

# PURSUING YOUR CLAIM

## THE STEPS TAKEN



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## **STEPS TAKEN IN PURSUING A CLAIM**

For the purpose of this leaflet we will assume that you have suffered injuries and financial losses as a result of an accident that was not your fault (or you have developed an illness or medical condition because of someone else's negligence), and wish to claim compensation. We will also assume that the accident (or act of negligence) was not more than 3 years ago.

Most claims can normally be resolved within 9 to 12 months, but the amount of time taken will depend on the circumstances of each claim. This may seem a long time, but a lot happens during this period and we set out brief details of the steps that are usually taken to give you an idea of what is likely to happen and what you may be asked to do.

In most cases it will not be necessary for the Court to become involved, but even if this does happen all claims start in the same way.

### **Initial Instructions**

At the start of your claim we will need to take full details from you about what happened and how it has affected your life. We can usually obtain this information over the phone, or we can arrange to meet.

### **Legal Expenses Insurance Cover and Identity Checks**

Our first letter to you will usually enclose an Insurance Questionnaire for you to complete and return to us, so we can investigate whether you have any legal expenses insurance or other cover that will protect you if the claim fails. If not, we will arrange appropriate insurance cover. We also need to confirm your identity.

### **Our Terms of Business and Legal Costs**

To comply with professional regulations we must then write to you with details of our terms of business, and will normally send you a long letter, a Conditional Fee Agreement and other relevant documents.

These documents include details of the legal costs likely to be incurred during your claim. Providing you co-operate fully you will not have to pay them, however we must still give you these details, because if we do not do so and your claim is successful, your opponent's insurers may be able to avoid paying these costs.

We will discuss these documents with you in detail, and will then ask you to sign and return them to us. Once received, we will then be able to proceed with your claim.

### **Authorising the Release of Records**

We will ask you to sign various Forms of Authority so we can obtain copies of relevant records. These will usually be medical records from your GP and any hospital or medical practitioner who has provided you with treatment following the accident.

We will always need to obtain your GP's records, even if you have not seen your GP following the accident. This is because the medical expert preparing a report on your injuries will need to review your pre-accident health and consider any affect this might have on the cause of your injuries and your recovery.

We may also need to obtain records showing your usual income, eg from your employer or your accountant.

## **Letter of Claim**

As soon as we can, we will write to the party believed to be responsible for the accident setting out the basis of your claim. They normally have 3 weeks to send this to their insurers, who in turn normally have a further 3 months to investigate the matter and decide whether to admit or deny responsibility. This allows around 4 months for us to obtain medical evidence and details of your financial losses.

## **Financial Losses**

We will send you a Questionnaire for you to complete with details of your financial losses and expenditure resulting directly from the accident. We will also ask you for receipts and other documents in support of the items you wish to claim. These items can include travelling expenses (eg in attending GP or hospital appointments), lost earnings (now or in the future), the cost of medical treatment and painkillers, etc. We will prepare a "Schedule of Special Damages" listing these items for you to approve, before sending it to the insurers.

## **Medical Report**

We will arrange an appointment for you to see a medical expert, usually within 30 miles of your home, which you must attend. The expert will then prepare a detailed report describing your injuries, any treatment received or suggested, and giving an indication when you are likely to recover. We will send you a copy for approval, before sending it to the insurers.

## **Statements**

We may need to obtain a written statement from you, setting out in your own words exactly what happened and how the accident has affected your life. We may also need to obtain written statements from other people who either witnessed the accident or have been involved in some way.

## **Rehabilitation**

The insurers may offer rehabilitation treatment to assist your recovery, and you may be asked to attend appointments, eg with a physiotherapist. The insurers will arrange and pay for this treatment.

## **Valuing the Claim**

If your claim is straightforward we will be able to assess the amount of compensation you are likely to receive. We do this by comparing your claim with similar cases where compensation has already been paid, and also by looking at the Court's guidelines on the value of certain injuries.

If your claim is more complicated we will send details to a Barrister, who will advise on the amount of compensation you may receive. This is an "Advice on Quantum". By this time, if the insurers have either denied responsibility for your accident or have not yet made their decision, we may also ask the Barrister to assess the strengths and weaknesses of your claim and whether it is likely to succeed if determined by a Judge at a trial. This is an "Advice on Liability". We will send you a copy of the Barrister's "Advice".

### **Negotiating Settlement**

Whether responsibility for your accident is accepted or denied, we will negotiate with your opponent's insurers with the aim of settling your claim. If no offer is made, we may make one on your behalf, setting out the sum that you would accept, having first agreed this with you.

### **When the Claim Settles**

Usually within 2 to 4 weeks of agreeing the compensation with the insurers, they will send us a cheque for this amount and we are normally able to forward this to you straight away. If you have obligations to account to another party at this stage you will already have been made aware of these.

We will also send details of the legal costs and expenses incurred in pursuing the claim to your opponent's insurers. We will negotiate with them and once a figure is agreed they will send us a cheque for this. We will let you have full details.

### **What if the Claim Fails**

Your claim may not be successful. Your opponent's insurers may deny responsibility for the accident and provide full reasons for this, and we and/or the Barrister may then decide that your claim would not likely succeed if it had to be assessed by a Judge at a trial. We would report this to you and your claim would be stopped. Or, you may proceed to a trial and the Judge may decide that your claim was not proven. In either event, we will notify the insurers providing cover for your case, and they will pay on your behalf any costs that you have then become responsible for.

### **Co-operating With Us**

For your claim to have the best chance of succeeding and to ensure you have no liability for any legal costs, you must co-operate fully at every stage.