

# Business Loss of Profits Policy

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# Business Loss of Profits Policy

## Business Loss

Hafren Dyfrdwy work hard to ensure our customers receive the best service we can provide, and so sometimes it's necessary to carry out works to construct, maintain, repair and improve our existing water mains and sewers in the public highway.

We recognise that this vital work may unfortunately cause some disruption to businesses in the area we are working in. We will do all that is reasonably possible to minimise the disruption but some businesses may still suffer losses as a result of our works. In these circumstances, it may be possible to claim recompense for the loss of business profits.

## Entitlement to Loss of Profits Recompense

Loss of Business Profits payments are offered in relation to the Water Industry Act 1991 Schedule 12.1. The compensation is a reimbursement of loss of profit only after the deduction of gross profit margin.

There is no compensation payable for any loss of takings, loss of supply/service (water or sewerage) sales income or inconvenience. Compensation may be reduced if any other impacts are identified.

In order for claims to be considered:

- There must be a demonstration of the impact of the disruption caused by our physical works e.g. noise when working outside of your premises.
- You must be a business permanently based at the location of the claim e.g. not a mobile/visiting businesses including taxi services
- Your business must be registered with the HMRC.
- Your business must have a reliance on passing trade e.g. web-based sales companies etc.

We do not normally pay compensation if the only impact of our works is that potential customers had to follow a diverted route to get to a claimant's business or if customers are temporarily unable to park near a business on a street that normally has parking restrictions.

## Claim Evidence

For your claim to be considered there must be adequate proof of loss, as evidenced by the accounting records of your business. It is your responsibility to produce evidence to support your claim. If your business is of the hotel/B&B/Camping hospitality nature, written evidence of cancellations will be required to support your claim.

It is our intention to settle claims as quickly as possible. If the requested information is not provided your claim submission and assessment will be delayed.

Please submit in full the following documentation: -

		Please Tick as appropriate
A	A fully completed and signed claim form.	
B	Weekly or monthly trading figures for the claim period and the two-year period immediately preceding the claim period. At least 104 weekly/24 monthly figures.	
C	The latest two complete Profit and Loss Accounts. At least one account should cover a period for which full trading figures have been provided.	
	- Accounts must either be audited, or	(a)
	- Agreed with the Inland Revenue and certified by your Accountant	(b)
D	If you do not have audited accounts or certified accounts, please provide either:	
	- Two years of VAT returns or,	(a)
	- Your HMRC self-assessment papers. This should cover a period for which full trading figures have been provided.	(b)
E	If you have been trading for less than two years, please declare this within the claim declaration form and provide us with as much information as possible from the date from which you commenced trading	

We may ask you for further information to enable our assessment of your claim for example, post works sales figures, VAT or HMRC self-assessment returns for the year in which the work occurred.

Please provide any other information which you may believe is beneficial in support of your claim.

#### Mitigation of losses

As a claimant, you must take steps to keep your losses as low as possible during or works. These include:-

- Continuing to trade during the period of our work. This is applicable to all businesses including hotels, B&B's and Campsites.
- Maintaining your usual opening hours.
- Maintaining your staffing levels.
- Utilising social media channels and local media platforms to confirm open as usual during the period of our work and of alternative access/parking arrangements.
- Maintaining and displaying signage to advertise your business is open as usual.

If you think there are specific measures you could take to help maintain your trade, you should discuss these with us in advance of incurring any costs. Unfortunately we cannot consider any additional costs incurred without our prior approval.

#### Claims Representation

You may be approached by companies offering to pursue a claim for compensation on your behalf, however in our experience the person best placed to compile your claim is you, or if you require assistance, your accountant who will have experience of your business and methods of calculating compensation. Hafren Dyfrdwy are not able to recommend any claim representative.

Should you appoint someone to present your claim on your behalf then we will accept this. Please note your claim will be assessed in **exactly** the same way, whether submitted by you directly or your representative on your behalf.

If you decide to use an appointed representative to progress your claim please ensure they forward your completed claim declaration form signed by you, together with your claim evidence. If this information is not provided in full, the assessment of your claim will be delayed. Please note that we may ask for additional information to assist the assessment of your claim.

We are not able to pay VAT on your representatives' fee.

### Representative Fees

The following fee scales are applicable to representatives who submit claims on behalf of the claimants under Schedule 12 of the Water Industry Act.

Claim value band	Representative Fee (Fixed)
£0 - £1,000	£350
£1,000 - £2,500	£450
£2,500 - £5,000	£550
£5,000 - £10,000	£650
£10,000 - £15,000	£750
£15,000 - £20,000	£850
£20,000+	£1,000

The above fixed fees, which are not negotiable, will be implemented from December 1 2019 and will only be applicable to the settled claim amount not the presented claim amount.

Once a claim submission has been made, we will make contact with the claimant to inform them of our fixed fee scale.

Any costs above our fixed fees, which are agreed between the representative and the claimant prior to (or after) the completed claim submission will be an agreement solely between those parties and disputes regarding these fees will be deemed by Hafren Dyfrdwy as a third party dispute.

### Settlement of the Claim

Claims will normally be assessed once the works are complete. In exceptional cases of genuine hardship please contact us as we may be able to consider making interim payment.

We will acknowledge receipt of your claim submission within 28 working days and we will endeavour to complete our claims assessment with a formal written response within three months once your claim has been fully evidenced. If this is not achievable, we will write to you setting out a timescale for our response and explaining the reasons.

If we accept the claim, we will make a settlement offer to you. On receipt of your written acceptance of our offer, compensation will be issued via a BACS bank account transfer and payment would normally follow within 28 working days.

In the unlikely event of a dispute as to whether we are liable to pay compensation, or the amount of the claim. We may invite you to produce additional evidence to further substantiate your claim, request additional information from you, or appoint an external adviser to review the claim such as a loss adjuster or a forensic accountant.

Hafren Dyfrdwy reserves the right to appoint third parties, including but not limited to, external Loss Adjusters, to assist or complete the assessment of claims. Appointment of Third Parties will be made without prior notification. These costs will be met by Hafren Dyfrdwy

We will then review the claim with any new information that is provided.

If a dispute remains then, in accordance with Schedule 12 paragraph 1 (3) of The Water Industry Act 1991, you may refer the claim to arbitration. You should provide us with details of three arbitrators and their CV's for our consideration. We will respond to your proposed arbitrators within 28 working days. If we are unable to agree upon the appointment of a single arbitrator then either party may ask that the water industry regulator Ofwat appoints an arbitrator to progress the claim.

If, after reading these guidance notes, you believe that you have a valid claim, then please complete the enclosed claim declaration form and provide the information detailed below and forward this to the email address – [businessloss@hdcymru.co.uk](mailto:businessloss@hdcymru.co.uk)