Legal Department

Lanchester County Council

3 Manchester Road

Lanchester

XX12 2NM

Date

Dear Sirs

**Re: David York v You**

**Injury to a cyclist on 9 July 2015**

We are instructed by the above-named client regarding a claim for personal injuries suffered in an accident on or about 9 July 2015.

Our client considers that the injuries occurred through your negligence and/or breach of statutory duty and he claims damages accordingly.

Please find enclosed an additional copy of this letter for you to send to your insurers. You must refer the copy letter to the relevant insurers at your soonest. If you do not do so, then this may impact upon your insurance cover and/or the conduct of any potential legal proceedings.

Please note: this is a letter of claim for a personal injury claim, sent in accordance with the [Pre-action Protocol for Personal Injury Claims](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_pic). At this stage, therefore, matters which arise will be dealt with under that Protocol. We trust your insurers will reciprocate by meeting their obligations under the Protocol.

We should like to deal with liability promptly. Once liability is conceded, we hope that it will then allow us to enter negotiations on quantum and explore the possibility of settlement. If liability is not accepted, and/or you blame anyone else for our client’s injuries, please provide full details so that we may consider your position and take our client’s instructions.

This letter only provides a summary of the factual matrix of this claim, and the reasons why it is that you are liable for our client’s injuries. This summary, however, should not be taken to be complete recitation of the facts, and we reserve the right to amend the claim in due course, should we be instructed to do so. Should court proceedings be issued, then we reserve the right to fully plead the claim as we see fit, without reference to this letter of claim.

**Circumstances of the Accident**

We are instructed that our client went for a bike ride with his friend, David Knaresborough, at around 10am on the day of the accident. Our client was riding a typical racing bicycle, as was Mr Knaresborough.

Our client and Mr Knaresborough cycled from Lanchester to Mayfield, going towards York. The postcode nearest to the accident locus is XX20 4NM. As our client and Mr Knaresborough were riding next to each other they approached a cattle-grid. Mr Knaresborough was to the right and our client was to the left, slightly behind. All of a sudden, our client’s bike wheel stopped in the cattle-grid and our client was catapulted off his bike, suffering injuries. It transpired that the cattle-grid was defective; a significant gap had developed between the rungs. From the direction our client had been travelling, this gap was on the left side of the cattle-grid, between the first and second bars.

Upon discussing the incident with a friend, Mr Daniel Ripon, our client discovered that Mr Ripon had taken a photograph of the same cattle-grid in or around March 2015. Mr Ripon had been out walking and taken a photograph of his companions. The cattle-grid was clearly visible in this photograph, as was the gap which caused our client’s accident. Upon the day of the accident, our client only became aware of the gap after the accident had occurred.

At some point after the accident, the cattle-grid was repaired by you when the gap in question was filled in with concrete. This was clearly not in place at the time of the first photograph in March 2015 or at the time of the accident. Furthermore, a ‘Cyclists Dismount’ sign has since been added. Accordingly, we presume that this cattle-grid has been the cause of a number of accidents. We attach the following photographs:

* Photograph 1 and 2 depicting the cattle-grid in or around March 2015 with an arrow indicating where our client’s wheel went into.
* Photograph 3 taken on 20 September 2015 which shows the repair work which had been carried out.

At the time of the accident, there was no warning to suggest that the cattle-grid was defective, or that cyclists should dismount. Mr Knaresborough noticed the defect after the accident.

Our client went to Lanchester Hospital on the day of the accident. Thereafter he has sought treatment from his GP and physiotherapist.

Our client contends injuries, losses and expenses were caused by the matters already outlined and that, for the following reasons, you are liable for these.

1. In breach of the s.84 Highways Act 1980, you failed to maintain or repair the cattle-grid;
2. You failed to institute and/or enforce any or any adequate system of inspection and/or maintenance whereby the defect in the highway might have been detected and remedied before our client’s accident;
3. You failed to repair the highway in time to prevent our client’s accident;
4. You caused or permitted the highway to be and/or to become and/or to remain in a dangerous and defective condition;
5. You caused and/or permitted the highway to be and/or to become and/or to remain a danger and a trap;
6. You failed to warn our client by way of a notice, warning signs, barriers or otherwise as to the dangerous condition of the highway;
7. You failed to exercise any or any reasonable care towards persons lawfully using the road when you knew or ought to have known that the highway was in a dangerous condition;
8. In the circumstances, you exposed our client to a foreseeable and unnecessary risk of injury of the type which occurred.

In addition, the accident is of a kind which should not occur. Therefore, it is alleged that the very fact of the accident is evidence of your negligence. It is our position that due to the substantial injuries which could be caused to cyclists by a defective cattle-grid, that cattle-grids should be inspected and maintained frequently.

We consider this summary is sufficient for the claim to be properly investigated, and a decision on liability given, in good time. The timescale stipulated under the Protocol has commenced. We would remind you that if you contend otherwise, you should advise us within 21 days of the date of this letter.

**Disclosure**

Unless liability is fully admitted, we will expect full disclosure of documents to be provided together with your denial. We reserve the right to make an application for Pre-Action Disclosure, should you not provide disclosure in full.

Please preserve all relevant documents. If relevant documents are only disclosed upon the issuing of proceedings, then we will seek our costs from you in the event that the claim is unsuccessful.

It is our position that documents within the following categories are relevant and that copies should be supplied to us in the event that liability is not admitted in full. In compliance with the Protocol, these documents should be provided without making a charge.

For a period of 24 months prior to the accident, please provide:

1. Records of inspection for the road and the cattle-grid.
2. Maintenance records including records of independent contractors working on this road and/or cattle-grid.
3. Records of the minutes of Highway Authority meetings where maintenance or repair policy has been discussed or decided for this road and for all cattle-grids county-wide.
4. Records of complaints about the state of the road and cattle-grid.
5. Records of other accidents which have occurred on the same stretch of highway and cattle-grid.
6. Any guidance notes on cattle-grids, including, but not specifically, whether there is an assessment of this cattle-grid and others in relation to whether they comply with the British standard.
7. Details of all accident by cyclists on cattle-grids in the county.

For the period from the date of the accident until the date that you receive this letter, please provide:

1. All repair and maintenance documentation for this cattle-grid and road.
2. Details of why the cattle-grid was repaired and by which means.
3. Records of complaints about the road and cattle-grids.
4. Minutes of meetings when cattle-grids were discussed.

Within these categories, if there are documents which you contend are privileged, please state the grounds of the claim for privilege and sufficiently identify the documents so that we may assess the validity of your claim for privilege. We do not anticipate that you will succeed with any claim for privilege.

Currently, we can only summarise the general nature of our client’s injuries and losses as follows below.

**General Damages**

Our client has suffered injuries to his head, face, right arm and chest. This is, however, just a summary and should not be regarded as a comprehensive description of the injuries pending receipt of expert medical opinion(s).

We will obtain medical evidence and would suggest, as suitable experts, that we instruct either a General Practitioner of an Accident and Emergency Consultant. Unless we hear from you to the contrary on this point, then we will instruct the expert of our choosing.

**Special Damages**

We anticipate a claim for expenses and losses will include the following non-exhaustive heads.

1. Damage to bike – circa £1,500
2. Written-off helmet – circa £90
3. Painkillers and prescriptions
4. Care and assistance

We confirm that, when requested in due course, we will provide your insurers with the necessary details for the claim to be registered with the Compensation Recovery Unit.

Please note that our client is willing to consider the resolution of this claim by Alternative Dispute Resolution (ADR). Our view is that the appropriate mechanism of ADR to be negotiation. Please inform us if you consider that any other method of ADR to be appropriate and we will consider your position.

We look forward to hearing from you, as specified above.

Yours faithfully