

Procedure for making a Claim

Once a potential personal injury claim has been established and the Defendant identified the claim can commence.

95% of personal injury claims settle before reaching court. Settlement is actively encouraged by the courts and an entire pre action protocol on personal injury cases must be followed before a claim is issued at court.

The aim of the pre-action protocol is to encourage cooperation between Claimant and Defendant to enable the claim to be dealt with in the most efficient way possible.

Early notification should be given to the Defendant's to advise them of the potential claim, allowing the Defendant's to place their insurers on notice that a claim is likely to be made. A detailed letter of claim will then be sent to the Defendant setting out the nature of the injury and why the Defendant is being held responsible for it.

The Defendant is then given 21 days to acknowledge the claim and a further 3 months to investigate and respond to the claim. If necessary documents that will assist the Claimant in proving the liability of the Defendant can be requested. A medical examination may need to be undertaken and if disputed the Defendant may require a second medical report to be commissioned.

If liability is not admitted or the level of compensation cannot be agreed the parties should consider Alternative Dispute Resolution (ADR) before issuing proceedings. ADR may take the form of negotiation between the parties or an accredited mediator could be appointed to help the parties reach agreement.

If agreement cannot be reached a county court claim will be issued. Once issued the Claimant is not able to withdraw from proceedings without consent of the Defendant or on reaching trial. The claim may take several months to reach trial and during this time attempts to settle the dispute should continue.

Ultimately if settlement is not reached a trial will take place in which both liability and quantum will be decided. If the Claimant is successful the Defendant will have a judgment against its name which the Claimant will be able to enforce it like any other judgment.