

Risk Managers Forum : MSD Issues

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business services construction & property insurance & indemnity leisure media & technology public sector retail transport

Setting the scene

- MSDs affect 1.1 million people in the UK
- Most cases involve lower back but include WRULDs, affecting soft tissues of the upper limbs
- MSDs represent approximately one third of annual injury claims

Setting the scene

- Back injuries: due to both single tasks/events and manual handling operations over a period of time
- WRULDs due to repetitive, forceful work over a period of time where there is poor work posture
- WRULDs: classified as “short tail” disease claims
- Cumulative back injury: each case determined on basis of available expert evidence
- Medical causation: a key line of defence

Legal duties

- Common law negligence
- Management of Health and Safety at Work Regulations
- Manual Handling Operations Regulations
- Health and Safety (Display Screen Equipment) Regulations
- Provision and Use of Work Equipment Regulations

WRULDs : Assessing the risk

- Excessive repetition
- Poor working postures
- Excessive force
- Excessive duration of exposure

WRULD's : Duties of care

- Risk Assessment
- Job rotation and rest breaks
- Suitability of work stations
- Suitability of work equipment
- Training and instruction
- Warnings/monitoring/responding to symptoms

Causation

- Some conditions can arise both naturally and as a consequence of work
- Biochemical link
- Temporal association
- Exacerbation/aggravation

Case study (1)

- October 2006: started employment
- May 2007: first symptoms/right tenosynovitis
- June 2007: occupational health and risk assessments
- June 2007: RTW – further symptoms/left tenosynovitis
- September 2007: further occupational health and risk assessment
- October 2007: complaint of further pain – resignation

Case study (2)

- November 2007: letter of claim
- December 2007: job as retail assistant
- January 2008: pain in ankles and knees
- March 2008: generalised joint pain affecting all parts of the body
- May 2008: diagnosis of rheumatoid arthritis

Case study (3)

- July 2008 : medico-legal report.

Original episodes of wrist pain in work due to rheumatoid arthritis. Work activities aggravated arthritic condition but most manual work would have had the same effect as would activities of daily living outside work involving upper limbs.

Case study (4) A critical assessment

- Pre symptoms conduct of defendants
- Post symptoms conduct of defendants
- A focus on financial compensation
- Causation – a second line of defence
- Prevention better than cure