

# Manual handling claims scenarios: Food packaging plant

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.

## Food packaging plant

Our policyholder is a food packaging plant. The claimant began work here in the filling unit as an operative/filler and two years later, moved onto the role of filler and reconciler, undertaking less filling work.

It is alleged that the claimant's work involved repetitive tasks, with awkward working postures and the application of force. After a year in the new role the claimant developed radial tunnel syndrome which is alleged to have been aggravated by his previous work in the filling unit.

**Our policyholder maintained that the role was risk assessed and there was natural rotation in the job itself. Time is also spent away from filling, including cleaning due to the sterile nature of the job. There was no clear temporal association and the claim was denied.**

The claimant submitted medical evidence which attributed his symptoms to alleged repetitive tasks as he had previously described. It is also claimed there was no system of rotation in place meaning he worked on the same machine, performing the same tasks all day.

Our policyholder was concerned that with over 100 other employees undertaking the same work in the same way, there could be further claims if damages were paid in this scenario so we obtained our own report from an ergonomist. We also obtained a film of the system of work, showing someone of the same height and build as the claimant undertaking the work to demonstrate representative movement.

As part of our investigations with our policyholder, it was further identified that the claimant did a lot of exercise outside of work. Social media searches made reference to him going to the gym and showed him partaking in a rock-climbing competition around the time of onset of symptoms. All images and social media posts were captured.

The claimant's historic medical records were also obtained which confirmed a long history of other musculoskeletal problems, including lateral epicondylitis. The claimant's medical expert had only been provided with the records from the onset of his symptoms.

**The ergonomic report and historic medical records were sent alongside the video of the system of work to the claimant's medical expert. The chronology, including changes to the work undertaken 18 months prior to onset of symptoms, was also highlighted. The replies concluded that if our video was a true representative of the work undertaken, there was no causal link. At the same time a without prejudice letter was sent to the claimant's solicitor confirming the information identified on social media.**

**The claim was withdrawn pre-litigation. Although we could not recover our costs, the costs of litigation were saved.**

## What can your clients learn from this?



**Steven:** This is a case that highlights the importance of early engagement between insurers and policyholders to obtain evidence.

Access to workspaces, documents such as risk assessments and having the correct personnel available to speak to are invaluable in cases like this. It is also a case that shows the benefit of obtaining early ergonomic and/or desk top medical reports to review the position on liability, prior to a claim being litigated, particularly where there is a floodgate potential.

The evidence secured in this instance can be used if future attempts by employees to claim for damages arise, of course if it is relevant to their role.



## How could this have been prevented?



**Mandy:** This case highlights that many manual handling injuries are, in fact, due to long-term chronic conditions.

The implementation of a Holistic Health and Wellbeing strategy may lead to benefits in the way employees look after their physical health and wellbeing both at work and at home. This includes a review of the approach to workplace education, for example considering the “whole person” and looking at amending traditional manual handling training for employees to encompass the risks of long term chronic musculoskeletal disorders. Proactive early interventions when issues are highlighted would also be helpful.

In this instance, the insured was keen to minimise the risk of future claims potential should this claim be paid. Be proactive, not reactive; preventing a claim being brought in the first place is the right approach and engaging with employees will build better and more open working relationships.



## 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.



**Holistic health and wellbeing** – Implement a strategy that considers the ‘whole person’ i.e encourages employees to think about their health outside of work as well as in the workplace.

### Claims:

Should a loss occur:



**Communication** – early engagement with insurers is key, especially in this type of scenario where additional investigation and medical reporting is required.



**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.**

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