

What happens if court proceedings are started?

Why are court proceedings being started?

We will have tried to settle your claim without going to court. However, sometimes there are aspects of the claim that the other party's insurers refuse to accept. If we consider they are being unreasonable, and if we consider you would receive more compensation, then we may recommend that court proceedings be started. Your legal costs will still be covered by your legal expense insurance policy if that is how your claim is being funded. Otherwise, we will discuss with you how the court action is to be funded.

Will I definitely have to go to court?

Negotiations with the other side are never refused and continue all the time in parallel with the court proceedings. We remain in regular contact with the other party's insurers, right up to the day of any court hearing. If we can settle your claim without going to court then we will, subject of course to your instructions. Having started court proceedings puts us in a stronger negotiating position and can result in an earlier and more favourable settlement for you.

What happens next?

Usually, once a court action is started, the other party's insurers will pass the claim over to their solicitors to take over dealing with the claim on their behalf. They will often advise the insurers to settle your claim for a more reasonable sum, or the insurers may increase an earlier offer just to avoid the expense of a court action. As a result, many claims will settle without going to court quite soon after court proceedings are started.

What if the claim does not settle by negotiation?

If we are still unable to agree your claim with the other insurers or solicitors, then it may go to court for liability to be decided, and for your claim to be 'assessed' or valued. You would then have to be prepared to attend a court hearing and give evidence about the matters being disputed by the other side. This may be, for example, the accident circumstances or just about your injuries and how they have affected you. You will always be represented in court.

What happens between starting court proceedings and the court hearing?

There are various steps that the court will expect the parties to take before any hearing takes place. Examples of these are:

- the parties will have to disclose any documents they will be using to prove their claims, such as receipts for expenses claimed
- medical reports may have to be updated and must be disclosed
- the medical expert may be questioned about his report

- both parties must disclose statements setting out the evidence that the witnesses will be giving at the court hearing
- the schedule listing the claim for your financial losses may have to be updated
- the court can ask the parties to take any other steps that the judge feels is necessary for a fair hearing to take place

How long will it take to go to court?

Once the necessary steps have been taken, the hearing can take place. This will usually be approximately six to nine months after the Court action was started.

What happens at the court hearing?

The person representing you, either a barrister or senior solicitor, will present the claim to the judge on your behalf. You and any other witnesses will be questioned by your representative, and also by the representative of the other party. The judge will not know of any settlement offers that have previously been discussed between us and the other side. Once all the evidence has been presented to the judge, he will make a judgement. If liability for the accident was disputed, the judge will say which party or parties were responsible for the accident. If the amount of compensation is in dispute, he will state how much compensation the other side should pay you.

When will I receive my compensation?

You should receive your compensation within four to six weeks of the court hearing.

Contact

For further information or advice, please contact:

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