

**The value of a claim for personal injury may be greater than £1,000,000, or less than £15,000, but whether it is large or small, it demands the same attention to detail to pursue it successfully.**

### THE PERSONAL INJURY PROTOCOL

On the 26th April 1999, personal injury lawyers were presented with probably the most tremendous change in the way that they were required to pursue Personal Injury Claims. The Protocol was brought in an attempt to streamline the process of achieving settlement of a claim, and is known colloquially as "The Woolf Reforms".

### HOW DOES IT WORK?

For as long as can be remembered, claims have been pursued by a process of an argument between the negligent party's insurers and the injured party's solicitors. This argument was not assisted by the fact that both parties could dispute each other's medical evidence, which would result in two Consultants sometimes having to attend a trial. The negligent party was able to withhold valuable information in relation to the claim. Usually at the time that proceedings had been issued could a request be made for documentation to support, for example, health and safety at work issues, the frequency that a highway had been maintained, service/inspection records on equipment that was considered to be defective.

### WHAT ARE THE RULES?

- A detailed letter of claim must be sent to the party considered at fault. This letter must set out exactly where and how the accident occurred, the nature of the injury, basic details of anticipated losses, and of course setting out why the other party is considered to be at fault.
- The letter of claim will also provide details of the Consultant that the claimant (the injured party) wishes to use. If at all possible, under the terms of the Personal Injury Pre-action Protocol experts should be agreed. This reduces both time and costs. In addition, whilst it may not have been unusual to have a "friendly" call from a consultant who had examined a client who appeared to be in a lot of pain, but was later to be seen doing cartwheels in the hospital car-park, the other side would also be given notice of the "cartwheels". The report is now written not for the benefit of either party, but is directed to the Judge. It is unbiased, and the experts are all told that their duty is to the court, which may, after all, be required to settle the claim.

### THE INVESTIGATION PROCESS

Most people are, fortunately, insured. By law, every driver should be. The normal process is therefore that the letter of claim is sent to the other party's insurers. They will within 21 days acknowledge receipt of it, and from that moment, they have three months to carry out their investigations into liability. This three month period should be unhindered by chaser letters to them, asking how matters are progressing. It was suggested in order to achieve early settlements, or at least early decisions on liability. If liability is denied, they need to tell you why. If it is agreed, you can press on and obtain medical evidence.

### WHO CAN YOU CLAIM AGAINST?

#### *Occupier's liability*

Shops, public parks and playgrounds, schools and colleges, prisons or other places of detention, clubs and

pubs, the local garage, a council or your landlord if you are a tenant, hospitals, holiday camps, or even your neighbour, all have an obligation to you under Occupier's Liability, if you are injured on their land.

### *Motorist's liability*

Are you a pedestrian who has been knocked down by a motorist? A pillion passenger who was injured on a motorcycle? A cyclist hit by a car? A driver of a motor vehicle or motor cycle hit by another vehicle? All of you can claim, if you can show that the other party was negligent.

### *Product liability*

Under The Consumer Protection Act 1987, brought in to apply EC laws, you can claim for liability for defective products from all or either of:

- a) the producer of the product
- b) any person who has held himself out to be a producer of the product, by for example putting his name or trade mark on the product
- c) any person who has imported the product into a Member State from a place outside the Member State in order, during the course of his business, to supply it to another.

### *Private individuals*

Most claims against private individuals involve animals, and it is important to be able to identify the person who was the "keeper" of the animal at the time of the incident. The animal need not necessarily be considered 'dangerous' for a claim to succeed. However, often as not these people are not insured and you may have difficulty in enforcing any award as they may not be able to pay. If the injury was sustained as a result of an assault or other crime, any award for damages may be paid by the Criminal Injuries Compensation Authority, and so would be much less than against a private individual.

### *Your employer*

Have you inhaled toxic fumes, suffered crushing and/or trapping injuries caused by machinery, been injured as a result of the conduct of a fellow employee, slipped from a ladder, been hit by falling objects on a building site, injured yourself on unstable scaffolding, been overcome by fumes, sustained an injury as a result of not being provided with adequate training or protective clothing? Were you provided with defective equipment to work with?

## WHAT CAN YOU CLAIM?

You can claim an award for your injury and suffering, and you can also claim for any losses/out of pocket expenses which you have sustained directly as a result of the injury. These may include:-

Loss of Earnings  
Nursing care  
Medical Treatment Fees

Travel Expenses  
Loss of Pension  
Damaged clothing

Prescription Charges  
DIY expenses  
Gardening

## HOW DO I KNOW IF I HAVE A CLAIM TO PURSUE?

At [stevensdrake](#), we offer a free half hour interview in which we can discuss the incident, the nature of your injury, and provide an assessment on whether there is any benefit to you to pursue an action. At this time we would also confirm various options available to you to fund your claim, which includes acting for you on a no win no fee basis, so all the enquiry will cost you at the outset is your time.

### LITIGATION



John Lovatt

office: 01293 596942  
mobile: 07884 260980  
email: [john.lovatt@stevensdrake.com](mailto:john.lovatt@stevensdrake.com)

sd.