

BONALLACK & BISHOP **MAKING A CLAIM FOR A SPINAL INJURY**

Many spinal cord injuries are caused by accidents. If the accident was caused by an action of another party you may be able to claim compensation for your injury.

Can I make a Claim for compensation?

To make a claim for compensation you have to prove that a person owed a duty to take care of you and that they have broken that duty. For example, a motorcyclist riding along a main road who is hit by a car turning from a side road would have grounds for a claim.

Another example would be of a person who had an injury during the course of their work because they had to work at a great height and was not provided with a proper safety helmet.

You can claim for an accident at work even if you were a contractor or self-employed.

How do I prove that my injuries are related to my accident?

Usually this is quite easy. There is often a direct link between the accident and the injury, particularly with an injury as severe as a spinal cord injury.

To prove that there is a link between the injury and the accident, we instruct an independent doctor to examine you and prepare a report. We have a panel of Orthopaedic Surgeons and Neurosurgeons who specialise in people who have suffered spinal cord injuries who help our clients on a regular basis.

What sort of compensation can I expect?

Compensation is split into three categories:

1. Damages for pain, suffering and loss of amenity
2. Damages for out of pocket expenses
3. Damages for future expenses

Damages for pain, suffering and loss of amenity

Spinal cord injuries are extremely serious and have life-long repercussions. You may find that you are confined to a wheelchair and will need help to live independently. You may not be able to enjoy the hobbies you were involved in before the accident and you may not be able to return to work. The independent doctor will be able to tell us how you are now and how you will be in the future.

Damages for pain and suffering are decided with reference to cases which have previously been decided by the Courts for people who have had injuries of a similar severity.

Damages for out of pocket expenses

You can recover any expenses which you would not have had to incur but for the accident. Examples of these are:

- lost earnings for yourself
- lost earnings for any other member of your family

- travel by your family to visit you in hospital
- cost of buying equipment e.g. a wheelchair or a specialist bed
- cost of prescriptions and medication
- cost of any private medical treatment
- cost of your family having to buy food and drinks at hospital
- cost of childcare for your children
- cost of adapting your home so that you can return home or the cost of you buying a different home

It is very important indeed that you keep any receipts and/or correspondence. It is helpful if you or a friend or member of your family can keep a diary for you listing appointments and expenses.

It is best to keep any paperwork you think may be necessary in the future.

Future expenses

When you have had a spinal cord injury this is probably the most important area of your claim. Your solicitor will need to be very careful to ensure that your compensation will meet all of your needs in the future.

Your solicitor will obtain expert help from accommodation experts, nursing experts and rehabilitation experts to value your future needs.

The payment for future expenses will ensure that you receive all of the equipment you need in the future, for example replacement wheelchairs and equipment in your home.

We will not be able to value this part of your claim until the independent doctors can tell us what your likely prognosis is and when your condition will be stable. It may take a few years to reach this point but it is very important that the job is not rushed.

Interim payments

If the insurance company acting for the other party admits responsibility for your accident then we should be able to obtain an interim payment for you. As a practice we try to obtain interim payments as soon as possible so that you can have financial recompense for your out of pocket expenses, and so that equipment can be bought to make you as independent as possible when you leave hospital.

Provisional Damages

If you have a medical condition which may get worse in the future, you may be able to claim something called provisional damages. Usually compensation claims are settled on a "once and for all" basis and you cannot go back to the Court and get more money, even if your medical condition becomes much worse. However, with certain medical conditions you can re-open your case. The most common example is if you have had a head injury and later develop epilepsy.

If your doctor has told you that you may get worse in the future, please tell your solicitor so he/she may consider whether you should claim provisional damages.

Is there a time limit for making a claim?

There is a time limit for making a claim. A claim must be made within 3 years of the date of the accident. If a person is incapable of managing their own affairs then the time is extended to 3 years from when they are capable of managing their own affairs. See below for advice on claims for children.

It is important to start your spinal injury claim off as soon as you feel able to do so. These claims are of high value and complex, and the sooner a solicitor can start work for you the more likely you are to obtain interim payments to help you with some of the expenses you will incur when you are released from hospital.

If a claim is for someone under the age of 18

If the person who has been injured is a child, he/she will have until the age of 21 to make a claim for compensation.

If the claim goes ahead whilst he/she is a child then an adult will need to act on their behalf. This person is called a "litigation friend" and is often Mum or Dad.

Any interim payments or settlements for a child need to be approved by the Court. If a child receives a compensation payment then it will remain in the Court Investment Account until the child reaches the age of 18. Money can be paid out for the child's needs before the 18, subject to the approval of the Court.

I have been the victim of a criminal assault – can I claim compensation?

It is possible to make a claim to the Criminal Injuries Compensation Authority (CICA) if you have received an injury as a result of a criminal act. This is a Government run Scheme. The time limit for making an application is **2 years**.

How can I fund my compensation claim?

There are a number of ways that Bonallack & Bishop can help clients fund their compensation claim. These are:

1. Legal expenses insurance. Nowadays many people have legal expenses insurance attached to their buildings, contents or car insurance. As long as the insurance policy was in force when you had your accident, the policy will often cover your legal fees.
2. "No win no fee" agreements. Bonallack & Bishop offer "No win no fee" arrangements to spinal injury clients and can also arrange insurance to cover the costs if your case does not succeed. We have a large "no win no fee" practice.
3. Private clients. Some clients like to pay as they go along. These clients pay an hourly rate for work done on their case and receive interim bills every 6 months.

What other matters can my Solicitor help me with?

Enduring Powers of Attorney

If you need someone to help you manage your own affairs, for example, if you are not able to sign your name because of your injury, you can appoint an Attorney to do this for you. Making an Enduring Power of Attorney is very straightforward and is not expensive but can give you a great deal of peace of mind.

Employment disputes

If you have worked for your employer for more than one year and you have lost your job as a result of your accident, you may be able to claim unfair dismissal. We can advise you on this.

Benefit claims/debt advice

Your finances may be in a muddle after your accident. We can advise you on the benefits you may be able to claim and help you manage any debts or mortgage/rent arrears you have. It is better to get this advice and act on it sooner rather than later.

Wills

Having a serious accident is a reminder that none of us live forever. You may prefer to make a Will at this stage to put your affairs in order for your own peace of mind.

What to do next

If you would like us to advise you please contact Denise Broomfield or her Personal Assistant, Lin Revell, on 01722 424426, or e-mail Denise on denise.broomfield@bishopslaw.com

Denise Broomfield is a solicitor and is a member of the Spinal Injuries Association Approved Solicitors panel.

We are happy to visit clients in the Duke of Cornwall Spinal Unit and can provide advice on an urgent basis.

Our first initial interviews are always free.