

ashfords

## YOUR PERSONAL INJURY CLAIM

Key questions answered



## Getting Started

Information we require from you at the outset:-

- Full details of your accident - what happened, where, how and why - who is responsible?
- Details of any witnesses or police in attendance - photographs of the accident location and damage.
- Is there any rehabilitation that you require to help you?
- All documentation in support of your financial losses and liability
- Details of any existing legal cover you may hold so that all funding options may be considered.

## Who can claim?

If you are the one who is injured, you make the claim.

If the injured person is under the age of 18, their parent/grandparent or another family member, may act on their behalf as their 'Litigation Friend'.

A claim may also be made following the death of someone who was a close relative.

## How much is my claim worth?

The value of your claim will be assessed in two ways:

General Damages	Special Damages
<p>A lump sum award for your injury</p> <p>This is based on the level of pain, suffering and overall impact of the injuries on your life (eg. sports, hobbies and day to day activities).</p> <p>Medical evidence is key and we obtain reports obtained by an independent GP/medical expert.</p> <p>The value of your claim is assessed with reference to similar cases that have been reviewed by lawyers and judges in the past</p>	<p>Any financial losses or expenses that you have incurred as a result of the accident. This can include:-</p> <ul style="list-style-type: none"><li>• Loss of earnings;</li><li>• Travel expenses;</li><li>• Prescriptions and treatment charges;</li><li>• The cost of care being provided (paid or unpaid);</li><li>• Cost of vehicle/bicycle repair and accessories;</li><li>• Cost of vehicle hire.</li></ul>

## Your obligations

Every claimant has a duty to minimise their losses - such as returning to work as soon as medically possible and taking up offers of treatment recommended by their treating GP/Consultant to assist in their recovery.

Failure to mitigate (minimise) your losses could result in you being unable to recover all the compensation you want to claim.

## Do time limits apply?

In personal injury cases, the usual rule is that court proceedings must be started (i.e. a claim form filed at court ) within **3 years** from the date of accident. Some exceptions are set out below:

- If there was no obvious event causing immediate injury, 3 years start from the “date of knowledge” ie. when you first knew that your injury or condition was linked to a possible negligent act.
- For children, the 3 year rule does not start until their 18th birthday.
- In cases of fatal accidents, the time limit is only 2 years.

## How long will my claim take?

This depends on how complex the case is, how much evidence needs to be obtained to prove your case, when a proper assessment of the impact of the accident can be made and how much is disputed by your opponent.

A simple claim may be settled within 9 - 12 months but if it is necessary to start court proceedings or get further medical evidence then it will take longer.

## What happens next?

Personal Injury claims are governed by set Protocol and steps have to be taken to ensure that Protocol is followed and parties make proper attempts to agree settlement before Court proceedings are issued.

We need to gather all relevant information from you to start the claim.

For road traffic accidents (RTA), accidents at work (EL) and public liability claims (PL) valued under £25,000, details of the claim are submitted electronically to the Defendant insurance company via a Claim Notification Form (CNF). The insurer has to respond with a decision on whether to admit the claim or not within a specified period after confirming receipt of the CNF.

RTA: 15 working days (3 weeks)

EL: 30 working days (6 weeks)

PL: 40 working days (8 weeks)

Should the Defendant insurance company be unable to confirm their position within these timescales, the Protocol gives them up to **3 months** in which to conclude their liability enquiries.

### **What happens if responsibility (liability) is denied?**

If liability is denied, the insurers will need to give reasons and provide evidence and documentation to support that denial.

We then review that evidence and the reasons given with you. We may need to request further information from them, liaise further with you and/or the witnesses and other parties such as the police or Health and Safety Executive.

We will review the prospects of success and as long as we are satisfied that your prospects of success are reasonable (eg. **above 51%**), we will be able to continue with your claim. It is important that you understand the risks and the need to consider settlement options and perhaps reach a compromise to resolve the claim. We will advise you and guide you through the process.

### **What do I have to do?**

We are here to deal with the claim and give you the best possible service.

In order to achieve that we ask you to reply to letters and emails promptly and assist us in providing any paperwork/information we need to assess the claim.

You must be prepared to attend medical appointments so that medical reports can be obtained and to give your authority for us to obtain medical, financial and employment records if necessary.

You must also be prepared to attend a Court hearing, if there are any issues which cannot be resolved by negotiation.

*We hope this guide was helpful. We would be happy to answer any further queries you may have.*

*For more information on Funding Options please [click here](#) and for more information on Rehabilitation, please [click here](#).*