

A summary of Ecclesiastical¹'s approach to handling Physical and Sexual Abuse Cases

Please note the following:-

The comments in this paper can only ever be very general and each case will need to be looked at on an individual basis, judged on its own merits and the appropriate insurance, legal etc. advice sought at the relevant time. In addition, such comments only apply where Ecclesiastical is the insurer concerned. This paper does not and cannot comment on the policy position of any other insurance company.

Where No formal claim has been made by the abused person

We are often asked by policyholders what action should be taken where allegations of abuse are made and the abused is asking for some assistance, short of making a formal legal claim. The concern policyholders have is that to take any action at all, may imply legal liability and prejudice the position of their insurance company. However, it is important that the response is not experienced as negative, resistant or unhelpful because this can create relationship difficulties. There are steps that can be taken and I comment as follows:

- Always acknowledge how difficult it must have been for the person to come forward and thank them for taking this step. Explain what will happen next and if possible, check that they have some personal support for the coming days.
- Always do inform Ecclesiastical of the situation. One of our specialist abuse case handlers will be able to assess the facts of a particular case with the insured and decide upon an action plan
- Generally, Part 1 (section 2) of the Compensation Act 2006 makes it very clear that "offering an apology, an offer of treatment and other redress [not defined] shall not in itself amount to an admission of negligence or a breach of statutory duty". To therefore give an apology or just acknowledge the abuse circumstances will not normally prejudice the position, but as mentioned above such action is best taken in conjunction with Ecclesiastical.
- Offering to pay for some counselling or treatment would not in itself be deemed to be an admission of legal liability. The 2007 Rehabilitation Code specifically allows for this and is there to encourage both sides to seek early medical redress so as to mitigate the effects of

¹ Ecclesiastical also comprises the Methodist and Baptist Insurance Companies

3. In the vast majority of cases reported we are dealing with wrong doing between 10 – 40 years. The 1980 Limitation Act states that an injury claim must be pursued within 3 years of the claimant being aware they have been injured. The courts do have the power to allow such elderly claims to proceed under Section 33 of this Act. Abuse claims invariably attract such court discretion so in effect we have no limitation argument we can use in these cases, the wrong suffered by the claimant taking precedence over the defendant's inability to properly investigate due to the passage of time.
4. Our main area of investigation therefore centres on the extent of damages. We usually obtain our own medical evidence as we often find that there are other factors in claimants' lives, other than abuse, that has a bearing upon their psychological state
5. Many case settlements are completed in "Joint Settlement Meetings (JSM)". A JSM is a meeting between the claimant and the defendant teams to try and secure a compromise settlement. In most cases, the approach is successful and thus we can avoid expense protracted correspondence and the need for an even more costly trial, which we all wish to avoid because of the publicity aspect on such sensitive cases.

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