the life of the claim.	Internal quality checks to ensure reserves are adequate and reflect the reasonable estimated cost of a successful claim.	01/02/18		
Rehabilitation		Rehabilitation should be offered proactively on suitable cases, rather than considered reactively, with a detailed file note recording the decision-making process.	Internal quality checks to evidence that consideration is given to rehabilitation on all suitable Personal Injury claims.	01/03/18		
Closure		The internal closure policy is to be adhered to consistently	Internal quality checks to evidence that the closure policy is being adhered to on a consistent basis.	01/03/18		