



## Accident at Work Claims

# WORK INJUR

### 1 WORKER'S DETAILS

Title

Family name



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Boyd Rice Solicitors have extensive experience in acting for clients who have been injured in their place of work. We appreciate the sensitivities around bringing a claim against your employer. We will discuss your accident with you confidentially and decide how we can assist you in the best possible way.

► Explain the standard process for making an injury claim arising from an accident at work.

We will discuss with you in detail the circumstances that led to your accident and will gather any evidence that you have retained. We then will need to send a detailed letter of claim to your employer outlining the accident circumstances and indicating why we hold them at fault for your accident. This is normally passed to their Employer's Liability insurer who will begin liability investigations. Normally the insurance company will compensate you for your injuries and not your employer themselves. The Employers' Liability (Compulsory Insurance) Act 1969 imposes a legal obligation on employers to take out and maintain insurance in respect of their employees claims arising from work related injuries.

The next step is to arrange a medical examination with a medical expert (who specialises in the types of injuries that you are suffering from) in order to confirm injuries resulting from the accident.

► What should I bring to my initial meeting with my Solicitor?

In short everything that you deem to be relevant to your accident. This could be (but is not limited to);

- Your contract of employment
- Payslips
- The Accident Report Form
- Health Service Executive report form
- Training records and certificates
- Employees' Handbook
- Witness statements
- CCTV footage
- Photographs of the accident locus

We will request a copy of the CCTV footage immediately as this may be recorded over. CCTV footage can form a pivotal part of your claim. You are entitled to request a copy of the footage as well and should do that at the earliest possible opportunity.



### ▶ How do you support clients who are making an accident at work claim?

We obtain and collate all the evidence required for the claim. Bringing a claim can be a complicated and stressful process especially when the claim is being progressed against your employer. We support our clients by dealing with any stress that may arise during the claim meaning our clients can focus on their recovery.

### ▶ How long will it take you to bring my case to conclusion?

Every case is different however we always aim to conclude cases within 12 months from receipt of your instructions however the timescale for resolution of your claim is largely dependant on the timescale for resolution of your injuries.

### ▶ How long do I have to make a claim?

The time limit or limitation period is 3 years from the date of the accident or date of knowledge of your injury but we would advise bringing the claim at the earliest opportunity.

### ▶ Can you recover my loss of earnings?

If you have sustained an injury at work and only receive statutory sick pay (SSP) during your period of absence from work we will seek recovery of the difference between SSP and your full wages.

### ▶ How much is my accident at work claim worth?

The amount that you are awarded in respect of your injuries is based on a medical report outlining the extent of the injury caused. For a general guide please consult our claim calculator. <https://www.boydricesolicitors.com/claim-calculator/>

### ▶ Can my employer sack me if I claim against them?

If your employer's negligence has resulted in you sustaining injuries then you have a legal entitlement to claim compensation without fear of being dismissed. If your employer were to dismiss you for bringing a claim you could potentially have another claim in the Industrial Tribunal for unfair dismissal.

### ▶ Will my employer pay me if I am out of work as a result of an injury sustained in the workplace?

Many employers chose not to and that is exactly why many of our clients approach us to pursue a claim on their behalf as they feel let down by their employer. Employers are not required by law to provide occupational sick pay schemes for their staff. You will in all likelihood only receive SSP. We will seek recovery of the difference between your full pay and the amount you receive in SSP vis a vis your claim. If your employer does pay you full pay that should not be construed as an admission of liability, they can do this without accepting liability for the incident in question.



### ▶ Can I claim if the accident was partly my fault?

Yes, you are entitled to claim compensation for personal injury even if you were partly to blame. Your employer should provide training in respect of how to carry out your job in a safe manner. The Courts acknowledge that humans are not perfect and don't always do things to the letter and as such the concept of contributory negligence was developed. If you were partly to blame for your accident then your employer can still be held somewhat liable. Essentially the question for the Court in these circumstances is to what extent did you deviate from your training and were the author of your own misfortune. Even if you feel that you were partly to blame for the accident you should still seek our advice as you may still be entitled to make a claim.

If you are found to be partly to blame or your actions have contributed to the accident you can still claim compensation but your final award of compensation will be reduced to reflect the fact that you contributed to the accident. Depending upon the severity of the injuries sustained the final award can still be significant even in cases where you are partly to blame for the accident.

### ▶ Should I speak to my GP or go to Hospital?

Going to your GP or Hospital is not a prerequisite to making an injury claim but if you are in pain as a result of the accident it makes sense to arrange an examination and/or treatment from a medical professional.

### ▶ Can I go to private physiotherapy?

Yes, if you go privately please keep receipts and we will seek recovery of the cost of physiotherapy on your behalf. Alternatively you can arrange for physiotherapy through the NHS.

### ▶ Does it make any difference if you have fully recovered physically

You can still make a claim if you are fully recovered but will still need to be examined by an independent medical expert.

It is always best to speak to us at the earliest possible opportunity so that we can gather a comprehensive overview of how your injuries have impacted your day-to-day routine.

### ▶ Am I entitled to be compensated for psychological distress arising from the accident?

Yes, it is very common for individuals who have sustained a physical injury from an accident at the workplace to then develop psychiatric injury such as an adjustment disorder or depression. In order to determine the extent of your psychological injury we will arrange for you to be examined by a Consultant Psychiatrist.



### ▶ The Company that I worked for is no longer trading- can I still claim?

Provided we can track the Employers' Liability insurer then we should still be able to progress a claim on your behalf. Clearly the earlier that you get in contact with us in this scenario the better! If the Company was taken over by another Company and is trading under a new name then normally the new Company will inherit the liabilities of the old Company and a claim can still be progressed.

### ▶ Will my colleagues find out that I am claiming or how much compensation that I get?

The simple answer is no, not unless you tell them or the case ends up in Court and a written decision is prepared. Well over 90% of claims of this nature resolve before they get anywhere near a Court.

### ▶ If I claim will any future employers know about it?

No, there is no central claims register in this jurisdiction so you will not be at a disadvantage in the work place if you do decide to leave the Company at some stage in the future.

### ▶ My injuries were caused by a colleague and not by my employer's negligence- can I still claim?

Yes but your employer can be held liable for the negligent actions of one of its employees that lead to another employee being injured. This is known as vicarious liability. Your accident may have been caused by your employer failing to provide adequate training to your colleague and on that basis your employer should be held liable for your injuries and you should be compensated accordingly.

### ▶ Can my social media posts be used against me when making a claim?

Yes, nowadays you will find that your employer's insurance company will review your social media activity. Social media investigations are now commonplace and can seriously damage, and some cases destroy, a personal injury claim.

### ▶ I work for an agency, can I still claim?

The same health and safety at work regulations cover all employees, therefore any can make a claim. This is regardless of whether they are full-time or part-time, on a short-term contract or even working via a 3rd party agency on temporary terms. Employers must ensure that all staff are adequately trained to work safely and provided with the right equipment. They should also have knowledge of company procedures, how to access support and how to report any incidents and where to seek first aid assistance.



The above information is intended as a guide only. It should be read in conjunction with legal advice from one of our experienced team of Solicitors.

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Solicitors

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To start a claim today email:  
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