

Manual handling claims scenarios: Drinks manufacturer

Work-related manual handling and repetitive strain injuries form a significant part of the liability claims we see at Aviva. Musculoskeletal disorder risks can be found across all kinds of workplaces – from the heavy lifting on building sites to the repetitive strain of factory work or the poor posture of an office job. Fortunately, there is a wealth of scientific evidence showing that small changes can yield great benefits when it comes to preventing harm.

To help bring this risk to life, we asked our in-house claims expert Steven McCall to provide some typical scenarios which depict the types of claim we tend to see in this space. Our liability risk expert Mandy Maris has also shared her thoughts on how these scenarios could have been prevented.

Drinks manufacturer

Our policyholder is a drinks manufacturer who received a claim from one of their drivers for a manual handling-related injury.

The claimant was responsible for delivering crates of drinks to customers and as part of his role, he was required to unload the drinks and engage in manual handling when completing the deliveries. He was provided with a sack truck to make the deliveries.

There was a system of work in place for the lorries to be pre-loaded ready for drivers to begin their deliveries in order to minimise the manual handling requirements. However, it was alleged that the lorries were often late coming back, and the claimant would regularly be required to do his own loading without any assistance, significantly increasing the manual handling undertaken during his shift.

Four months after he began his employment, the claimant took time off work due to pain in his elbows. He returned to work to normal duties three weeks later. It is claimed his symptoms persisted but there was no record of any ongoing complaints being made. The claimant says despite further complaints being made to our policyholder no adjustments were ever made to his role and he was not referred to occupational health. He was eventually made redundant.

The claimant alleged that he was required to engage in excessive and unsafe manual handling work and that there was a failure by our policyholder to alter his duties in light of his condition.

Investigations were carried out and witness evidence obtained. The investigation revealed that a risk assessment was completed for the delivery role carried out by the claimant, however it did not take into consideration the additional loading work that he alleged was required. The witnesses who worked with the claimant corroborated his account and confirmed there would be occasions where additional manual handling would be required.

Medical evidence confirmed the claimant had constitutional bilateral tennis elbow and this was aggravated as a result of this repetitive task and increased heavy lifting.

There is a biomechanical link between the task undertaken and the symptoms he developed and there is a temporal association between him starting the work complained of and symptoms developing months later.

This biomechanical and temporal link, alongside the lack of updated risk assessment, meant the claim needed to be settled.

Damages were paid to the claimant of £6,500.00, with costs totalling £9,500.00 paid to the claimant's solicitors. Damages were reduced by approximately 15% because we were faced with an exacerbation of a pre-existing condition, rather than having caused the condition in its entirety.

What can your clients learn from this?



Steven: Having access to witnesses was hugely important in this scenario in order for us to be able to determine liability. The additional medical evidence obtained also meant damages were reduced, demonstrating the importance of early engagement with the insurer and thorough investigation following claim.



How could this have been prevented?



Mandy: This is a claim that could have been avoided if some simple measures by the employer had been undertaken. The risk assessment for the role should have been reviewed when it became apparent that the need for the delivery drivers to load their vehicles occurred on a regular basis. The assessment should have considered the additional manual handling activities and a detailed manual handling assessment using, for example, the HSE's MAC tool¹, could then have been undertaken. This would have identified any additional control measures to minimise risk to the drivers.

Our policyholder should also have acted at the point that they were made aware of their employee's upper limb issues, altering his role to minimise manual handling and referring him to Occupational Health or appropriate rehabilitation support.



Key Takeaway

Risk Management:

In summary, this loss could have been avoided:



Listen – if employees are making complaints about their working processes/practices take action and document what you did. Be proactive. It may be that small alterations at an early stage can stop a claim being made further down the line.



Keep risk assessments up to date – it is vital that risk assessments carried out for a particular job capture all of the possible risks of upper limb disorders occurring. It is also important that when a role changes, the risk assessment is updated to reflect the change, e.g. if someone leaves and another employee's workload increases as a result. That increase in workload could act as a trigger and lead to the development of an upper limb disorder.

Claims:

Should a loss occur:



Communication – early engagement with insurers is key.



Evidence – having access to the correct personnel to interview, CCTV, witnesses and, where possible, workspaces to view the job being carried out, e.g. on a production line, is vital. Retain records of risk assessments and any actions taken.



Costs can escalate – Even seemingly minor injuries can lead to increased claims costs if multiple experts are required and complex causation issues are at play.

Find out more about preventing musculoskeletal disorders in our latest risk management guide and visit our website for additional insights and resources.

¹ Manual handling assessment charts, HSE.gov.uk.

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