

Best Practice for Handling of Noise Induced Hearing Loss Claims in Northern Ireland

FOIL have developed these NIHL handling guidelines to facilitate good communication between FOIL members in respect of claims for personal injury and other related losses arising out of NIHL. They are not designed to recommend any given approach to conduct of the defence of NIHL claims.

These Guidelines are not binding and should allow for a sensible and flexible interpretation.

There will be cases in which in the interests of their client parties may choose not to adhere to the guidelines.

Where there are multiple defendants involved Firms Should:

1. Seek confirmation from the Plaintiff's Solicitors at the outset of the claim as to which firm is on record for each of the Co-Defendants, the name of the Solicitor with conduct and any reference they are handling the matter under, and confirm their instruction to other Defendant firms as soon as possible.
2. Confirm whether exact dates of employment are available, whether they rely on the HMRC Schedule or whether further investigations are required.
3. The periods of insurance cover identified and whether any Holtby discounts will apply.
4. Confirm as soon as possible whether they wish to agree TOR, a shared medical apportionment or deal with apportionment in another manner. It is recognised that this confirmation may not always be possible.
5. Whether it is their intention to obtain a medical report by examination which they wish to share and use their best endeavours to agree joint wording of the letter of instruction.
6. Communicate as between Defendant Solicitors by group e-mails to all other Defendant firms.
7. Where a cut-off is suspected at any stage, the onus is on the co-defendant who is seeking agreement to a cut off to establish the cut off. Evidence to substantiate this is not to be disclosed to the Plaintiff's solicitors, without the prior consent of the Defendant / or the Insurers of the Defendant to whom the records relate.