

tell me about
my claim



Contents

Vehicle insurance: What does it all mean?	3
What's meant by 'liability'?	3
How long will my claim take?	3
Who pays Access Legal's costs?	4
Child claims	4
What happens if the other party is uninsured, untraced or a foreign motorist?	5
Courtesy and hire vehicles, including loss of use	5
Inconvenience caused by loss of use/travel expenses	5
Who pays storage charges?	5
Medical evidence and treatment	6
Protecting your means tested benefits	6
General questions	6
Help us help you – be proactive	6

Vehicle insurance: What does it all mean?

Fully comprehensive

This is an insurance policy whereby your insurance company will pay for your reasonable vehicle repairs or the total loss of your vehicle if it is beyond economical repair. Your insurers may then recover their losses from the other party's insurers when liability is agreed. There'll usually be an excess you have to pay, which we can claim back for you.

Third Party Fire and Theft (TPFT)/ Third Party Only (TPO)

This is an insurance policy where you remain responsible for any repairs or replacement of the vehicle, although we can claim this back for you. Your vehicle may need to be inspected by an independent engineer and a report prepared to assess the value of any repairs or – if it's beyond economic repair – its pre-accident value. Usually the other party's insurers are identified, and we'll ask them to arrange this.

It's important that your vehicle is inspected and removed from paid storage as quickly as possible to keep your losses to a minimum.

You may also have a no claims discount (NCD) on your policy. Unless this is protected, it's affected as soon as your insurers pay anything out against your policy. Your NCD is usually reinstated when your insurers make a recovery of their losses, but you'll need to check with them for details.

What's meant by 'liability'?

'Liability' is simply the question of who accepts responsibility for the claim. In every single claim the issue of liability must be addressed. By law, the other party's insurers have three months from the date of our initial letter to them to decide their stance on the circumstances surrounding the accident.

During this three-month period the other party's insurers may make investigations or simply accept their insured's version of events. At the end of the three months we can issue court proceedings to decide matters, although before doing this we'd normally want to have finalised the extent of your financial losses we're claiming on your behalf.

Liability admitted

Liability admitted means that the other party's insurers have admitted responsibility for the accident. We should then be able to recover all your reasonable losses arising from the accident.

Liability disputed

This occurs when the other party's insurers won't admit liability for the accident. If this should arise then we'll ask you for your comments on any allegations against you. We may also require further supporting evidence.

If there were passengers in your vehicle who've suffered loss, damage or injury, they may have to be transferred to an alternative firm of solicitors, otherwise a conflict could arise.

Split liability

Split liability occurs when you and the other party accept you're both partially responsible for the accident. In this case your damages would be apportioned in accordance with the split of liability, for example on a 50/50 split you'd recover half your losses.

Your NCD would usually be affected if liability is split, unless it's protected.

How long will my claim take?

This is probably the most commonly asked question at the start of a claim and often the most difficult to answer.

The simple answer is that every claim is unique. How long your claim will take depends on a number of factors. Some of the following issues may delay your claim:

- disputes - liability and/or amount of compensation
- the type of injury you have - minor, moderate or severe
- the need for further treatment for your injuries
- other party insurer backlogs
- if we have to issue court proceedings
- if your claim is against someone uninsured or unknown
- very straightforward claims, for example liability admitted with a minor injury, may be settled within 6 - 12 months

Rest assured, we'll endeavor to deal with your claim as quickly and efficiently as possible and, most importantly, in your best interests.

How much is my claim worth?

This is something that differs from person to person. No two cases are the same.

We all experience different levels of pain and take different lengths of time to recover from injuries. There may be issues that must be taken into account specific to you personally that'll affect the claim, for example a previous injury or a pre-existing condition/disability.

We'll arrange for you to have a medical examination by an independent medical expert who'll then prepare a report based on his findings. When we've received the report, and depending on its content, we'd hope to give you an idea of how much your injury claim is worth. This will not be possible though if the report doesn't state clearly how long your injuries have lasted/will last.

You may have heard of people receiving thousands of pounds more for an injury similar to your own. Please bear in mind our comments above. Each case is unique to the person in question.

Who pays Access Legal's costs?

The answer to this question depends upon how your claim is funded. You may have Legal Expenses Insurance as part of your motor or home insurance policy, and if this is the case then it may be possible for us to pursue your claim backed by the Legal Expenses Insurer.

The rules of our profession mean that you are primarily responsible for our charges. However, where you have the benefit of a policy for Legal Expense Insurance, this covers you for the legal costs of pursuing your claim for loss, damage and personal injury, regardless of whether you win or lose.

If you win your claim, we will not ask you to pay legal costs out of your settlement money. If you lose, the Legal Expenses Insurance policy will cover any costs that you may be liable to pay.

The only exception would be if you did not comply with the terms of your Legal Expenses Insurance policy – for example, if you acted unreasonably. In those circumstances, your Legal Expense Insurer might refuse to cover any further legal costs. Please rest assured that this is very rare. We would always give you advance notice if your Legal Expense Insurer is considering withdrawing your cover and we would explain the options of possible alternative funding to you, at that time.

If you have any doubts about the terms of your Legal Expense Insurance policy, we advise you ask the insurer for a copy and to deal with any queries you have. Alternatively, if there is no Legal Expenses Insurance in place, we may be able to arrange a Conditional Fee Agreement to fund the pursuit of your claim. You will be held responsible for our costs and expenses until you have a Conditional Fee Agreement and a related policy of insurance in place.

Once a Conditional Fee Agreement is in place, if you win your claim we will normally recover our basic charges, disbursements and a success fee from the opponent and we would therefore not look to you to pay any legal costs. No deduction would be made from your settlement and you would receive 100% of the compensation awarded to you. If you lose you will not be responsible for our basic charges, but will have to pay our disbursements and (if proceedings have been issued) the opponent's costs and disbursements. The Conditional Fee Agreement and related policy of insurance can protect you from paying these sums.

Should you not comply with the terms of your Conditional Fee Agreement and related insurance policy – for example, if you failed to provide ongoing instructions in order to proceed with your claim, or you acted unreasonably, you will be liable for any legal costs.

General damages

General damages is the legal term for unquantifiable losses. This may include damages for pain, suffering and loss of amenity, perhaps together with future loss of earnings and claims for vehicle/assistance.

Special damages

Special damages is the legal term for quantifiable losses suffered as a **direct result of the accident.**

You should keep documentary evidence of the losses you wish to claim. Without such evidence the other party's insurers may refuse to reimburse you.

These are some 'special damages' you may claim for:

- loss of earnings – whether employed or self-employed
- loss of use – when you've not had normal use of your vehicle
- travelling to medical appointments – please keep a note of mileage and public transport receipts
- damaged items/property within the vehicle or on your person – try to take photographs of these in case we need them as evidence of the loss
- insurance policy excess
- medical treatment costs

If unsure whether a loss is recoverable, please ask us and we'll advise you accordingly.

You have a legal duty to keep your losses to a minimum (mitigating your losses). Even though you've been inconvenienced, you're not able to make claims for unreasonable/unnecessary items. The law doesn't allow a claim for the actual time you spend bringing a claim.

Child claims

The courts class any person under the age of 18 as a child (an 'infant' or 'minor').

A child will need what is called a 'litigation friend' to represent him or her throughout his claim. This person will be required to keep us informed of matters generally, and to communicate with us, on behalf of the child, regarding the progress of the claim.

Naturally, the litigation friend must act only in the interests of the child.

Child claims normally take longer to deal with, because:

- we have to ensure that the child has made a complete recovery before any settlement can be made
- we're usually required to seek approval of the court. Any damages approved by the court must be invested on behalf of the child until they reach the age of 18. A judge will make a decision only in the best interests of the child

Where compensation is to be paid out a cheque would be made payable to the child, so they'll need to have a bank account.

What happens if the other party is uninsured, untraced or a foreign motorist?

If the other party has no insurance in force at the time of the accident, or was not properly identified, then your claim will need to be referred to The Motor Insurers Bureau (MIB), and it will investigate and deal with the claim.

The MIB was set up to help victims of road traffic accidents in these circumstances.

A £300 excess will sometimes apply to a claim, and you're required to report the accident to the police as soon as possible. Where the other party is unidentified, the matter must be reported to the police within five days of the accident.

If your claim needs to be referred to the MIB, after we've exhausted all lines of enquiry, we'll then discuss it with you in more detail.

Unfortunately, if your claim proceeds through the MIB it may take longer to progress than usual, due to the enquiries and investigations that must be carried out and the backlogs the MIB tends to suffer.

Courtesy and hire vehicles, including loss of use

Courtesy vehicle

On some occasions your insurance policy will entitle you to a courtesy vehicle. This depends on the policy, but sometimes happens where:

- you have a comprehensive insurance policy
- you have your own vehicle repaired at a garage approved by your insurers

You don't have to pay for the use of a courtesy vehicle if you're entitled to this by virtue of your insurance policy. The insurance of this vehicle will usually be covered by your existing policy, although you should obviously check this.

Hire vehicle

It is important not to confuse this with a courtesy vehicle. It may be that your insurance company or the garage repairing your vehicle has referred you to a hire Company, but this doesn't mean the vehicle you're using is free of charge.

You may have got a hire vehicle on 'credit'. Again, this doesn't mean the loan of the vehicle is free of charge.

It's vital to consider your legal duty to keep your losses to a minimum and return the hire vehicle as soon as you no longer require it. You should also keep hire charges to a minimum by not hiring an unnecessarily large or powerful vehicle. If your own vehicle is a 'write off' you'd normally be expected to return the hire vehicle as soon

as funds are made available for the replacement of your own vehicle. However, this can vary and you should seek the advice of your case handler.

You're responsible for payment of the hire account. Providing the hire is justified, we'll attempt to recover this expense from the other party's insurers.

You should check if you're responsible for insuring the hire vehicle. We'll attempt to recover any additional insurance premiums that are reasonably incurred, but this would not cover the insurance of any excess unless this is also a term on your own insurance policy.

Inconvenience caused by loss of use/travel expenses

In the event that you're without the normal use of your vehicle you're entitled to claim for the inconvenience this causes you. You'll normally recover about £60 per week. Each case depends on its own particular circumstances and you'll need to follow the advice of your case handler.

In addition, you'll be entitled to claim your reasonably incurred public transport/taxi expenses. It'll be necessary to show the purpose of the individual journey made, and documentation will be required to support each individual expense. Again, any expense unreasonably incurred (such as a taxi being used when a bus route exists and would have sufficed) may not be recovered.

Who pays storage charges?

If your vehicle has been written off or your vehicle is not roadworthy, you may be obliged to keep it in storage. If you can avoid this by keeping the vehicle somewhere free of charge, you're under a legal duty to do so.

You should be prepared to meet storage costs in the first instance. The expense will then be included in your claim. It's important that as soon as your vehicle has been inspected you make the necessary arrangements to move your vehicle from storage to avoid further charges. The third party insurers will not be liable for any charges beyond this date – you will. It'll be a help if you're able to provide us with photographs of the damage to your own vehicle and that of the other party.

Items the other party's insurers may not pay

- losses not directly linked to the accident
- losses incurred unreasonably
- loss, damage or personal Injury not supported by documentary and/or other evidence

Interim payments from the other party's insurers are purely voluntary. If they're not prepared to release a payment we can't insist they do so, but we can issue court proceedings to try to force them to. However, this isn't a step to be taken lightly.

Medical evidence and treatment

Medical evidence

Personal injury claims need to be supported by medical evidence. We'll usually arrange for this at the initial stages of the claim, depending on liability. It would also assist us if you could provide photographs of your injuries, where appropriate.

On some occasions, your previous medical notes may be required by the examining doctor for comment in his report, particularly where you've been involved in a previous road traffic accident involving injury, or if you've suffered any long-term medical condition that may be relevant to the injuries suffered in the present accident.

Once the report is prepared, it'll be sent to you for your approval, to ensure accuracy. Once approved, we'll then send it to the other party's insurers for their consideration. At this point, and depending on the content of the report, we may seek an offer to settle your claim. Of course, whether the offer is reasonable or whether you're ready to settle, is another matter entirely.

If you're unable to attend the medical examination appointment for any reason and fail to give at least 24-hours notice then a cancellation charge may be made for which you hold have to pay.

Protecting your means tested benefits

If you receive an interim payment or compensation which, when added to your current savings takes them in excess of £3,000, the Department of Social Security will reduce or withdraw any state benefits you receive.

The Income Support (General) Regulations 1987 allows for funds derived from a personal injury claim to be disregarded when calculating your benefits if those funds are paid into a trust.

The advantage of a trust is that funds received can be used to pay for expenses that aren't ordinary living expenses, for example a house or a vehicle. Ordinary living expenses would include electricity or gas bills.

There are disadvantages to a trust, including loss of exclusive control of the money, the cost of drawing up a trust deed, and the need to complete a separate Tax Return every year. Should this situation arise during the course of your claim we'll give you appropriate advice.

In order to take advantage of a trust deed to protect your means tested benefits it's vital you tell us about any other state benefits you receive, whether or not they arise from your personal injury claim, and of any change from time to time in any other benefits you receive.

General questions

Q The other party hasn't been criminally prosecuted for a driving offence. How will this affect the issue of liability and my claim?

A We'll be dealing with your civil claim. Although it can be helpful, it's not essential that the other party has been criminally convicted to prove he is to blame for the accident.

Q Why do you need my National Insurance number?

A The other party's insurers have to register your claim with the Compensation Recovery Unit (CRU) to check if any benefits are being received.

Q Can I claim for shock and distress?

A You can't usually claim for a psychological injury without an accompanying physical injury. However, if you've a recognised, diagnosed psychological condition, you may be able to claim.

Q My injury is very minor. Is it worth claiming?

A Yes. You're entitled to claim no matter how minor your injuries are. If you're in any doubt, please discuss this with us. Sometimes what might appear minor could be more serious, and should be investigated.

Q I am now recovered from my injuries. Can I claim?

A Yes. Damages will be recovered depending upon the recovery period. There are time restrictions, and for an injury a claim needs to be made within 3 years from the date of accident.

Q Do I have to have a medical examination?

A Yes, we strongly recommend you do. In order to support your claim for injury, medico legal evidence will usually be needed to recover anything other than a few hundred pounds.

Q I didn't go to hospital or see my GP about the injuries I sustained in this accident. Is that a problem?

A Not usually, but it is helpful. It's not essential you visit your own doctor, although please bear in mind your legal duty to mitigate your claim for pain and suffering. If a GP visit is required to get treatment to help your recovery, we strongly recommend you do so.

Help us help you – be proactive

- Provide supporting documentation
- Respond quickly
- Overall, it's your claim
- Ask if in doubt
- Clear and concise instructions, please
- Tell us everything about the claim
- Inform us of any changes to contact details
- Verify documentation we send
- Ensure you mitigate your claim for loss, damage and injury

*contact*US

For more details please contact us on:

T 03700 86 86 86

www.access-legal.co.uk