

# **Information Sheet Relating to Industrial Deafness and Tinnitus caused by Noise Exposure**

## **1. Three Year Time Limit For Bringing Legal Claims**

It is very important that you are aware that under our legal system there is a requirement that you bring your claim, within 3 years from the date you first became aware that you suffered from hearing impairment caused by industrial noise. This may be the date when your doctor or health professional advised you that your hearing loss was due to noise. If you have been given this information, you have 3 years from that date to bring a claim.

If you are out of time, it is possible in some cases to apply to the court for permission to bring a claim out of time. If you do this, the court will want to know the reason for the delay in bringing a claim. The court will also want to see if there is any prejudice to the employer because of the delay in bringing your claim. You should seek advice from an experienced industrial disease lawyer who deals with these claims all the time. Ask the solicitor how many deafness claims they have brought. This is a very specialised area and is completely different to road traffic claims.

## **2. Was My Employer Negligent In Exposing Me To Noise?**

From the mid 1950's onwards, and certainly by 1963, knowledge was widely available to employers that excessive noise over a period of time could cause employees to become deaf. If the working environment was very noisy, then the employers should have provided hearing protection in the form of good quality ear defenders. Many employers took no action until the 1980's and 1990's if at all. As a result many people who worked with noise are now suffering from hearing impairment. Local industries where this occurred include the Railway Industry, the Automobile Industry, Paper Mills, Engineering Works, Manufacturing Companies. These are just a few examples and not intended as a complete list. If you were exposed to excessive noise over a period of time with no hearing protection, your employer may well have to pay you compensation if you have suffered hearing impairment.

## **3. How Can I Tell If My Hearing Impairment Is Due To Industrial Noise As Opposed To Other Causes.**

An ENT Specialist will be able to tell you whether or not noise has caused your hearing impairment by carrying out certain hearing tests and investigating your background. If you have suffered from exposure to considerable noise in your career, you should mention this to your doctor and ask if he could carry out the appropriate tests to advise you whether or not this was due to noise at work.

## **4. What Can I Claim?**

You will receive a lump sum in compensation for loss of hearing. The amount will depend on the degree of your disability. In addition, if you wish, you can claim monies to purchase private hearing aids, if these are required, for the remainder of your life. You will receive a lump sum to pay for these. You may also claim compensation if your deafness affects your ability to work or to obtain work if you are on the labour market. If you suffer from hearing impairment, you would obviously have to disclose this to any employer and this may affect your ability to obtain work. Damages vary greatly. Payments of £7,000 to £8,000 are made

for slight hearing loss whereas sums of £25,000 to £45,000 may be awarded where the employment is affected. However, each case is different and has to be assessed separately.

### **5. How Long Does It Take To Bring A Claim?**

This will depend on how quickly the employer accepts liability. In some industries, there have already been a large number of claims in the past which have succeeded. The employers are well aware of the problem. This is certainly the case with the Railway Industry and the Automobile Industry. In these cases, the case may settle very quickly. It may take between 6 – 12 months to settle the case. Most cases settle without the need for a court hearing.

### **6. I Do Not Have Finances To Pay Legal Costs. How Can I Pay For A Solicitor To Deal With My Claim?**

Most cases of industrial disease are dealt with on a “No Win No Fee” basis. This means that you only have to pay the solicitor if he wins the case for you. If he wins, then the normal rule is that the insurance company for the employer will pay your costs. If you lose the case, you will not be any worse off and the solicitor will not be paid.

Apart from No Win No Fee Agreements, some people have legal expense insurance with their House and Contents Insurance to cover these claims. Your solicitor will check the policy to see if this is the case and will contact the insurance company to get cover. In this case, the insurance company will then pay for your claim.

### **7. What If The Negligent Employer Is No Longer In Business?**

Some employers who exposed their employees to excessive noise may no longer be in existence. However, employers were obliged to take Employer Liability Insurance after 1972. Many Employers will have had insurance even before this date. If details of the policy can be traced, you will still be able to claim against any insurers of your employers even if they are no longer in business. An experienced Industrial Disease Lawyer will know where to look to find the insurance details.

### **8. Industrial Disablement Pension**

If you are suffering from hearing impairment from excessive noise you may be able to claim for Industrial Disablement Pension. You should complete the form BI100PD enclosed with this information pack and send it to Jobcentre Plus, Castleford IIDB Centre, Leodis Way, Leeds, LS88 8AQ, telephone 0845 758 5433. You must have worked for at least 10 years in at least one of the jobs on the list which is known to cause deafness. The work must have been within five years of the date that you claimed. You may also be able to get benefit if you worked very close to someone else who was doing a job on the list which is known to cause deafness.

When you send in the form you will receive an appointment from the Jobcentre Plus to be examined by their doctor in respect of your hearing loss. They will require a hearing test. If you satisfy the criteria, you will then receive a weekly pension for the rest of your life. Sums vary depending on the degree of your disability. They currently range from £28.72 to £143.60 (2009 rates). Figures will change annually.