

Legal Factsheet – Compensation for Personal Injury

2009

This Factsheet covers four questions you may have:

1. Have I got a case for compensation?
2. Do I need a specialist lawyer to act for me?
3. How does compensation work and what can I claim for?
4. How will I pay for my legal fees?

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1. Have I got a case for compensation?

To be able to bring a claim for compensation for your injuries, another party must be legally responsible for what has happened to you. Compensation is not available where what has caused your injuries was an unfortunate “accident” where no-one can be considered blameworthy. If your injuries are the result of a crime being committed against you, you may be eligible to apply for compensation from the Criminal Injuries Compensation Authority. A specialist solicitor will be able to advise you. (See section 2, below.)

There are four simple steps that need to be considered before a claim for compensation can be raised:

- a) The first is to establish who was responsible
- b) The second is to establish that you were owed a duty of care by that person
- c) The third is to establish that that duty was breached and that you have suffered injury/loss as a result
- d) The fourth is to show that the resulting injury/loss could or should have been foreseen by the person responsible

It may be the case that you do not know the identity of who caused your accident. For example you may have been the victim of a criminal incident, or of an untraced motorist. These are the two exceptions where lack of knowledge as to identity will not necessarily be a bar to you proceeding with a claim for compensation.

In some cases it may be that you were partly responsible for the accident or perhaps your injuries were contributed to by what you did or did not do. For example, you were involved in a road traffic accident whilst you were not wearing a seatbelt. This does not mean that you cannot bring a claim for compensation but it may mean that the amount of compensation you receive is discounted to reflect what is called “contributory negligence” on your part.

The law does set time limits within which a claim for compensation must be brought. The general time limit is three years and if legal proceedings have not been issued by

the third anniversary of the accident or incident which caused your injuries you may not be able to bring a claim. In some circumstances the time limit is **shorter** than this so it is absolutely vital that you seek legal advice at the earliest opportunity.

2. Do I need a specialist lawyer to act for me?

Many firms of solicitors advertise their services and may have departments that act for people who have sustained injuries. It is, however, very important that you seek the advice and assistance of a solicitor who is a specialist in this area.

Claims for compensation for injuries arising out of accidents or incorrect medical treatment or diagnosis are not always straightforward.

The Law Society can recommend a suitable firm of solicitors or you can refer to the specialist publications, notably *Chambers & Partners* and *The Legal 500*. These list specialist legal practices by practice area and by geographical area. The whole of the UK is covered by these Guides and they will enable you to obtain quite a lot of detail on the firms that specialise in the areas of practice that you need.

Please see Annex 1 for further details.

3. How does compensation work and what can I claim for?

Subject to proving that your injuries have been directly caused by the negligence or wrongful act of a third party, you will be able to recover compensation for the injuries that you have suffered. In most cases, medical reports will have to be obtained from appropriate specialists. These reports must be completely independent and impartial - they are directed to the Court and not to the people directly involved in the claim - and for this reason it is unlikely that a report from your treating medical practitioners would be used. The medical reports will consider the injuries, the effect that your injuries have on your life on a day to day basis, any medical treatment you have had and may need in the future, any other alterations which will have to be made to your lifestyle, and the long term prognosis for you.

In addition to compensation for the injuries themselves, you will also be able to recover monies for your reasonable past and future financial losses which could encompass a wide range of matters to include loss of earnings, accommodation costs (if for example your injuries require your home to be adapted or for new accommodation to be sought), aids and equipment, cost of medical treatment and travel expenses. If you have suffered an injury or you are thinking of making a claim for compensation, keep a diary of your expenses and all of your receipts, as it will be difficult when time has passed, to remember things like medical appointments and the costs that you have incurred for treatment or travel etc.

It is worth remembering that you are under a duty to minimise your losses; for example you should not choose the most expensive method of getting to hospital, or if you are no longer able to do your job you should consider what other jobs you may be able to do.

There are certain set procedures and guidelines that have to be adhered to in personal injury and clinical negligence cases so it is always best to seek legal advice before making contact with the party responsible for your complaint.

4. How will I pay for my legal fees?

There are a range of ways in which your legal case may be “funded”. If you are thinking of contacting a solicitor, try to establish before your first meeting or full discussion about your case whether you have the benefit of some form of legal expenses insurance. For example, you may be a member of a trade union or other membership organisation or you might have the benefit of a legal expenses policy linked or attached to your home or contents insurance policy.

Always check with any motor policy you might have to see if there is any legal expenses benefit attached, and have a look at your credit cards to see if there is any benefit available to you as a cardholder.

If you have no form of legal expenses insurance or other access to the services of a specialist solicitor, depending on the facts of your case, your solicitor may be able to offer to act for you under a Conditional Fee Agreement which is more commonly known as “No Win, No Fee”.

In any event, it is very important that you make sure you clearly understand the detail of the funding arrangement you enter into with your solicitor and you should not hesitate to raise any questions that you have.

If you are unsure you can ask the Law Society for guidance.

In some, increasingly rare, cases Government funding may be available. This is called “Community Legal Funding” (formerly “Legal Aid”). It is worth asking a Solicitor whether there is a possibility that you would be eligible for this, especially in medical negligence cases.

Beware of representatives who may approach you in the street or at the hospital. They are often unscrupulous and are not from law firms. Always check whether the person with whom you are dealing is from a law firm which is regulated by the Solicitors Regulation Authority.

Changing Faces would welcome any comments on how helpful this factsheet has been. If you would like to let us know, please send your comments in any of the following ways:

1. By post to:
Legal Factsheet Feedback
Changing Faces
The Squire Centre
33-37 University Street
London WC1E 6JN
2. By email to info@changingfaces.org.uk
3. By phone to 0845 4500 275

Thank you very much.

Annex 1

Law Firms: Personal Injury

The following law firms have been recognised by both *Chambers & Partners* and *The Legal 500* as being leaders in the field of Personal Injury:

Region/Country	Firm	Contact Telephone
East Anglia	Kester Cunningham John, Thetford	01223 363111
	Taylor Vinters, Cambridge	01223 423444
London	Irwin Mitchell	0870 1500 100
	Leigh Day & Co	020 7650 1200
	Stewarts LLP	020 7242 6462
Midlands	Barratt Goff & Tomlinson	0115 931 5171
	Irwin Mitchell	0870 1500 100
North / North East	Browell Smith & Co	0871 474 3030
	Irwin Mitchell	0870 1500 100
	Thompsons	0800 783 0266
North West	Pannone LLP	0161 909 3000
Northern Ireland	Agnew, Andress, Higgins	028 9024 3040
	Carson McDowell	028 9024 4951
	Diamond Heron	028 9024 3726
	Thompsons McClure	0162 228 2061
Scotland	Balfour & Manson LLP	0131 200 1200
	Digby Brown	0141 566 9494
	Thompsons	0131 225 4297
South West	Augustines	0117 925 2020
	Bond Pearce LLP	0845 415 0000
Wales	Hugh James	029 2022 4871

For industrial claims:

Region/Country	Firm	Contact Telephone
All of UK	Irwin Mitchell	0870 1500 100
	Leigh Day & Co	020 7650 1200
	Stewarts LLP	020 7242 6462