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## Personal injury claims

If you have been injured as a result of an accident, whether it be an accident on the roads, at work, on holiday, in a public place or elsewhere, you may be entitled to make a claim for compensation. This information sheet aims to help you identify whether you have a claim, what to do if you have, and what you might claim for and gives you information on the assistance that the personal injury team at Penningtons Solicitors LLP can provide in bringing your claim.

### Negligence

Generally, to succeed with a claim you will have to prove that the accident was someone else's fault - ie that they were negligent. To be negligent means to be in breach of a legal 'duty of care'. A duty of care is a duty that the law places on someone to take care not to injure others. For example, car drivers have a duty of care towards all other road users, employers have a duty of care to their employees and householders have a duty of care towards visitors to their premises.

Here are some examples of negligence:

- A car driver fails to stop in time and drives into the back of the car in front
- An employer fails to provide or safely maintain appropriate safety equipment
- A fellow employee operates a piece of machinery without following safety instructions
- The owner of a building fails to repair a dangerously decaying wall
- A local authority fails to repair a pathway that it knows to be uneven

In many cases it will be fairly simple to identify if there has been negligence and who the defendant is. If you have been injured and are not sure if it is the result of negligence, please discuss this with us as we have experience of many different types of case and will usually be able to give a preliminary view.

### Causation

You must also prove that the injuries were caused by the negligence, and would not have happened anyway. In most cases this is simple - you would not have broken your leg if you had not been hit by a car, for example. But in other cases this can be more complicated, such as where existing back pain has been made worse by an accident. You will only be compensated for the effects caused by the accident but this will include situations where a pre existing problem is made worse by an accident.

### Damages

This is the legal term for the compensation you can recover. "General damages" can be claimed for pain and suffering caused by the accident and for the impact of the injury on your day to day life. The value of this aspect of the claim is assessed mainly on evidence obtained from an independent medical expert about the nature and impact of your injuries and your future prognosis, but also on your evidence.

"Special damages" can be claimed for out of pocket expenses incurred because of the accident - such as loss of earnings, the cost of care, travel expenses and medical expenses. Special damages cover the financial losses sustained already and also any likely future financial losses – and part of our role is to investigate any future losses which you may sustain so that you can be compensated for them. Again, this is largely based on expert evidence as to losses arising from your injuries.

It is of great assistance in ensuring that you recover the appropriate level of compensation if you keep a written record of how your injuries affect you and keep a note or documentary evidence of any related expenditure.

### Limitation

Any court proceedings for personal injury must be issued within 3 years of the accident (or the date on

which you were aware that you had suffered a significant injury as a result of the accident if this is later). For children, the 3 year period does not start to run until their 18th birthday. The court does have a discretion to allow proceedings to be issued after the 3 year period but it is only exercised on rare occasions.

### Funding the claim

There are several options available for pursuing a personal injury claim. Much will depend on the circumstances of the accident. We can advise in more detail, but here are the main ways of funding the claim:

- Legal expenses insurance. This may be provided as part of a motor or household contents insurance policy, or by a credit card company. It is always sensible to check to see if you have this insurance cover, or whether there is someone else such as a trade union who will fund the case.
- Conditional fee agreement. Sometimes called 'no win, no fee', this is an agreement by us not to charge you if you do not win your case. In return, you agree to pay us a 'success fee' if you do win the case. This arrangement is usually available from the outset of the case. It usually operates with an after the event insurance policy which protects you against any liability for things such as experts' fees and against any liability for the other side's costs. **(For more details see the information sheet on conditional fee agreements).**

Public funding (Legal Aid) is no longer available for most personal injury claims.

If you win your case, you will recover the majority, if not all of your costs from the other side. If you do not succeed for any reason then if you have the benefit of legal expense insurance or a conditional fee agreement and insurance then you will be protected against any liability for costs.

We can provide more detail of all of these options on request.

### Expertise of Penningtons' personal injury / clinical negligence team

We operate as a team across our Godalming and Basingstoke offices, but have clients all round the country. Philippa Luscombe and Tim Palmer head the teams in the Godalming and Basingstoke offices respectively. Members of the team are on the Law Society recommended personal injury solicitors panel

and are Senior Accredited Litigators with the Association of Personal Injury Lawyers (APIL). The team is accredited by APIL.

We are rated as specialists in personal injury work by the legal directories Chambers and The Legal 500

We are on the recommended solicitors list for Headway and the Spinal Injuries Association.

We have experience in most areas of personal injury litigation with particular expertise in serious injury cases (**please see our factsheet on serious injury claims**) and fatal accidents. We use a well regarded team of independent medical experts and specialist personal injury barristers so that you can be confident of an experienced team managing your claim.

### Initial advice

In order to enable you and us to assess whether you have a claim with good prospects of succeeding and to discuss what would be involved, we usually offer an informal meeting or discussion / review of documents initially without charge and we are always happy to have an informal discussion in the first instance to discuss your options and how we may be able to help

### Who to contact for further advice

If you would like to discuss your potential claim with an experienced solicitor please contact:

**Tim Palmer in Basingstoke**  
**01256 407100**  
**Tim.Palmer@penningtons.co.uk**

**Philippa Luscombe in Godalming**  
**01483 791800**  
**Philippa.Luscombe@penningtons.co.uk**

Specialist advice should be obtained before taking or refraining from taking action based on comments in this handout which is only intended as a brief note.

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