

Your guide to Making a personal injury claim

Claiming compensation

Over three million people are injured in accidents each year – at home, in their cars, at work, or outdoors. In many cases, someone else or something else is at fault and the accident victims have a right to compensation.

Although personal injury law is complicated, with the help of a solicitor the process of making a claim can be quite straightforward. Many solicitors offer a free initial consultation and will be able to tell you if you have a justifiable claim.

Finding a solicitor

If you don't already have a solicitor, you can find one at www.lawsociety.org.uk/findasolicitor Search under 'Personal Injury'. You may want to instruct a member of the Law Society's Personal Injury Accreditation Scheme. You can find details about this scheme on the website, or you can call **020 7320 5650**.

If you have legal expenses insurance (often included in home or motor insurance policies) or you are a member of a trade union, you should provide full details including, wherever possible, a copy of the insurance policy to your solicitor.

What your solicitor needs from you

To establish the details of your case, a solicitor will need to know:

- the date of the accident and where and how it happened;
- the contact details for any witnesses;
- the details of your injuries, medical diagnosis and treatment; and
- whether you are a member of a trade union, as this may entitle you to free or reduced-cost legal representation.

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The solicitor may also need to see:

- proof of your loss of earnings and other financial expenses which are the result of your injury;
- documents relating to any insurance policies you have (such as household or motor insurance) to check whether these will cover the legal costs of your claim; and
- any documents that can be used to support your claim, including documents from before your accident or any evidence of previous accidents in similar circumstances.

How your solicitor can help

Once you have explained the circumstances of your injury in detail, your solicitor will be able to judge:

- how likely your case is to succeed; and
- how much you might be able to claim in compensation.

They will also explain to you the legal processes involved in taking your claim further. And they will discuss with you exactly how you will fund your case. Don't be afraid to take notes, and make sure you ask your solicitor to send you a letter summarising the advice they have given you. This letter should confirm:

- that the solicitor is happy to take your case on;
- the name and status of the solicitor or other person in the firm who will be your main day-to-day contact;
- how long the process is likely to take and arrangements for progress reports;
- how you are funding the case, an estimate of your costs and any agreed spending limits;
- when you might have to pay your own solicitor's costs and when you might have to pay the defendant's costs (see 'Costs');
- details of any more information you need to provide; and
- what you should do if, for any reason, you are not happy about the way your case is progressing.

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Making your claim

The first step your solicitor will take is to send a claim letter to the defendant. This sets out the details of your injury and the circumstances in which it took place. If you need an expert opinion to support your claim – from a doctor, for example – your solicitor will suggest a relevant specialist.

The person you are holding responsible for your accident (the ‘defendant’) then has to investigate and reply to the letter within a fixed period – usually no more than three months, and in many cases a much shorter period. In their reply they must say whether they accept or deny liability for your injury. If they accept liability, your solicitor will try to settle the matter out of court.

Making an offer

Your solicitor will tell you what they think the value of your claim is. They may also ask you to give an indication of the level of compensation you are prepared to accept, and whether you want to make an ‘offer to settle’ for that amount. This is known as a ‘Part 36 offer’. Your solicitor will tell you whether you should make a Part 36 offer and how this would affect you.

If the respondent ‘responds reasonably’ to this offer and a figure is agreed, the matter can be settled without going to court. In some situations, the respondent may reply with their own Part 36 offer. If this happens, your solicitor will advise you what to do.

Court settlements

If you cannot settle for a fair amount out of court, your solicitor will advise you on whether to start legal action.

If the defendant says they are not liable for paying you compensation, your solicitor may advise you to go to court to challenge them and to ask the court to award you compensation.

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Countdown to court

If you decide to take the matter to court, your case will be passed to a judge. That judge will then be in charge of the timetable for your case in court. The court will let you know the date of your hearing, and your solicitor will tell you about any preparations you need to make.

The thought of going to court may be daunting, but it is important to remember that by this stage your solicitor will have prepared your case in detail and will have explained to you exactly what to expect. Then it's just a question of waiting to hear the judgment and finding out if you have won and have been awarded what you were claiming.

Costs

Solicitors' fees

There are several ways to fund a claim for personal injury and your solicitor will explain all of these to you and advise which method is best for you. Charges can vary between solicitors. They depend on:

- the experience and knowledge of the solicitor; and
- the type and complexity of your case.
- the method of funding

Before you decide who to use, check with a few different solicitors to compare their charges and assess their experience at handling your type of case.

Your solicitor may ask you to pay their expenses to support your case as it progresses (for example, the cost of medical evidence). These expenses are known as 'disbursements'.

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Covering your costs

There is no longer any legal aid for personal injury cases in the UK. But if your case is successful, the respondent should pay most of your basic legal costs. However, if your solicitor acts for you under a 'no win no fee' agreement you will be liable to pay the solicitor's 'success fee' as this is not recoverable from the other side. The question is: what if you lose?

There are several options available to make sure that you can cover your costs if this happens. Your solicitor will explain all the options to you and advise whether you may have to pay any of your opponent's or your own solicitor's costs.

Costs checklist

Your solicitor will normally take an active role in helping you to understand the costs of your case and how you can cover them. Here are the basic questions that you need to cover at your first meeting.

- How much is a case like this likely to cost, and how are the costs worked out?
- Can there be a 'no win, no fee' arrangement, or will the solicitor charge you by the hour?
- How will the fees be paid if you lose?
- Will you need insurance cover to protect you against the possibility of paying the defendant's costs?
- What other options are there for funding your case?

Your guide to **Making a personal injury claim**

We can make the information in this leaflet available in other formats and languages on request.

Email accessibility@lawsociety.org.uk

More information

This is one of a series of free leaflets covering the most common types of legal services that solicitors provide. Other leaflets in the series are listed below.

You can get them from your solicitor or from www.lawsociety.org.uk/commonlegalproblems

- Your guide to finding expert legal help**
- Your guide to buying a home**
- Your guide to making a will**
- Your guide to getting a divorce**
- Your guide to problems at work**
- Your guide to setting up a business**
- Your guide to financial matters for older people**
- Your guide to renting out your property**
- Your guide to renting a home**
- Your guide to using a solicitor**
- Your guide to probate**
- Your guide to claiming asylum**
- Your guide to setting up home with your partner**

Lexcel

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The Law Society 113 Chancery Lane London WC2A 1PL www.lawsociety.org.uk

While we have made every effort to provide accurate information, the law is always changing and affects each person differently. This leaflet is no substitute for specific advice about you personally and we will not be liable to you if you rely on this leaflet.

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