

HOW TO MAKE A PERSONAL INJURY CLAIM

How to Make a Claim for a Catastrophic Personal Injury

At Barr Ellison our primary focus is on those victims who unfortunately sustain a brain, spinal, amputation or other serious injury. Making a claim can be broken up into a number of distinct but sometimes overlapping stages:

1. Free Initial Legal Consultation
2. Letter of Claim
3. Rehabilitation Needs
4. Where Liability is Admitted
5. Where Liability is Wholly or Partially Denied

1. Initial Legal Consultation

Establishing the relative merits of your claim needs to be done at the outset. The likelihood of success will guide your decision as to how to proceed.

Catastrophic injury cases can last for years, so it is important to appoint a specialist lawyer. There is no substitute for meeting the lawyer with whom you will be working closely. They will be able to provide clarity about the major stages in the process, the likely value of your financial claim and your options for funding your case.

Obtaining early funding for rehabilitation is a priority

Barr Ellison offers a free initial consultation which covers the merits of your claim, the methods of funding open to you, the need to focus on early rehabilitation, the potential elements of your financial claim, any other issues specific to your case, and of course any matters which you wish to discuss.

2. Sending Letter of Claim

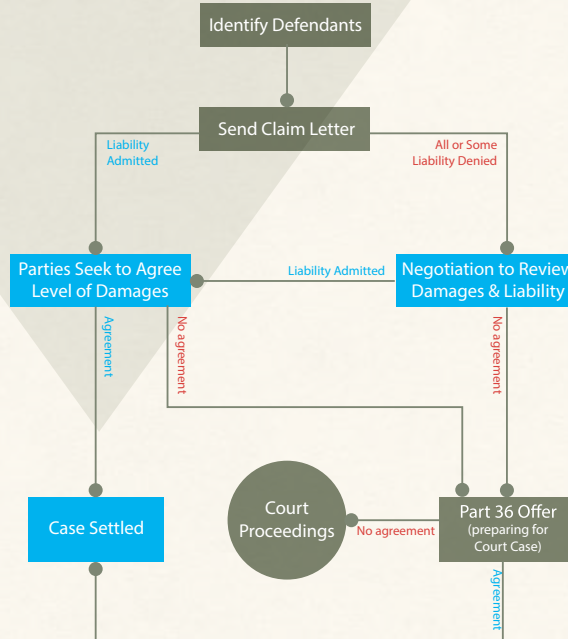
A first set of tasks for your appointed lawyer is to ensure that all Defendants are correctly identified and to compile key information and evidence in order to prepare for a Letter of Claim in accordance with the *Pre-Action Protocol for Personal Injury Claims*.

Once everything is in order, the Letter of Claim is sent to the Defendants, who have three weeks to acknowledge its receipt. Following that, the Defendants have three months to investigate.



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CATASTROPHIC PERSONAL INJURY CLAIM



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3. Rehabilitation, including Interim Payments

Obtaining funding for rehabilitation is an immediate top priority and continues throughout the case in parallel with the claim process. The goal is to enable the client to live their life to the fullest extent possible. Early rehabilitation is essential to achieve this, so an early task is to identify priority rehabilitation needs and seek interim payments to fund their treatment.

The medical needs in serious injuries are complex and often long-term. Whether the client needs replacement limbs or intense recovery therapies, it is crucial that they are funded as early as possible. For many, it is usually not possible to return home without at least some adaptations to enable as much independence as possible. A new home may be required, and any additional care needs to be factored in.

4. Where Liability is Admitted

The Defendant may admit all liability, admit to partial liability (possibly alleging contributory negligence, for example), or deny all liability.

Where liability is admitted, there is still a good deal of work to be done to ensure that you receive a fair and just entitlement. Taking detailed instructions throughout, your lawyer will provide advice and clarity on the level of compensation which you should receive, including medical costs, loss of

earnings, the need for care and assistance, rehabilitation treatment and therapies, and legal costs.

There are likely to be intense negotiations over the level of compensation, especially when calculating the future cost of rehabilitation and care, as well as loss of future earnings and any accommodation claim. There will be a need for a number of expert reports. If the parties can agree the level of compensation, the case will settle and there is no need to go to court.

5. Where Liability is Partially or Fully Denied

Where liability is partially admitted, the parties will

likely want to review damages and liability with a view to potentially settling. However you, the Claimant, will normally require a disclosure of evidence from the Defendants before discussing settlement.

Where liability is fully denied, both parties will have to review the position, though realistically there may be less likelihood of successful mediation.

If the parties can agree on liability and damages, the case ends and the Defendants pay the Claimant as agreed.

If terms are not agreed, the Claimant will likely want to issue proceedings against the Defendants. Either party can make an offer to settle (known as a *Part 36 Offer* under the *Civil Procedure Rules*). If accepted, the case ends and the Defendants pay the Claimant as agreed. If not accepted, the Claimant will likely want to issue proceedings on the Defendants, at which point the case will proceed to trial in order to determine liability and level of compensation.

Get in touch if you have suffered a serious injury and believe you may need legal assistance. We have had a dedicated office at Addenbrooke's for over 25 years to better serve our clients.