



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, visit the Law Society at www.solicitors-online.com and search under 'Personal Injury' to find a solicitor in your area. You may want to instruct a member of the Law Society's personal injury panel, whose details are also on the website. Or you can call the Law Society on 0870 606 6575.

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 contact the insurance company or trade union before choosing your own solicitor. They may prefer to choose a solicitor to act for you.

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.

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 the 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.

Making your claim

The first step your solicitor will take is to draft a formal letter to the defendant. This sets out the details of your injury and the circumstances in which it took place. It also lists all available evidence. 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 'respondent') then has to investigate and reply to the letter within a fixed period – usually three months. In their reply they must say whether they accept or deny liability for your injury. If they accept liability, your solicitor will encourage you 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'.

If the respondent 'responds reasonably' to this offer and a figure is agreed, the matter can be settled without going to court. If the respondent does not 'respond reasonably', they may be fined. 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 out of court, your solicitor will advise you on whether to start legal action.

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 been awarded what you were claiming.



Costs

Solicitors' fees

Charges can vary between solicitors. They depend on:

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

Before you decide who to use, check with a few different solicitors' firms to compare their charges.

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 legal costs. This is because under English law the losing side pays most of the winning side's legal costs as well as their own. The question is: what if you lose?

Luckily, there are several options available to make sure that you can cover your costs if this happens. Your solicitor may be prepared to work on a 'no win no fee' basis, for example. This means that if your claim is unsuccessful, your solicitors do not charge you fees. You can back this up by taking out a legal fees insurance policy. This will cover you for the respondent's fees and expenses if you lose.

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 by the hour?

- How will the fees be paid if you lose?
- Will you need insurance cover to protect you against the cost of legal fees?
- What other options are there for funding your case?

More information

This is one of a series of leaflets covering the most common types of legal services which solicitors provide. Other leaflets in the series are listed over the page. You can get them from your solicitor or by phoning the Law Society on 0870 606 6575.

Other leaflets in the series

- Your guide to buying a home*
- Your guide to getting a divorce*
- Your guide to problems at work*
- Your guide to making a will*
- Your guide to setting up a business*
- Your guide to financial matters for the elderly*
- Your guide to setting up home with your partner*
- Your guide to renting out your property*
- Your guide to renting a home*
- Your guide to using a solicitor*
- The Client's Charter: your solicitor's customer care standards*