



## **Charity Trustees Assurance Claims Examples**

### **1) Claim for alleged Racial Discrimination**

Two separate claims have been made by former employees of the charity, alleging racial discrimination. The first employee's claim against the trustee states that she received discriminatory treatment in the workplace due to her ethnic background. She alleges that the other white employees received preferential treatment, and that whilst off sick due to stress related illness incurred whilst working for the trust, she was unfairly dismissed. The second employee also alleges that he suffered from discriminatory treatment whilst in the employ of the trust and that whilst off sick he was unfairly dismissed. The trustee named states that no such discriminatory action occurred and that the two employees were dismissed due to their sub-standard performance and unacceptable behaviour in the workplace, and that both employees were still within their probationary period. The trustee also states that both she and the trust have, in the past, received national recognition for the work they have done to combat racial discrimination. It was unlikely that the claim would have succeeded, however a settlement was agreed with the parties. Total costs incurred, just under £20,000.

### **2) Claim for alleged Racial Discrimination**

The employee alleges that he suffered racial discrimination whilst working for the trust, and that whilst off sick due to a whiplash injury, he was unfairly dismissed. The trustee claims that the employee was sacked due to their unsatisfactory performance and irregular attendance, during the employee's probationary period.

### **3) Claim for alleged Trespass**

The neighbouring landowner to the trust claims that recent constructions carried out by the trust infringed on their property. The trust claims that documents from the 18<sup>th</sup> century show that the previous owner passed the land over to them, whereas the claimant declares that the land never legally belonged to the previous owner. It appears that the claim will be upheld and that the claimant is indeed the legal owner of the disputed property. The trustees will be responsible for damages and for restoring the land to its former condition. To date £20,000 has been paid in legal costs with an outstanding estimate of a further £20,000.

### **4) Claim for misuse of Trust Funds**

Following an investigation by the Charity Commission, it was declared that the trustees named had illegally gained payments from the trust by use of another trading company of which they are directors. The Charity Commission has stated that there exists a conflict of interests and that these salaries and dividends must be returned,

and the trust be re-structured. The claim itself is for reimbursement of legal fees incurred. However as the claim does not directly stem from a Wrongful Act, but rather from the error of the solicitors involved in the formation of the trust, the claim would not be upheld. However, solicitors' fees and investigation costs were paid.

#### **5) Claim for alleged defamation**

Following publication of an article, the charity trustees were sued for defamation by another charity with similar objectives. The claimant stated that certain statements made in the article were untrue and gave a false representation of the charity. The matter was eventually settled out of court with considerable fees being paid (£8,500).

#### **6) Claim for Loss of Documents**

The charity suffered a severe loss when over £6,500 of computer software was stolen. Not only were considerable amounts of software lost but also the data that was contained on them was also taken. The policy paid for the replacement of the data and software (£10,000).

#### **7) Claim for alleged Breach of Authority**

A claim was made against a trustee by one of the charity's employees. Before the charity ceased operating the trustee had indicated that employees would receive an enhanced redundancy payment, which was in breach of his authority. As a result, several employees had made financial decisions based on that statement, and hence ran up costs to cancel these arrangements.

#### **8) Claim for alleged Denial of Access**

A claim was made against the trustees as they had sub-let a section of their premises to another organisation. This had been done without consultation to the landlord and broke the conditions of the charity's lease on the property, and subsequently he ordered the eviction of the sub-tenants. The evictees brought a successful claim against the trustees for denial of access. Over £12,000 was paid out under the policy.

#### **9) Claim for legal fees to defend a Charity Commission investigation**

The Charity Commission (CC) investigated a trust that was originally established during the 1960's to research into artificial insemination. The CC investigated the trust's activities on the grounds that they were no longer concerned with research and hence were not charitable in their nature. The trust successfully defended their charitable status, and the legal fees (over £2,000) were paid under the policy.

#### **10) Claim for Dishonesty of a Trustee**

A claim was made by a charity, which had suffered a loss of over £12,000. Due to poor internal controls, one of its trustees managed to fraudulently withdraw £11,000 in a single transaction, then a further £1500 at a later date. The claim was settled for 80% of the total amount plus fees, a total amount of over £9,500.

### **11) Claim for libellous action**

A claim was made against the trustees for alleged slander. After initial discussions the allegation was retracted and an apology offered. The solicitor's fees which had been incurred were settled for over £1,500.

### **12) Claim for legal fees to defend a Charity Commission Investigation**

An investigation by the Charity Commission led to allegations of the charity using their charitable status for avoidance of tax on their trading subsidiary. The charity was required to re-structure their operation at their own cost, but the legal fees and other costs in their investigations and defending these allegations were covered, coming to a total of over £1,200.

### **13) Wrongful dismissal and negligent reference**

Claim for wrongful dismissal and providing a negligent reference to another potential employer resulted in payments totalling over £20,000 to the Insured in defending the allegations and in payment of costs and damages.

### **14) Claim for breach of Trust**

A claim was made against a Trustee of the Charity by the other Trustees, alleging that the defendant had broken the Governing Documents of the Trust in receiving fees, and making improper investments. A subsequent Charity Commissioner's investigation and the costs of recovering fees and investments amounted to £52,000

### **15) Claim for alleged breach of Trust and defamation**

A president of the board of Trustees was forcibly removed from his position. A claim has been initiated against other members of the Board of Trustees by the former president, alleging that he was removed outside of the rules and deeds of the Charity. In forcibly removing him he also claims that the other Trustees have committed defamation

### **16) Claim for alleged breach of Professional Services**

A claim was made by members of a burial society stating that insufficient burial plots were allocated by the Trustees to accommodate all of the former members of the society, and that alternative locations were unsuitable. A final settlement was reached with the claimants

### **17) Claim for alleged unfair dismissal**

An employee who was dismissed from her position alleged a claim of sex discrimination against the Trustees. The Insured stated that the employee was dismissed due to unacceptable behaviour relating to her alcohol problem. Though the claim is unlikely to result in a success for the claimant, defence costs may be significant

### **18) Claim for alleged Misstatement**

Upon the sale of land to another company, the Trustee stated that permission had been granted to develop the land for residential use. Upon completion of the sale, the purchasers discovered that planning permission had not been granted and that the land was subsequently useless to the developers. The claim is still in process, and with thousands of pounds costs already incurred, has the potential to reach over a million pounds

### **19) Claim for alleged breach of Trust**

Upon the liquidation of the charity it was alleged that the Trustees mis-handled the winding up and distribution of remaining assets. Though the Charity was Limited by Guarantee, and the liabilities of the Trustees and Directors were negligible, claims have been made by creditors alleging that the Trustees mis-handling resulted in the Charities inability to pay all of its creditors. To date the claim has incurred costs of £6,000 though this figure has the potential to reach the policy limit of £250,000

### **20) Claim for alleged Discrimination**

An interviewee for a position at the charity alleges that he was unfairly discriminated against due to his race, and that the position was given to someone less suitable. Considerably defence costs were incurred in defending the allegation