

# Claim Diary Task - Completed

**Ann Bullock**

**18PL000057**

## Imported Email

**Due Date:** 19/12/2018

**Completed Date:** 19/12/2018

**Event Date:**

**Party Involved:** Derek McWhinnie <derek.mcwhinnie@uk.zurich.com>

RE: RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com>

Sent: 18 December 2018 17:18

To: Greg Peachey

Cc: Tulsi Naidu; Ann Bullock

Subject: RE: RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

Dear Mr Peachey,

Apologies for the delayed response, I was making some enquiries on how we best proceed and whether we would look to alter our stance. Unfortunately we would not be in a position to change the overall outcome in relation to liability and I would be reluctant to enter into any further protracted dialogue at this stage.

I am sorry I've not been able to change the outcome however, I would suggest that you do seek further legal advice if you remain unhappy and wish to take the matter further.

Kind regards

Derek McWhinnie

Head of Customer Improvement

UK Operations

Tel: 07875 887 604

Email: derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com>

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From: Greg Peachey [mailto:greg@FREdome.org]

Sent: 17 December 2018 11:57

Created by bullocka on 19/12/2018 07:08:40

Page: 1

To: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com>  
Cc: Tulsi Naidu <tulsi.naidu@uk.zurich.com>; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk>  
Subject: [EXTERNAL] RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057  
Importance: High

Dear Mr McWhinnie,

It has now been 12 days since I received notification that you read my last email, responding to the additional information you sent through.

Given the new information that you revealed, those are questions to which I have the right to know the answers.

If I do not receive a satisfactory response from you within 48 hours of the time of this email, I am very sorry but I shall have to issue a Freedom of Information request to your Customer in order to obtain those answers. That will be my first step in making public the manner in which Zurich Insurance evades valid claims by community members.

Your sincerely, Greg Peachey

01234 965671 / 07900 221347

From: Greg Peachey <greg@FREdome.org <mailto:greg@FREdome.org> >  
Sent: 05 December 2018 23:00  
To: 'Derek McWhinnie' <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Cc: 'Tulsi Naidu' <tulsi.naidu@uk.zurich.com <mailto:tulsi.naidu@uk.zurich.com> >; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk <mailto:Ann.Bullock@bedford.gov.uk> >  
Subject: RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057  
Importance: High

Dear Mr McWhinnie,

Thank you very much for your latest response, which I must admit to finding a little surreal.

Now that the Council has admitted that the original cause of the tree uprooting was a collision with a vehicle, there have been at least three car accidents involving that tree feature in the middle of a Council-maintained car park.

Allow me to summarise the bald facts of the case:

- a) When the tree was originally uprooted after a vehicle collision, the Council decided that the pit was not a hazard to cars, but only to pedestrians!
- b) Despite this they failed to 'protect pedestrians' in a robust manner until a third vehicle accident had been reported.

c) Notwithstanding Point a) their fortnightly inspection process (which was cited as their defence against negligence) declared, contrary to their own knowledge, that there were no trip hazards in the car park. This instantly renders the inspection process ineffective.

d) The kerbstones (which left at least two cars suspended by their chassis over the cavity left by the uprooted tree) were considered 'fit for purpose' – because account is only being taken of their purpose in forming the tree pit. I would contend, however, that the primary purpose of features in a car park should be to ensure that there are no concealed hazards to car park users.

e) The Council's own valuer, Mike Duncan, registered with the Royal Institution of Chartered Surveyors, judged that this tree feature should not have been in the middle of the car park. You have simply decided to ignore his judgement.

Further to Point c) the Council is at fault either way:

1. If, as they claim, the defect was considered a hazard to pedestrians, then their fortnightly inspection process (which is their principal defence against negligence) should not have recorded that there were no trip hazards.
2. If they did not really consider the defect to be a hazard to pedestrians, then they have issued a false statement.

Please let me know whether 1 or 2 applies?

I have responded to your most recent comments within your email below in red.

The position that Zurich has taken may appear advantageous from a short-term profit point of view, but as I'm sure you know, the time-cost of fending off the claim for such a relatively small amount, tends to dwarf the cost of the claim itself, and furthermore, stances like this can lead to serious damage to the reputations of organisations and of the individuals concerned. The issue at stake here, is the just treatment of community members by councils and insurance companies. I have started to discuss this with figures in the relevant fields and they have pointed out that, given the above facts, I have a very plausible case. It is also the sort of scenario that would interest the media.

The average of the three repair quotes I obtained is £1,025.52. I would be prepared to accept an offer of compensation approaching that figure, as a good-will gesture, with no admission of liability.

Yours sincerely,                      Greg Peachey

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Sent: 30 November 2018 11:09  
To: Greg Peachey <greg@FREdome.org <mailto:greg@FREdome.org> >; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk <mailto:Ann.Bullock@bedford.gov.uk> >  
Subject: RE: RE: RE: Private & Confidential

Dear Mr Peachey



Thank you for your recent correspondence.

Your comments have been noted and the matter has been reviewed once again.

In relation to the points which you have raised previously, we would respond as follows:

1. "Please could you let us know how the tree came to be uprooted?"

The Council's Arboricultural Officer has confirmed that the tree was removed as it was leaning badly following a collision with a vehicle. As previously advised, cones were placed in the area as a warning to pedestrians however these had been removed by persons unknown. This admission of the initial cause simply indicates that the principal hazard was actually to vehicles, as has been confirmed by at least three vehicle accidents!

2. "No action was taken until the day after I reported that I had seen a second car trapped and damaged by the hazard on 06/08/2018"

We confirm that to date, no claim has been submitted by the motorist who's incident you witnessed on 06/08/2018. We would refer you to point 1 in respect of the cones. At the time of placing the cones, the dip in question was not the same depth as on the date of your incident, and it is therefore believed that a portion of the soil has been removed between the date the tree was removed and the date of your incident. Furthermore we consider that the dip inside the tree pit is not relevant to the material issues, and is not the proximate cause of your incident. Your vehicle has initially contacted and mounted the kerbing that forms the boundary of the tree pit prior to becoming trapped. The fact that the driver on 06/08/2018 chose not to claim for the damage to her car does not nullify the fact that her accident did occur. Is the Council's Arboricultural Officer aware that soil levels will naturally tend to sink after trees are removed? Did a member of staff record the depth of the dip following the tree removal and measure it subsequently? Has this measuring activity been reflected in the fortnightly inspection reports? The kerbstones would not have damaged my subframe if it were not for my wheel entering the cavity left by the uprooted tree. The dip is therefore highly relevant!

3. "Immediately after the accident, a woman in the car park came up to me and said that I was by no means the first person to come to grief with that hazard."

Unfortunately, the Council rely on reports from members of the public to make them aware of potential hazards and defects that may occur between their regular inspections. If these other incidents have not been reported by the individuals involved, then it is unreasonable to expect the Council to be aware of any potential hazards or problems. I made the Council fully aware of my incident, but this did not result in any action, until a third incident forced the issue.

4. "If the Council was genuinely concerned about the hazard to pedestrians, then why did their processes not lead them to fill the pit when I reported it on 09/07/2018?"

We trust you will appreciate the Council's funds are limited and maintenance is therefore prioritised. It is not possible to ensure that every area under the Council's ownership can be kept in a perfect condition or free from every source of danger at all times. The point here is that the fortnightly inspection process cited by the Council in their defence against negligence, should at least have registered that cones, ostensibly placed to protect pedestrians against a hazard, had been removed.

5. "If the Council considered the defect to be a hazard to pedestrians, but not to motorists, then why did they see fit to mark the warning post with six strips of yellow & black tape?"

The installation of the post was in response to your previous complaint and notification to the Council that a further, similar incident had occurred. The application of the tape is to ensure the visibility of the post to all users of the car park, and is in no way an admission of liability. The black and yellow tape is clearly a warning to motorists!

6. "If the Council did not consider there to be any significant hazard to motorists, then why did Mike Duncan write to me on 20/07/2018: "I agree with you, I also love trees but in the middle of a car park is not the right place?""

We would mirror the information provided to you in previous correspondence that the trees and tree pits are a feature of the car park. Whilst we acknowledge the comments from Mr Duncan, this is simply his opinion and has no significant bearing on liability. Here you have simply chosen to ignore a judgement expressed by the Council's own valuer, who registered with the Royal Institution of Chartered Surveyors.

7. "I am quite frankly astonished that you consider that a defect that left at least two cars suspended by their chassis over a cavity left by an uprooted tree is "fit for purpose"!

As previously advised, the kerbstones are a feature of the car park and are there to form the tree pit. They are not defective in any way whatsoever and no other incidents have been reported. The principal purpose of features in a car park is surely to ensure that there are no concealed hazards to car park users!

8. "Has there been any truly independent assessment of my claim?"

Whilst it is correct that Bedford Borough Council is our policyholder and customer, we assure you that all claims are independently assessed and reviewed by our company in accordance with the relevant legislation, in this case being the Occupiers Liability Act 1957. However if you remain unhappy with our decision then you are more than welcome to seek independent legal advice on the matter. If these reviews are conducted by people paid by your company, then they are not independent.

We would take this opportunity to thank you for your patience throughout the claims process. Whilst we appreciate that this is not the outcome you would have hoped for, we confirm that we are unable to envisage a situation where liability would attach to our customer, and therefore will not be making an offer of compensation on this occasion.

Derek McWhinnie

Head of Customer Improvement

UK Operations

Tel: 07875 887 604

Email: [derek.mcwhinnie@uk.zurich.com](mailto:derek.mcwhinnie@uk.zurich.com) <<mailto:derek.mcwhinnie@uk.zurich.com>>

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From: Greg Peachey [<mailto:greg@FREdome.org> <<mailto:greg@FREdome.org>> ]

Created by bullocka on 19/12/2018 07:08:40

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Sent: 25 November 2018 17:49

To: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk <mailto:Ann.Bullock@bedford.gov.uk> >  
Subject: [EXTERNAL] RE: RE: Private & Confidential

Dear Mr McWhinnie,

Thank you for your response, which unfortunately appears to have ignored the evidence that I highlighted in my previous email.

Additionally, in that email I asked the Council a highly relevant question: "...please could you let us know how the tree came to be uprooted?"

The Council has not provided a response and you have made a decision in the absence of that information.

If I do not receive a response from the Council within 7 days from the date on this email, then I will issue a Freedom of Information request for that information.

In the unlikely event that the tree was originally uprooted by a collision involving a pedestrian, then it might be reasonable for the Council to claim that the cones were placed there for the general safety of pedestrians. If, however, a vehicle was involved, then that claim is clearly false.

In either case, if the cavity left by the uprooted tree was considered (as has already been admitted by the Council) to be hazard to any member of the public whether on foot or in a car, then the non-negligent course of action would have been to fill the cavity. I know you can see that it is already blindingly obvious therefore that their long-term persistent failure to do so constitutes negligence on their part and establishes their liability.

I am confident that the current outcome of the decision whether to pay has been reached as it is because it has only been considered by those who have a vested interest in not paying.

Please be aware that I fully intend to invoke the Freedom of Information act to extract the remaining relevant evidence and to utilise my legal expenses insurance cover to have the full evidence judged independently, justly, openly and publicly.

All the best,      Greg

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Sent: 22 November 2018 15:32  
To: Greg Peachey <greg@FREdome.org <mailto:greg@FREdome.org> >  
Subject: RE: RE: Private & Confidential

Created by bullocka on 19/12/2018 07:08:40

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Dear Mr Peachey,

Further to your most recent correspondence, I have had some time to review the file and the decision made by Zurich.

Having considered all of the evidence presented, I believe that the decision made by our claims department is correct and unfortunately, I will not be in a position to overturn this.

I appreciate it is likely to be disappointing for you that I haven't been able to change the outcome however, Zurich's role must be to consider whether any liability sits with our customer. In this instance, we believe our customer has taken appropriate measures and that no liability rest with them as a result of the incident. Your reference to the cones being placed around the area was to prevent pedestrians being injured and not considered to be a requirement for motorists.

I thank you for your patience while I reviewed the matter and I hope you understand that this represents our final position.

Kind regards

Derek McWhinnie  
Head of Customer Improvement  
UK Operations  
Tel: 07875 887 604  
Int: 7400 7604  
Email: derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com>

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From: Greg Peachey [mailto:greg@FREdome.org <mailto:greg@FREdome.org> ]  
Sent: 13 November 2018 23:07  
To: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Subject: [EXTERNAL] RE: Private & Confidential

Thank you, Mr McWhinnie – I look forward to hearing further from you.

All the best,      Greg (Peachey)

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Sent: 13 November 2018 21:50  
To: greg@FRedome.org <mailto:greg@FRedome.org>  
Subject: FW: Private & Confidential  
Importance: High

Dear Mr Peachey,

Thank you for writing to our CEO, Tulsi Naidu. I have been asked to review this case on her behalf to ensure we are comfortable with our conclusion and position. I will look to review your case over the coming days and confirm my findings to you, where possible, next week.

Should I be unable to provide you with a response within this time, I will reach out to inform you of this.

Thank you for your patience in the meantime.

Kind regards

Derek McWhinnie  
Head of Customer Improvement  
UK Operations  
Tel: 07875 887 604  
Int: 7400 7604  
Email: derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com>

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From: Greg Peachey [mailto:greg@FRedome.org <mailto:greg@FRedome.org> ]  
Sent: 12 November 2018 12:36  
To: Tulsi Naidu <tulsi.naidu@uk.zurich.com <mailto:tulsi.naidu@uk.zurich.com> >  
Cc: 'Ann Bullock' <Ann.Bullock@bedford.gov.uk <mailto:Ann.Bullock@bedford.gov.uk> >  
Subject: [EXTERNAL] Private & Confidential  
Importance: High

RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

Dear Ms Naidu,

Further to my email earlier this year, please could I bring to your attention a tardy and potentially controversial response to a legitimate claim for compensation against your customer, Bedford Borough Council, just sent to me by Zurich Claims Handler, Mrs Gemma Tanner.

Created by bullocka on 19/12/2018 07:08:40

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Essentially, (albeit 2-D) photographs of two cars in successive months suspended by their chassis on blind-spot kerbstones over a cavity left by an uprooted tree in the middle of the Church Lane car park in Bedford satisfied Zurich Claims that at the time that my car (the first one) suffered this fate, the defective car park was "fit for purpose".

Evidence against negligence presented by Bedford Borough Council constituted fortnightly tick-box reports up to and just after my accident, confirming that the Council found no need for any action concerning the state of repair of the car park, despite the fact that they admit that they previously considered the cavity to represent a hazard to pedestrians. This inaction persisted, even after I highlighted the defect, right up to my subsequent submission of photographs showing the second car having met with an identical accident.

Mrs Turner referred me to the Association of Lawyers, but I would prefer to settle this matter out of court, beginning by an impartial review of the assessment outcome.

I look forward to hearing from you.

All the best,      Greg (Peachey)

01234 965671 / 07900 221347

Attachment:

1. Response to claim from Mrs Tanner
2. My response to Mrs Tanner's email

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# Claim Diary Task - Completed

**Ann Bullock**

**18PL000057**

## Imported Email

**Due Date:** 17/12/2018

**Completed Date:** 17/12/2018

**Event Date:**

**Party Involved:** Greg Peachey <greg@FREdome.org>

RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

From: Greg Peachey <greg@FREdome.org>

Sent: 17 December 2018 11:56

To: 'Derek McWhinnie'

Cc: 'Tulsi Naidu'; Ann Bullock

Subject: RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

Dear Mr McWhinnie,

It has now been 12 days since I received notification that you read my last email, responding to the additional information you sent through.

Given the new information that you revealed, those are questions to which I have the right to know the answers.

If I do not receive a satisfactory response from you within 48 hours of the time of this email, I am very sorry but I shall have to issue a Freedom of Information request to your Customer in order to obtain those answers. That will be my first step in making public the manner in which Zurich Insurance evades valid claims by community members.

Your sincerely, Greg Peachey

01234 965671 / 07900 221347

From: Greg Peachey <greg@FREdome.org>

Sent: 05 December 2018 23:00

To: 'Derek McWhinnie' <derek.mcwhinnie@uk.zurich.com>

Cc: 'Tulsi Naidu' <tulsi.naidu@uk.zurich.com>; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk>

Subject: RE: \*Confidential - Zurich Reference : 18U01018182119008 | Council Ref: 18pl000057

Importance: High

Dear Mr McWhinnie,

Thank you very much for your latest response, which I must admit to finding a little surreal.

Created by bullocka on 17/12/2018 12:19:39

Page: 1



Now that the Council has admitted that the original cause of the tree uprooting was a collision with a vehicle, there have been at least three car accidents involving that tree feature in the middle of a Council-maintained car park.

Allow me to summarise the bald facts of the case:

- a) When the tree was originally uprooted after a vehicle collision, the Council decided that the pit was not a hazard to cars, but only to pedestrians!
- b) Despite this they failed to 'protect pedestrians' in a robust manner until a third vehicle accident had been reported.
- c) Notwithstanding Point a) their fortnightly inspection process (which was cited as their defence against negligence) declared, contrary to their own knowledge, that there were no trip hazards in the car park. This instantly renders the inspection process ineffective.
- d) The kerbstones (which left at least two cars suspended by their chassis over the cavity left by the uprooted tree) were considered 'fit for purpose' – because account is only being taken of their purpose in forming the tree pit. I would contend, however, that the primary purpose of features in a car park should be to ensure that there are no concealed hazards to car park users.
- e) The Council's own valuer, Mike Duncan, registered with the Royal Institution of Chartered Surveyors, judged that this tree feature should not have been in the middle of the car park. You have simply decided to ignore his judgement.

Further to Point c) the Council is at fault either way:

- 1. If, as they claim, the defect was considered a hazard to pedestrians, then their fortnightly inspection process (which is their principal defence against negligence) should not have recorded that there were no trip hazards.
- 2. If they did not really consider the defect to be a hazard to pedestrians, then they have issued a false statement.

Please let me know whether 1 or 2 applies?

I have responded to your most recent comments within your email below in red.

The position that Zurich has taken may appear advantageous from a short-term profit point of view, but as I'm sure you know, the time-cost of fending off the claim for such a relatively small amount, tends to dwarf the cost of the claim itself, and furthermore, stances like this can lead to serious damage to the reputations of organisations and of the individuals concerned. The issue at stake here, is the just treatment of community members by councils and insurance companies. I have started to discuss this with figures in the relevant fields and they have pointed out that, given the above facts, I have a very plausible case. It is also the sort of scenario that would interest the media.

The average of the three repair quotes I obtained is £1,025.52. I would be prepared to accept an offer of compensation approaching that figure, as a good-will gesture, with no admission of liability.

Yours sincerely,                      Greg Peachey

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com>  
Sent: 30 November 2018 11:09  
To: Greg Peachey <greg@FREdome.org>; 'Ann Bullock' <Ann.Bullock@bedford.gov.uk>  
Subject: RE: RE: RE: Private & Confidential

Dear Mr Peachey

Thank you for your recent correspondence.

Your comments have been noted and the matter has been reviewed once again.

In relation to the points which you have raised previously, we would respond as follows:

1. "Please could you let us know how the tree came to be uprooted?"

The Council's Arboricultural Officer has confirmed that the tree was removed as it was leaning badly following a collision with a vehicle. As previously advised, cones were placed in the area as a warning to pedestrians however these had been removed by persons unknown. This admission of the initial cause simply indicates that the principal hazard was actually to vehicles, as has been confirmed by at least three vehicle accidents!

2. "No action was taken until the day after I reported that I had seen a second car trapped and damaged by the hazard on 06/08/2018"

We confirm that to date, no claim has been submitted by the motorist who's incident you witnessed on 06/08/2018. We would refer you to point 1 in respect of the cones. At the time of placing the cones, the dip in question was not the same depth as on the date of your incident, and it is therefore believed that a portion of the soil has been removed between the date the tree was removed and the date of your incident. Furthermore we consider that the dip inside the tree pit is not relevant to the material issues, and is not the proximate cause of your incident. Your vehicle has initially contacted and mounted the kerbing that forms the boundary of the tree pit prior to becoming trapped. The fact that the driver on 06/08/2018 chose not to claim for the damage to her car does not nullify the fact that her accident did occur. Is the Council's Arboricultural Officer aware that soil levels will naturally tend to sink after trees are removed? Did a member of staff record the depth of the dip following the tree removal and measure it subsequently? Has this measuring activity been reflected in the fortnightly inspection reports? The kerbstones would not have damaged my subframe if it were not for my wheel entering the cavity left by the uprooted tree. The dip is therefore highly relevant!

3. "Immediately after the accident, a woman in the car park came up to me and said that I was by no means the first person to come to grief with that hazard."

Unfortunately, the Council rely on reports from members of the public to make them aware of potential hazards and defects that may occur between their regular inspections. If these other incidents have not been reported by the individuals involved, then it is unreasonable to expect the Council to be aware of any potential hazards or problems. I made the Council fully aware of my incident, but this did not result in any action, until a third incident forced the issue.

4. "If the Council was genuinely concerned about the hazard to pedestrians, then why did their processes not lead them to fill the pit when I reported it on 09/07/2018?"



We trust you will appreciate the Council's funds are limited and maintenance is therefore prioritised. It is not possible to ensure that every area under the Council's ownership can be kept in a perfect condition or free from every source of danger at all times. The point here is that the fortnightly inspection process cited by the Council in their defence against negligence, should at least have registered that cones, ostensibly placed to protect pedestrians against a hazard, had been removed.

5. "If the Council considered the defect to be a hazard to pedestrians, but not to motorists, then why did they see fit to mark the warning post with six strips of yellow & black tape?"

The installation of the post was in response to your previous complaint and notification to the Council that a further, similar incident had occurred. The application of the tape is to ensure the visibility of the post to all users of the car park, and is in no way an admission of liability. The black and yellow tape is clearly a warning to motorists!

6. "If the Council did not consider there to be any significant hazard to motorists, then why did Mike Duncan write to me on 20/07/2018: "I agree with you, I also love trees but in the middle of a car park is not the right place?""

We would mirror the information provided to you in previous correspondence that the trees and tree pits are a feature of the car park. Whilst we acknowledge the comments from Mr Duncan, this is simply his opinion and has no significant bearing on liability. Here you have simply chosen to ignore a judgement expressed by the Council's own valuer, who registered with the Royal Institution of Chartered Surveyors.

7. "I am quite frankly astonished that you consider that a defect that left at least two cars suspended by their chassis over a cavity left by an uprooted tree is "fit for purpose"!

As previously advised, the kerbstones are a feature of the car park and are there to form the tree pit. They are not defective in any way whatsoever and no other incidents have been reported. The principal purpose of features in a car park is surely to ensure that there are no concealed hazards to car park users!

8. "Has there been any truly independent assessment of my claim?"

Whilst it is correct that Bedford Borough Council is our policyholder and customer, we assure you that all claims are independently assessed and reviewed by our company in accordance with the relevant legislation, in this case being the Occupiers Liability Act 1957. However if you remain unhappy with our decision then you are more than welcome to seek independent legal advice on the matter. If these reviews are conducted by people paid by your company, then they are not independent.

We would take this opportunity to thank you for your patience throughout the claims process. Whilst we appreciate that this is not the outcome you would have hoped for, we confirm that we are unable to envisage a situation where liability would attach to our customer, and therefore will not be making an offer of compensation on this occasion.

Derek McWhinnie

Head of Customer Improvement

UK Operations

Tel: 07875 887 604

Email: [derek.mcwhinnie@uk.zurich.com](mailto:derek.mcwhinnie@uk.zurich.com) <<mailto:derek.mcwhinnie@uk.zurich.com>>

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From: Greg Peachey [mailto:[greg@FREdome.org](mailto:greg@FREdome.org)]  
Sent: 25 November 2018 17:49  
To: Derek McWhinnie <[derek.mcwhinnie@uk.zurich.com](mailto:derek.mcwhinnie@uk.zurich.com)>; 'Ann Bullock' <[Ann.Bullock@bedford.gov.uk](mailto:Ann.Bullock@bedford.gov.uk)>  
Subject: [EXTERNAL] RE: RE: Private & Confidential

Dear Mr McWhinnie,

Thank you for your response, which unfortunately appears to have ignored the evidence that I highlighted in my previous email.

Additionally, in that email I asked the Council a highly relevant question: "...please could you let us know how the tree came to be uprooted?"

The Council has not provided a response and you have made a decision in the absence of that information.

If I do not receive a response from the Council within 7 days from the date on this email, then I will issue a Freedom of Information request for that information.

In the unlikely event that the tree was originally uprooted by a collision involving a pedestrian, then it might be reasonable for the Council to claim that that the cones were placed there for the general safety of pedestrians. If, however, a vehicle was involved, then that claim is clearly false.

In either case, if the cavity left by the uprooted tree was considered (as has already been admitted by the Council) to be hazard to any member of the public whether on foot or in a car, then the non-negligent course of action would have been to fill the cavity. I know you can see that it is already blindingly obvious therefore that their long-term persistent failure to do so constitutes negligence on their part and establishes their liability.

I am confident that the current outcome of the decision whether to pay has been reached as it is because it has only been considered by those who have a vested interest in not paying.

Please be aware that I fully intend to invoke the Freedom of Information act to extract the remaining relevant evidence and to utilise my legal expenses insurance cover to have the full evidence judged independently, justly, openly and publicly.



All the best, Greg

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Sent: 22 November 2018 15:32  
To: Greg Peachey <greg@FREDome.org <mailto:greg@FREDome.org> >  
Subject: RE: RE: Private & Confidential

Dear Mr Peachey,

Further to your most recent correspondence, I have had some time to review the file and the decision made by Zurich.

Having considered all of the evidence presented, I believe that the decision made by our claims department is correct and unfortunately, I will not be in a position to overturn this.

I appreciate it is likely to be disappointing for you that I haven't been able to change the outcome however, Zurich's role must be to consider whether any liability sits with our customer. In this instance, we believe our customer has taken appropriate measures and that no liability rest with them as a result of the incident. Your reference to the cones being placed around the area was to prevent pedestrians being injured and not considered to be a requirement for motorists.

I thank you for your patience while I reviewed the matter and I hope you understand that this represents our final position.

Kind regards

Derek McWhinnie  
Head of Customer Improvement  
UK Operations  
Tel: 07875 887 604  
Int: 7400 7604  
Email: derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com>

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From: Greg Peachey [mailto:greg@FREDome.org <mailto:greg@FREDome.org> ]  
Sent: 13 November 2018 23:07  
To: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Subject: [EXTERNAL] RE: Private & Confidential

Thank you, Mr McWhinnie – I look forward to hearing further from you.

All the best,      Greg (Peachey)

01234 965671 / 07900 221347

From: Derek McWhinnie <derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com> >  
Sent: 13 November 2018 21:50  
To: greg@FREdome.org <mailto:greg@FREdome.org>  
Subject: FW: Private & Confidential  
Importance: High

Dear Mr Peachey,

Thank you for writing to our CEO, Tulsi Naidu. I have been asked to review this case on her behalf to ensure we are comfortable with our conclusion and position. I will look to review your case over the coming days and confirm my findings to you, where possible, next week.

Should I be unable to provide you with a response within this time, I will reach out to inform you of this.

Thank you for your patience in the meantime.

Kind regards

Derek McWhinnie  
Head of Customer Improvement  
UK Operations  
Tel: 07875 887 604  
Int: 7400 7604  
Email: derek.mcwhinnie@uk.zurich.com <mailto:derek.mcwhinnie@uk.zurich.com>

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From: Greg Peachey [mailto:greg@FREdome.org <mailto:greg@FREdome.org> ]  
Sent: 12 November 2018 12:36  
To: Tulsi Naidu <tulsi.naidu@uk.zurich.com <mailto:tulsi.naidu@uk.zurich.com> >  
Cc: 'Ann Bullock' <Ann.Bullock@bedford.gov.uk <mailto:Ann.Bullock@bedford.gov.uk> >  
Subject: [EXTERNAL] Private & Confidential  
Importance: High



Dear Ms Naidu,

Further to my email earlier this year, please could I bring to your attention a tardy and potentially controversial response to a legitimate claim for compensation against your customer, Bedford Borough Council, just sent to me by Zurich Claims Handler, Mrs Gemma Tanner.

Essentially, (albeit 2-D) photographs of two cars in successive months suspended by their chassis on blind-spot kerbstones over a cavity left by an uprooted tree in the middle of the Church Lane car park in Bedford satisfied Zurich Claims that at the time that my car (the first one) suffered this fate, the defective car park was "fit for purpose".

Evidence against negligence presented by Bedford Borough Council constituted fortnightly tick-box reports up to and just after my accident, confirming that the Council found no need for any action concerning the state of repair of the car park, despite the fact that they admit that they previously considered the cavity to represent a hazard to pedestrians. This inaction persisted, even after I highlighted the defect, right up to my subsequent submission of photographs showing the second car having met with an identical accident.

Mrs Turner referred me to the Association of Lawyers, but I would prefer to settle this matter out of court, beginning by an impartial review of the assessment outcome.

I look forward to hearing from you.

All the best,      Greg (Peachey)

01234 965671 / 07900 221347

Attachment:

1. Response to claim from Mrs Tanner
2. My response to Mrs Tanner's email

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