



Tracey Solicitors

Making law accessible

**YOUR
GUIDE TO**

**PERSONAL
INJURY CLAIMS ***

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DISCLAIMER

You should note that no solicitor/client relationship or duty of care or liability of any nature shall exist or be deemed to exist between Tracey Solicitors and you until you have received a written letter of engagement from us in which we confirm our appointment as your Solicitors.

***In contentious business a solicitor may not calculate fees or other charges as a percentage or proportion of any award or settlement.**

TYPES OF PERSONAL INJURY CLAIMS *

Personal injury claims * can take many forms, ranging from a fall in a public place * to a road traffic accident *. While the circumstances of each accident are different, the claims process will generally be the same (with a few exceptions, of course). Below, is a comprehensive look at the most common type of personal injury claims *.

WHAT IS A PERSONAL INJURY CLAIM * ?

“**Personal injury**” is the legal term for an injury or illness that has been caused (or made worse) by someone else’s negligence. If you have suffered in these circumstances, you may be able to make a personal injury claim. * An injury of any kind can affect your quality of life. Being out of work as a result of this injury may also affect your monthly household income.

COMMON INJURY CLAIM TYPES *

Road Traffic Accidents *

Road traffic accidents * consist of any accident on the road. This could include car, truck, bicycle, motorcycle, pedestrian and any other accident involving motor vehicles *.

Workplace Accidents *

Workplace accident claims * consist of any accidents that occur while on the job, usually as a result of employee/ employer negligence, faulty machinery, health and safety breaches or any accident that is not your fault that leads to an injury in the workplace *.

Public Place Accidents *

Public place accident claims *, also referred to as public liability claims *, consist of slips, trips and falls in a public place such as a supermarket, hotel, public park, pavement, etc. *

Outside of these categories, **Medical Negligence** * is also considered to be a personal injury category. Medical negligence cases are treated slightly different than other cases . This is because the Injuries Board do not assess these cases. You will need a medical negligence * solicitor to help you . They will determine if you have a case and issue legal proceedings thereafter.

If you have downloaded this guide in search of answers to your medical negligence queries, call us on 01 649 9900 to speak with a medical negligence solicitor or email ask@traceysolicitors.ie to tell us about your case.

ROAD TRAFFIC ACCIDENT CLAIMS *

Road traffic accident claims * are an all too common occurrence and can happen for a number of different reasons. It comes as no surprise that **car crash claims *** are the most common of all personal injury claims * presented to solicitors and to the Injuries Board. Being involved in a car accident, as a driver, passenger or pedestrian can be a traumatic experience, regardless of how serious the car crash was or whether or not you suffered any personal injuries *. If the cause of the car accident or other road traffic accident * was not your fault then you may be entitled to claim for damage to your car, any personal injuries * sustained and any additional expenses incurred as a result of the car accident, amongst others.

COMMON ROAD TRAFFIC ACCIDENT CLAIMS *?

Bicycle Accident *
Car Accidents *
LUAS Accidents *
Passenger Accidents *
Taxi Accidents *

Bus Accidents *
Hit and Run Accidents *
Motorcycle Accidents *
Pedestrian Accidents *



WHAT TO DO AFTER A ROAD TRAFFIC ACCIDENT *?

1. Call the Gardaí

Regardless of how minor or serious the road traffic accident * was, it is important that you call the Gardaí to report the accident immediately.

2. Gather information on the other person(s) involved

It is important that you collect all the relevant information in connection with your accident:

- Details of other driver(s) / people involved
- Name and contact details of any emergency service workers at the scene
- Take a picture of the scene
- Time and Date of the accident
- Weather conditions at the time

3. Witnesses

If there were any witnesses to the accident speak to them and ask for their contact details. This may be of help to you when it comes to making a claim after the accident.

4. Obtain A Medical Report

In order to bring legal proceedings forward, a medical report should be obtained. Once this is received, a Form A application can be sent to the Injuries Board for assessment. The Injuries Board will then offer a settlement amount.

5. Speak to a road traffic accident * solicitor

Contact a solicitor as soon as possible if you are thinking of moving forward with a personal injury claim * or road traffic accident claim *. A road traffic accident solicitor * can help you in preparing your application to the Injuries Board and ensure that you follow the process in the correct format.

WORKPLACE ACCIDENT CLAIMS *

Accidents at work * can occur in a number of different environments; in the office, on a building site, on a farm or on any premises that an employee is legally required to be during the course of their working day.

Regardless of the type of injury at work *, it is important to maintain whether the environment was unfit or hazardous, even in the case of human error, ascertaining the details of how the accident occurred is very important for an accident at work * claim. Therefore, the type of work that an employee is hired to do and industry they work in may have an impact on what kind of injury an employee sustains.

COMMON WORKPLACE ACCIDENT CLAIMS *?

Building Site Accidents *
Dangerous Machinery *
Firefighter Accidents *
Ladder Accidents *
Slipped Disc At Work *

Conveyor Belt Accidents *
Electrician Accidents *
Health and Safety Breach claims *
Manual Handling Injuries *
Warehouse Accident *

Crane Accidents *
Farm Accidents *
Inadequate Lighting *
Scaffolding Accidents *

WHAT TO DO AFTER AN ACCIDENT AT WORK *?

It is important when making a work related claim * to decide what steps to take after an accident at work *. Before making a work related claim * your first priority should be to seek medical attention. In minor workplace incidents whereby you have a slip, trip or fall, you may feel as though you are fine, but what you don't realise is that the minor injury you have suffered could develop into a bigger health issue for you. Assessing your health after an accident is a critical first step.

Once you have had a medical assessment there are a number of steps you will follow:

1. Report the accident * to your superior

Before making work related claims * it is important that you notify your manager at work as to the accident that occurred. You need you to inform them of the injuries you suffered and the cause of the accident. It is advisable for you to seek confirmation from your superior that you have reported the accident, whether it is written or electronic.

2. Seek legal advice from a personal injury solicitor *

Once you have reported the accident, it is important that you seek advice from a personal injury solicitor * who has experience with accidents in the workplace. They can then talk you through the next steps as to what is involved when making work related claims *.

In the event that you do decide to take a personal injury * claim, you are not obliged to personally tell your employer. Your solicitor can write to your employer and notify them of the claim. Some clients feel that it would be better for them to inform their employer that a claim was being made and that their solicitor would be in touch. This is a matter for each client. Generally, we would advise that all communications regarding the case take place between the legal representatives.

PUBLIC PLACE ACCIDENT CLAIMS *

Slips, trips and falls (also referred to as public liability claims *) can occur in almost any environment. From tripping on a pavement while out and about as a result of an uneven or broken footpath, a fall in a supermarket on a wet or slippery floor, trip or fall in the workplace. All of these occurrences can lead to serious personal injury *. What is important to note is that in a public place there is a duty of care on the persons responsible for this area to ensure that a personal injury * does not occur. In some cases a slip, trip or fall can be attributed to the person who suffered the accident. However, in many other cases, the accident can be attributed to the negligence of the persons responsible for the upkeep of the area.

COMMON PUBLIC PLACE ACCIDENT CLAIMS *?

Slips, Trips & Falls in Public *
Injured in a Hotel *
Slip and fall at Work *
Personal Injuries on a Private Property *

Slip and Fall at Supermarket *
Slip, Trip or Fall in a Pub or Bar *
Injuries at a Restaurant *



WHAT TO DO AFTER A PUBLIC PLACE ACCIDENT *?

1. Report the Accident

It is very important that you report your slip, trip or fall to the owner of the premises. Once reported, you should ensure that the incident is recorded on their side. Check that they take details the accident and how it happened. It is advisable to request a copy of any incident reports you complete. Furthermore, it is required to be signed as proof that you reported the accident. This is important for when you make your claim *. If you were injured in a shop/supermarket/restaurant, for example, you may also report the accident to the Health and Safety Authority (HSA).

2. Document the Accident

It is important to you keep a very detailed record of the accident. When documenting an accident you should:

- Request details and contact information of witnesses to the accident.
- Take pictures of the accident scene and any physically visible injuries.
- Keep any receipts for any additional expenses that arose from the accident
- Request copies of any medical records/examinations that a doctor may have carried out.

3. Contact a specialist Slip, Trip and Fall Solicitor *

It is advisable to contact a personal injury solicitor * that specializes in slips, trips, and fall claims, to discuss your case and how best to proceed. This will ensure that you make the right moves at the right time. A personal injury claim will have to be first put through the Injuries Board; this is something that is best done with the help of a solicitor.

HOW TO MAKE A PERSONAL INJURY CLAIM *

STEP 1 - FIND OUT IF YOU HAVE A CASE

Contact a Personal Injury Solicitor * to find out if you have a case:

- Did your accident happen within the last 2 years?
- Was your accident caused by fault of another person?
- Were you injured as a result of the accident?

If you answered **yes** to these questions, you may be entitled to make a claim *

STEP 2 - PERSONAL INJURIES ASSESSMENT BOARD

Once established that you have a case, your solicitor will **submit an application** to the Injuries Board for assessment of your case. Your solicitor can handle the application process from start to finish for you.

To do this they must gather as much information as possible about the accident . In turn this enables the Injuries Board to assess the case.

STEP 3 - CONSIDER THE INJURIES BOARD ASSESSMENT

Once your application has been assessed by the Injuries Board they will **agree/disagree** that the accident was not your fault . They will be in contact with a suggested means of settlement to you by the person at fault. Your solicitor will then review the Injuries Board suggestions for you . Together you will decide if you want to **accept it or not**. At this stage your case will go one of two ways:

Possible Outcome 1

Both you and the party at fault for the accident accept the Injuries Board suggested settlement. The Injuries Board will issue further proceedings to the person at fault. Once this happens, your case will be settled and closed.

Possible Outcome 2

Either you or the party at fault does not accept the Injuries Board suggestions. At this stage, legal proceedings will be issued and your case may progress to a court hearing.

WILL I HAVE TO GO TO COURT?

The majority of cases are settled before reaching a court room. Before reaching the stage of a court hearing, a **settlement meeting** may be held . Here your solicitor and barrister may reach a settlement between you and the person at fault. This means that you may never need to set foot in a courtroom.

Either way, your case will be settled and closed, either at a settlement meeting or a court hearing.

HOW LONG DO I HAVE TO MAKE A CLAIM *?

From the minute an accident happens the legal clock begins to start.

It is important to be made aware of the legal time limits in place especially if you are involved in an accident due to the negligence of a third party. As only within a specific time frame are you able to bring a claim forward.

These time frames are known as the Statute of Limitations, set out by the statute of limitations act in 1957.

WHAT IS THE STATUTE OF LIMITATIONS?

The statute of limitations is an act set in place to highlight the **length of time a person has to bring a claim forward** following an accident. A person has **two years less a day** from the date of knowledge to bring a claim forward. Any claim that is made **after the two-year period** from the date of incident/date of knowledge is said to be **statute-barred**. This means that the claim is no longer actionable.

Date of Knowledge

The term 'date of knowledge' can leave someone confused as it is a bit vague with regards to what it actually is referring to. Some may ask, is it referring to the date an accident took place? Or, the date you were made aware of injuries that have been sustained? The answer is simply BOTH.

Other things that the 'date of knowledge' refers to is the date on which a person whom has been injured learns:

- That they **had been injured** as a result of an accident
- That the injury in question was **significant**
- That the injury was caused by **negligence, nuisance or breach of duty** by the party at fault for the accident
- The **identity** of the party at fault for the accident

In most cases the date of knowledge established by a person is the day that the accident occurred and injury was sustained as a result. This is not the case for all personal injury claims *. In some cases, an injury/illness may not manifest itself for some time after the incident occurred. In these cases, the date of knowledge is considered to be the date when they found out they were injured.

However the clearer this date of knowledge is the easier the legal process can become, and the issue of being over the statute is eliminated. Always remember that when bringing a case forward time is extremely valuable, so don't waste it!

Children and Legal Time Limits

If a child under the age of 18 is injured in an accident * their circumstances are treated a little differently than an accident involving an adult *. A minor cannot bring a personal injury claim * forward themselves until they reach the age of 18.

A minor does, however, have an opportunity to bring an injury claim forward before their 18th birthday if a parent or guardian does so on their behalf. This is referred to as acting as the minor's 'next friend'. It is advisable to bring a claim forward as soon as possible in order to source reliable evidence to strengthen your child's case *.

If no claim is made in the 2 years following the accident, the two-year time limit to make a claim starts from the date of the child's 18th birthday where they can bring a claim forward themselves.

Exceptions to the Statute of Limitations

There are cases where there are exceptions to the statute of limitations for certain clients. This only occurs when special circumstances are present with regards to the case at hand that may hinder a person's ability to bring a case forward themselves.

Exceptions to the statute of limitations can be seen when:

- A person has sustained injuries after an accident that has left them mentally impaired as a result.
- A person sustains an injury that prevents them from making a claim, in this case, the person will have two years from the date where they are considered capable to do so.
- Misdiagnosis of an illness/injury. In this case, the 2-year time limit would start as soon as the person is diagnosed correctly

HOW IS COMPENSATION CALCULATED *?

One of the most common questions asked by people who are pursuing a personal injury claim * following an accident that was not their fault is how much compensation they will get. This is a difficult question to answer as there are many factors that are taken into consideration when a compensation amount is settled on and is a question that a personal injury solicitor cannot give a definitive answer to. Therefore, a useful tool to estimate a compensation claim amount is the Injuries Board book of quantum.

WHAT IS THE BOOK OF QUANTUM?

The Injuries Board Book of Quantum provides us with general guidelines as to **how much compensation may be awarded** in a personal injury claim * and is used by the Injuries Board when they are assessing a personal injury claim *. This book was compiled by examining sample cases from over 51,000 closed personal injury cases * from 2013 and 2014 and is based on actual court figures. It shows us what personal injury compensation * amounts were awarded in the past and help give an **estimate as to how much compensation could be awarded** based on a person's specific injuries.

WHAT CAN COMPENSATION INCLUDE *?

Compensation claims take into account certain aspects of a personal injury along with any after effects the injury has/will have on a personal quality of life and ability to earn money. Compensation claim amounts are decided with the following aspects in mind:

- Pain/suffering and loss of quality of life/enjoyment of life
- Past loss of earnings
- Medical bills as a result of the injury
- Loss of future income caused by the injury
- Cost of future medical care

How does the severity of an injury affect the amount of compensation * awarded?

The Book of Quantum and the figures you will see below will vary depending on the severity of a person's injury and will generally categorise injuries into the following ranges:

- 1. Minor** - The person usually fully/substantially recovers from an injury.
- 2. Moderate** - Moderate injuries where a person has substantially recovered from an injury but ongoing symptoms persist following recovery which interferes with a person's quality of life and/or interferes with them carrying out their day to day activities. Generally, the person will reach full recovery from these types of injuries.
- 3. Moderately Severe** - The injury has resulted in long-term/permanent incapacity or physical limitations that impact the part of the body that was injured.
- 4. Severe and Permanent Conditions** - The injury has caused major disruption to the person's quality of life, ability to carry out their daily tasks and other areas of their life resulting in long-term serious pain and/or continuous medical attention.

WHAT IF I HAVE MULTIPLE INJURIES *?

If a person has suffered more than one injury in an accident please note that adding the different values together will not give you an accurate estimate of compensation.

Generally, when the Injuries Board is assessing your injury they will look to the most severe injury first and then adjust that value to incorporate any other less serious injuries to arrive at a final amount of compensation * to be awarded to you.

HOW TO USE THE COMPENSATION ESTIMATOR *?

**CLICK HERE TO BE BROUGHT TO THE
TRACEY SOLICITORS COMPENSATION ESTIMATOR**



The compensation estimates contained in the interactive Injuries Board Estimator you will find when you click the box above are intended to provide you with general guidelines of compensation amounts based on the Injuries Board Book of Quantum.

It is not intended to provide you with specific estimates on how much compensation may be awarded. If you move forward with a personal injury * case, the Injuries Board will assess your case and provide you with a compensation figure based on the severity of your injury, length of recovery and the outcome of your recovery.

To use the estimator:

1. Identify the category that related to your injury
2. Assess the severity of your injury
3. Assess the value range of your injury
4. Consider multiple injuries
5. Move your mouse over the icons on the relevant part of the body to see the book of quantum compensation guidelines

If you wish to discuss this further, contact our personal injury solicitor team on 01 649 9900 or email ask@traceysolicitors.ie and tell us about your case.

CHILD PERSONAL INJURY CLAIMS *?

Child personal injury claims * arise following an accident involving children. Accidents involving children * are treated differently to adult personal injury claims *. In all cases, the parents concern for the welfare and health of the child are of utmost importance, often overshadowing the need or want to proceed with legal proceedings. A claim for an accident involving a child * is treated differently than personal injury claims * for adults.

A person under the age of 18 is considered a 'minor' in the eyes of the law. A minor cannot engage a solicitor or make an accident claim by themselves, instead, another adult person will have to represent them in the personal injury claim *. The other person who represents the minor in a claim is called their 'next friend'. A next friend representing a minor is usually a parent or guardian of the child involved in the accident.

If your child has been involved in an accident as a result of somebody else's negligence and you are considering making a child injury claim, the best thing you can do is contact a child injury solicitor first to discuss the case and how best to proceed.

COMMON CHILD ACCIDENT CLAIMS *?

Defective Children's Toys *
Accident at Creche *
Accident on a School Bus *
Accident in a Public Place *

Accident in Day Care *
Accident at School *
Accident at a Playground *
Birth Injuries *



CAN I MAKE A CLAIM ON BEHALF OF A CHILD *?

In the eyes of the law, a child or minor is the term given to a person who is under 18 years of age. A minor is unable legally to make a claim on their own behalf. Therefore in accident claims involving children, an adult can step in and make the personal injury claim on their behalf.

The adult that steps in to make the compensation claim is known as the '**Next Friend**'. A 'Next Friend' is usually the child's **parent or guardian or a family member**.

Before you consider legal proceedings and making a claim *, your first priority should be to seek medical attention for the child involved. In minor accidents whereby the child involved seems to feel fine. However, what you don't realise is that the minor injury you have suffered could develop into a bigger health issue for the child in later years. Assessing the health after an accident is a critical first step.

It is important that when you seek medical attention for your child that the medical practitioner records the injuries. Any symptoms that arose from the accident will be used in evidence in your child injury claim at a later stage.

CHILD INJURY CLAIMS PROCESS *

Once the child has had a medical assessment and you have contacted a child injury solicitor * there are a number of steps you will follow:

1. Record and report the details of the accident

It is important that you have a clear account of how the accident happened when making a child injury claim. Important facts to record are:

- Time and Date of the accident
- Weather conditions at the time (if the accident happened outdoors)
- Circumstances that caused the accident
- Request contact details for any witnesses to the accident
- Take photos of the accident scene and any conditions that led to the accident
- Report the accident to the relevant persons or authorities. The person you report the accident to will depend on where and how the accident happened. When reported you may need to complete an accident form. You should make sure that you request a copy of any accident record forms you complete and file it with your personal records of the accident.

2. The Injuries Board

A Next Friend, with the help of a solicitor, can initiate a child accident claim by obtaining a medical report from the doctor/hospital that treated the child following the personal injury. Once obtained, an Injuries Board Form A must be completed and sent together with the medical report.

The Injuries Board will then suggest an amount of compensation to be paid by the party at fault to the child. Speak with your solicitor and they can help you decide on whether to accept or decline the Injuries Board suggested compensation.

In cases where the parent or guardian of the child accepts the Injuries Board suggestion, the next step is for your solicitor to apply to the Courts to have the settlement amount paid. All child injury claims must come before the court for a ruling. This is carried out before it is settled and it is down to the sitting judge to review the medical report and the injuries. The judge ultimately decides whether the assessment and compensation amount is appropriate to the injury.

In cases where the Injuries Board suggested settlement amount is not accepted by the parent/guardian or the Judge, then the matter will proceed further and court proceeding will be issued. The case may be settled outside of court, or reach court and a ruling will be given by the court as to how much, if any, the child will receive.

Please note that the only exceptions to the above are medical negligence cases *. Medical negligence involving children are treated differently to other types of personal injury * and are not assessed by the Injuries Board.

3. Payment of Child Injury Claim Settlement *

Where a child injury claim * is successful and a settlement amount has been agreed and approved by the Court, it is important to note that the amount can only be paid to the child when the child reaches the age of 18. Once the child reaches 18 years old, they must make an application to the Courts for the amount to be paid to them.

WHY IT IS BEST TO LEAVE YOUR CLAIM TO A SOLICITOR?

When submitting a claim to the Personal Injuries Assessment Board (PIAB), there are certain elements individuals must carefully consider during their claims process. However, many people do so with the help of a solicitor to ensure the process runs efficiently and effectively.

The Injuries Board Application process can be confusing at times, so this is why choosing a solicitor to represent you in your claim ensures that you have legal representation, professional guidance and a knowledgeable and experienced legal advisor to guarantee that your claim is processed correctly.

Your solicitor will deal with your case with your best interest at heart and guide you along every step of the way through the legal proceedings.

Submitting Your PIAB Claim with a Solicitor

Your solicitor will submit an Injuries Board Application on your behalf. As a solicitor is aware of the process they can avoid any legal bumps in the road you might encounter if you did this yourself.

WHAT INFORMATION WILL I NEED ?

Personal contact details

Accident details

Witness details (if any)

Medical treatment

Pre-existing medical conditions

Correct name and details of the person/company at fault for the accident

Type of accident

Correct date and time of the accident

Details of all injuries

Previous accidents/injuries

Loss of earnings



NOTE: Any information that you do not have, your solicitor can help you get.

Identify the Defendant/Party at Fault

It is critically important to ensure that the correct party has been identified following an accident. Likewise, in cases where there are multiple parties at fault for the accident. Your solicitor will ensure you identify the correct party or parties at fault.

Obtain Medical Reports

Obtaining medical reports is an important step in the claims process. When submitting an application to the Injuries Board, it is your medical reports that will prove your injury. Your solicitor will request medical reports from the applicable sources on your behalf.

Once the medical report arrives, your solicitor will talk you through it to ensure that it is entirely correct. They will double check the date of the accident, description of injuries, how the accident happened and doctor's diagnosis. If any of this information is incorrect then the solicitor will return this report to the doctor to be amended.

Statute of Limitations (Legal Time Limits)

Every personal injury claim * is subject to a time limit, i.e., that you have a certain amount of time to make a claim following the date of the accident, or the date at which you realised your injuries (which in some cases can be some time after the incident).

This time limit for most personal injury accidents* is 2 years less a day. If you are making a claim and your time is running out, it is important to note that as soon as the application is submitted the clock stops of the statute of limitations. Your solicitor will clarify all these key details with you.

Understanding the Settlement Amount

At this point, your solicitor can help you in understanding the settlement amount in comparison to your losses. One of two scenarios will happen as a result:

1. Both parties accept the settlement suggested by the Injuries Board.
2. One or both parties reject the settlement suggestion.

The Injuries Board will notify you and the party or parties at fault and provide a suggested compensation amount to be paid to you. Together with your solicitor, you will decide whether to accept the offer or not. Your solicitor's knowledge and experience will be vital in helping you consider whether to accept the suggested compensation amount or move to the next stage.

If you reject the offer, an authorisation for you to move to legal proceedings will be issued and your solicitor will start this process for you.

Legal Proceedings

Your solicitor will issue legal proceedings following your instruction to do so. Once issued, the party or parties at fault will be given the opportunity to settle before a court hearing by way of a settlement meeting. At the settlement meeting, your solicitor and barrister will negotiate with the other side to come to an agreement that best meets your interest. You will not have to speak to, nor see the other side at the settlement meeting, all dealing are handled through your solicitor.

If at this point you come to an agreement, the settlement will be paid to you. If you still cannot agree to a settlement at this point then you move to a court hearing where a judge will determine your settlement.

TELL US ABOUT YOUR CASE

Tracey Solicitors draw on over 30 years of experience as personal injury solicitors * and have the expertise and knowledge to help you navigate the legalities of making a claim without any of the legal jargon attached to it.

Our promise is to make law accessible to all. For more information call 01 649 9900 or email ask@traceysolicitors.ie and tell us about your case.



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