

Small Claims Court Fact Sheet for a Personal Injury Claim

This is a self help advice sheet. The small claims court does not pay for legal representation; however free advice about how to deal with a small claim yourself can be found below.

This factsheet should be used as a general guide only - if you require legal advice you should consult a solicitor.

Introduction to The Small Claims Court for your personal injury compensation claim

The Small Claims Court was established to assist people in bringing lower value civil claims without the need for instructing solicitors which can be costly in some cases. The Small Claims Court currently deals with claims with a value not exceeding £5,000.

The Small Claims limit for **personal injury compensation cases** is £1000. This level of personal injury **compensation** relates to minor injuries only and if your injury has / is likely to cause you more than a few weeks of pain you can instruct Thompsons to deal with your case on a cost free basis to yourself.

If you are a **Union member**, you may have the benefit of free legal assistance and should contact your Union. If you are not a union member and you wish to pursue a personal injury claim yourself with a value of £1,000 or less, this section is aimed at providing you with some guidance through the legal process.

What has to be proved?

To be successful in any personal injury claim, you have to establish that someone else was to blame for your injury. In other words, you need to prove that someone else was negligent or careless. This person or company is called the Defendant. The Defendant could be your **employer**; it could be another **driver**; or it could be the driver of the vehicle in which you were a **passenger**. It could be an **occupier** or the person who owns a **property** where you had an accident, for example, shop premises, **school** etc.

In addition to proving that someone else is to blame, you also have to prove that an injury resulted from that negligence. This is called causation.

NEGLIGENCE + CAUSATION = LIABILITY

So, you think you may have a case - how do you go about bringing a claim?

What accident compensation can you claim for?

• You can claim compensation for your injury

A general guide to the kinds of injuries that are appropriate to take to the Small Claims Court could include injuries lasting anywhere between 1-3 weeks with no long term complications or minor scarring. This is not an exhaustive list and every case will be decided on its merits and on the medical evidence.

• You can claim for loss of earnings

If you have been off work for any period of time because of your injury and you suffered loss of earnings then these can be included within the claim.

• You can claim any other financial expenses as a direct result of your accident

These can include damage to your clothing; any travel expenses you incur going to and from your doctor; or payment for medication. Indeed, any loss which can be directly attributed to your accident can be included within the compensation claim.

You need to prove your loss. Keep your receipts.

If you are in any doubt about the value of your injury or feel your claim will exceed £1000, you should seek professional advice. Telephone us on 08000 224 224 or complete one of our online [compensation claims forms](#).

How long do you have to start your personal injury compensation claim?

The general rule in personal injury cases is that Court proceedings have to be started within 3 years of the date of the accident occurring.

Please note there are various exceptions to this rule, for example if you are on a ship, plane or balloon when you are injured, court proceedings should be started within 2 years of the accident happening. If you take longer than this to start your claim you are likely to be prevented from pursuing compensation.

There are other exceptions when dealing with, for example, [disease claims](#). In addition accidents happening in foreign jurisdictions will have different rules applied to them. You should seek professional advice in such circumstances.

What do you do first?

Write to the Defendant(s) setting out the claim:

- explain how the accident happened
- explain why they are to blame
- state what your injuries are
- provide details of financial loss.

If the Defendants ignore your letter or refuse to pay compensation you may commence court proceedings.

How to commence court proceedings

A claim will need to be started in your local County Court. The Court Service runs a very helpful website at www.hmcourts-service.gov.uk. There is a section entitled Court information and addresses which allows you to key down to your local Court to obtain the relevant details. Many of the County Courts also have a Small Claims pack which does provide a step by step guide through the process.

You will need to obtain from your local court an N1 form, this is the Claim Form. This form can be downloaded from the Court Service website. You are the Claimant and need to fill in your details. The Defendant is the person you are suing. If the Defendant is an individual make sure you insert their full name, Mr or Mrs etc. If it is a company the registered office address should be used. If you do not know the registered office address, you can check this by going on the companies house website at www.companieshouse.gov.uk and downloading their free company information section.

In the section "brief details of claim" write in the following:

"The Claimant claims [damages](#) for personal injuries sustained and losses and expenses incurred in an accident that happened (during the course of the Claimant's employment and / or on the premises of etc) on or about (insert the date of the accident) as a result of the Defendant's negligence and/or breach of statutory duty".

In the section "value of claim" insert:

"I expect to recover not more than £1,000".

You will then need to complete the section entitled "Particulars of Claim".

There are various Regulations that govern the workplace. If you are running the claim yourself the Court will not expect you to know all of these. You must however state how your accident happened and why you feel the Defendant is to blame. Consider whether you had the right **protective equipment** at work - the right gloves, footwear, eye goggles etc.? Did you have the proper training? Were your employers asking you to **lift something too heavy**? If you were involved in a road traffic accident, was the driver driving too fast? Did they fail to indicate, perform an illegal manoeuvre etc.? If you visited someone's property and fell down a hole, was it fenced off? Were there warnings? If the accident **happened in the street** the Defendant will be the Highways Authority for that area.

If you have suffered loss of earnings etc write these in the Particulars section as well.

Remember to sign the form and complete the "Statement of Truth" which confirms that the contents are true to the best of your knowledge and belief.

This claim form will need to be accompanied by some evidence proving an injury. This is usually in the form of a medical report. If the injuries are minor then your general practitioner should be able to write you a short report with reference to your notes. You may have to pay for this. Take photographs of any bruising or scarring.

You will then need to take three copies of the Claim Form, the Particulars of Claim and the medical evidence to your local County Court. You will need to pay a fee (the fee depends on the value of the claim and can be waived in certain circumstances). For more information, visit www.hmccourts-service.gov.uk. The Court will then stamp your documents with a Court seal and give you a case number. You will then be handed back two copies or they will be posted back to you. One of the copies will have a "Response Pack" attached to it.

As soon as you receive the paperwork back from the Court, keep one copy for your own records and send the other copy to the Defendant. You should therefore send the Claim Form, the Particulars of Claim, your medical evidence and the Response Pack to the Defendants. Send these by first class post and make sure that you have the correct postage. This is called service. Service is deemed to have taken place 2 days after postage.

Note: from the date which the Court writes on the Claim Form you must have served the proceedings within a 4 month period. If you fail to do so, your claim will be struck out and you will not be able to proceed with it. DO NOT WAIT!

If the documents are returned to you by Royal Mail, check the address of your Defendant. You should serve proceedings in person if necessary.

The Response Pack allows the Defendant several options to respond to your personal injury claim.

They may admit fault. They may deny fault. They may accept some of the blame but partly blame you. They may not respond at all.

What do you do now?

If the Defendant admits fault for your personal injury

This is good news. The Court will then list the case for what is called a disposal hearing. You will need to attend the hearing. The Court will ask you about your injuries and the other side will have the opportunity of asking you questions as well.

Remember: if you want to rely on any documents to support your claim for compensation, make sure that you have sent copies to the Defendant and lodged copies with the Court beforehand. Prepare a small trial bundle of these documents. It helps if you prepare an index and number the pages. The Court will then decide the amount of damages and make an Order for payment. It will tell the Defendant how and when they are required to pay.

The hearing will take place either in the District Judge's room or in a small Court room. Such hearings are not too formal but you should address the District Judge as "Sir" or "Madam" and above all be polite and do not lose your temper.

If you are successful in your personal injury claim, you are entitled to ask the Court for your costs in starting the proceedings i.e. any Court fees paid. If you paid your doctor for a medical report ask that this be paid as well. Make sure that you obtain a receipt from your doctor.

If the Defendant does not respond to your accident compensation claim

Once the Defendant has received the proceedings (2 days after you sent it to them), they have 14 days to send you a Defence which is a legal document where the other side respond to your claim for compensation. If they file what is called an Acknowledgment of Service with the Court they will have 28 days to send you a Defence from the time they received the proceedings. The Court will tell you if they do this.

If the Defendant does neither of the above, you must ask the Court to enter judgement on your behalf. The Court will have sent you a Notice of Issue when you started proceedings simply confirming that fact. At the bottom of that form is a standard form entitled "Request for Judgment". Fill this in and send it to the Court. If judgement is entered against the Defendant the Court will list the case for a hearing and the procedure will be the same as if they had admitted responsibility for your accident.

If the Defendant denies liability or argues that you contributed to your injuries

This means your personal injury claim is contested. In such circumstances the Court will send you what is known as an "Allocation Questionnaire". You will need to fill in this form and send it back to the Court. Make sure that you send it back by the date requested by the Court. If you are claiming less than £1,500 then there is no further Court fee to pay. Again this form can be downloaded from the Court service website. You will need to indicate whether you want to call a witness who may have seen the accident or can comment on the work process if you are dealing with an accident at work. If you have obtained a medical report insert the doctor's details on the relevant section of the form.

The Court may then give you instructions (known as Directions) as to when you should exchange any relevant documentation with the other side or exchange witness statements. Be guided by the Court directions and make sure that you action them by the date required.

Check that those documents you wish to rely on, including any witness statements, are in the trial bundle before the Court at the hearing. Read any statements that the Defendant gives you - you will be entitled to ask questions of their witnesses at the hearing to clarify any points. If you are acting in person the Court will provide you with guidance on the process.

The Court may direct you to lodge a "Listing Questionnaire" upon which you will need to confirm that you have complied with all Directions and are ready for the hearing. It will ask whether there are any dates to avoid. Again, there is no fee payable. The Court will not always send you a Listing Questionnaire and the Small Claims Court has been known to simply list a hearing date at some point after the last direction given to you.

So remember the six Golden Rules of an accident compensation claim:

1. Start Court proceedings in time- the 3 year rule applies generally (there are some exceptions as mentioned above – if in doubt seek professional advice).
2. Serve your proceedings within 4 months of the issue date
3. Prove your case - get a medical report, a witness, keep your receipts
4. Comply with any directions the Court gives you on time!
5. Attend the hearing
6. Remember to ask for your costs if your case is successful.

Examples of Personal Injury Compensation in Small Claims Cases

The following personal injury claims were taken to the Small Claims Court. We hope they will encourage you with your own claims:

Personal Injury Claim 1

A cement worker was working on a mixing machine to mix acrylic thickener for paint. A pipe ran from a pump to a machine. He was carrying out the process of transferring the thickener into the tank when the pipe blew off covering him with liquid / powder mixture. Although he was wearing safety goggles, the mixture went behind these and into his eyes.

The accident had been caused by plastic clips holding the pipe to the pump coming loose due to the vibration of the pump.

Court proceedings were commenced. It was contended that the equipment was not fit for its purpose under the Provision and Use of Work Equipment Regulation 1998.

He suffered an abrasion to his right eye, burning and blurred vision. He had to use eye drops for a week.

Damages were awarded in the sum of £500. Compensation was agreed after Court proceedings had been commenced but before hearing.

Personal Injury Claim 2

A worker was asked by his employers to deposit 8 tubs into a skip at the back of their premises. The skip was a conventional open top design with doors at one end. The door was difficult to open and refuse had collected towards the rear of the door. The only method available to him was to throw the tubs over the top of the skip as he did so the tubs caught the edge of the skip and fell back onto him.

The claim was brought under the Manual Handling Regulations 1992.

He suffered a 1cm diagonal scar on the head which had fully healed and a faded scar of about 8cm above the ear and below the hairline.

Compensation was awarded in the sum of £500. Damages were agreed after Court proceedings had been commenced but before final hearing.

Personal Injury Claim 3

A restaurant guest was eating a chicken variety meal in a well known establishment. His meal included baked beans. As he ate the beans he felt hard pieces in them. When he looked at the beans he noticed that there were small metal fragments in them which chipped some enamel off his two front teeth. The chips were not large enough to notice. The guest needed a white filling in one of the teeth and had some pain for a few months.

Compensation was awarded in the sum of £900 at trial.

Accident Compensation Legal Advice

THIS FACT SHEET IS INTENDED AS A GENERAL STATEMENT OF THE PROCEDURE AND DOES NOT PURPORT TO RENDER SPECIFIC ADVICE, LEGAL OR OTHERWISE. SPECIFIC ADVICE ON A PARTICULAR PROBLEM SHOULD ALWAYS BE SOUGHT.

Thompsons Solicitors
www.thompsons.law.co.uk
08000 224 224