

Personal injury

Road traffic accident claims process

The streamlined claims process applies to road accidents for which the appropriate compensation award will fall between £1,000 - £10,000. Its aim is to ensure fair compensation for the injured party and early notification of the claim to the Defendant Insurer.

£1,000 - £10,000 includes compensation for the actual physical injury and also any financial losses. It does not include car hire or vehicle repair costs.

Stage 1

A Claims Notification Form (CNF) which sets out who was injured, how the accident occurred and what expenses have been incurred, is signed by the Injured Party and sent electronically to the Defendant Insurers. The Insurer must acknowledge receipt of the form and then has 15 working days to respond. The time starts to run the day after the CNF was emailed to them. The Injured Party solicitor is not expected to undertake any further work during this 15 day period.

After 15 days the Insurance Company must admit or deny liability.

If the Insurer admits liability but alleges contributory fault (apart from the Injured party not wearing a seatbelt), fails to respond or alleges fraud, the claim falls out of the process.

Stage 2

If liability is admitted or the only allegation is the injured party failed to wear a seatbelt, then medical evidence is obtained. The process only allows for reports from two specialist fields to be obtained (ie GP and psychiatry). There is no fixed timetable for obtaining the reports. However, once received, the reports must be sent electronically to the Defendant Insurer within 15 working days together with a completed settlement pack and receipts for financial losses and invoices for disbursements incurred (ie medical report). The Injured party puts a settlement offer to the Defendant Insurer.

The Insurer has 15 days to accept the injured parties offer or make a counter proposal. If the insurer fails to respond, the claim falls out of the process unless the parties have agreed to extend the time limit.

If the Insurers raise questions of the expert or deny causation, the claim falls out of the process.

The Injured person has 20 working days to consider the Insurers counter offer. If accepted, payment due within ten days.

Only one report is expected from each specialist field unless the expert says (a) they are unable to give a final prognosis or (b) treatment is recommended

No further work is to be undertaken until time passed and second report is available or injured party has had the recommended treatment.

If a follow up report is required an interim payment of £1,000 is payable.

If a larger interim payment is required, the Injured Party sends the preliminary medical report and interim

settlement pack to Defendant Insurer. They have 10 days to decide and can either agree and make the payment requested or refuse and pay the standard £1,000. If the injured party wants more than £1,000, the claim falls out of the process.

Stage 3

If quantum can not be agreed at end of Stage 2 an application will be made to the Court. The Stage 3 Settlement pack is sent to Defendant Insurer and then 10 working days later, an application is made to the Court for damages to be determined. The Insurer must pay the full amount of their offer in full to the injured party.

Excluded claims:

1. Compensation falls below £1,000,
2. The defendant driver is uninsured or unknown
3. The injured party or the defendant is deceased
4. The claimant is bankrupt
5. The claimant or defendant is a protected party

Special exceptions

Failure to wear seatbelt

Para 1.6 of CNF asks the Injured Party to confirm if they were wearing a seatbelt. The Defendant Insurer must raise contributory fault when replying within first 15 days. The medical report is expected to provide the parties with enough information to calculate appropriate deduction. Any dispute between parties is dealt with during negotiation period. The settlement pack must include suggested percentage deduction. If not resolved, the trial judge will need to consider at Stage 3 hearing. If disputes of fact and evidence from Defendant driver are required, the claim exits the process.

Children

Stage 1 - Litigation friend is identified on CNF

Stage 2 – No interim payment is payable. If one is required, the claim falls out of the process.

If agreement reached at end of stage 2, an oral approval hearing is required.

Notification close to Limitation date

If instructed close to limitation period you can issue court proceedings but then stay them and follow the process.

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Contact

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