

PERSONAL
INJURY
ADVICE

Top 5 mistakes that personal injury clients sometimes make

- 1 Not using a personal injury solicitor.** Often insurance companies will try and settle a claim directly with you. They'll tell you that solicitors will complicate matters and that you'll receive a better settlement without the solicitor's fees. This is untrue as most personal injury solicitors use a 'no win, no fee' agreement. Also, insurance companies will try their best to throw out your claim or to bring your claim down to the minimum amount possible. Clearly, it is against your best interests to accept any deal made by the insurance company that represents the party at fault in your accident.
- 2 Assuming all personal injury solicitors are the same.** People injured in car accidents often use the law firm recommended to them by their insurance company. They don't question whether the firm is any good and if they have the relevant experience. Ask the solicitor how many successful claims they have handled, what kind of claims are they experienced in and if they have dealt with a claim like yours before. What relevant accreditations do they have? There are no stupid questions; this is your claim and you have a right to know what is going on, so ask away. Many clients also feel that they cannot change law firms once their claim has been started. This is not so. If you are not happy with the original solicitor you have chosen, then you have every right to instruct another one instead.
- 3 Not keeping a record of financial losses.** Every time you incur a cost, or even a friend or relative incurs a cost, because of your accident, make a note of it and keep any receipts. Think of it as you would any other insurance claim. The insurer will want to see receipts for the amounts you're claiming, which is understandable. Even small costs, such as parking at a hospital, can add up and are potentially claimable. Your solicitor will advise you on what can be claimed.
- 4 Not explaining all your symptoms to the medical expert.** Your solicitor is likely to send you to a medical expert so that a report can be written concerning your injuries and your chances of making a full recovery. If you don't tell the doctor about all your symptoms, and the doctor doesn't ask a question to extract that information, once the report is written, it's difficult to change it. The medical expert is a second opinion and an opportunity to find out what an expert thinks about your injuries, so be open and honest. Include any psychological problems you're having; are you drinking more, having nightmares or sweats? If injuries or symptoms are not mentioned in the report, you won't be compensated for them.
- 5 Fearing that a court hearing will involve a jury.** A personal injury claim is a civil matter, and in the unlikely event that it goes to a trial, it will be in front of a judge, not a jury. Most personal injury claims are settled by your solicitor negotiating with the insurance company and rarely go to court.

NEED A SOLICITOR



At Simpkins & Co, we have over 25 years' experience in successfully handling many different types of personal injury compensation claims, some very complex and cases that other solicitors would not take on. Call us for a **FREE**, no-obligation initial consultation, or visit www.simpkinsand.co.uk. We are long-standing accredited members of the Law Society Personal Injury Panel and the Association of Personal Injury Lawyers.

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What is the Personal Injury Discount Rate

...and how does it affect compensation claims?



When someone suffers life-changing personal injuries, awards of damages should fully compensate the financial losses and expenses caused by the injury, including future losses. Calculating future losses can be difficult, but in assessing the size of a lump sum payment of damages for future costs, the law must do its best to anticipate the amount that is currently needed to produce all the money that is expected to be required by the injured person in the future. These sums are very large in some cases, but however much money is involved, the underlying principles are the same and awards of damages should provide full compensation, neither more nor less. The Government has concluded that the law on how the discount rate is set is not working as fairly as it should and it wants to create a system that is fair. Setting the correct discount rate at any time is not straightforward. It is important that the law is not only technically accurate and workable but also that it creates a system that is understandable and transparent. The Government intends to legislate promptly to make sure that the way the rate is set creates a better and fairer system for claimants, defendants and society as a whole.

On setting the rate, there is widespread agreement that historically claimants have invested in low-risk diversified portfolios not just in very low-risk investments. Based on this analysis, the current rate may produce significantly larger awards and not the compensation which is intended to give 'no more and no less' of the claimant's losses. The framework for setting the discount rate, therefore, needs to be re-calibrated to help it better achieve its objective of 100% compensation.

The Lord Chancellor is under a continuing legal duty to ensure that the rate set is appropriate. The rate was set at 2.5% in June 2001 and then at minus 0.75% in March 2017, both rates representing a return over inflation as

measured by the Retail Price Index. The new rate is under review but is likely to be between 0 and 1%.

This example will show how a compensation award has been calculated in the past, how it is currently calculated and using the rate of 0.5%, how it might be calculated in the near future: -

A man of 45 who can no longer work after suffering a personal injury, would be awarded compensation for his loss of earnings. If he was earning £25,000 per year and it's estimated that he would have worked for the next 25 years, then his loss over that time would be £625,000. However, he is not given that actual sum as it could be invested over the 25 years to give him more than he has been awarded. The law sets a 'discount rate' to take into account what he might gain from investing the sum over that time and then he is awarded the appropriate amount.

Between 2001 and February 2017, the discount rate was set at 2.5% and so the award would be calculated at £445,250.

The current discount rate was changed to minus 0.75% in March 2017 because interest rates remained so low. Re-calculating the award in this example would give a sum of £651,000.

The future amount of compensation awarded, based on a discount rate of 0.5%, would be £557,750.

This shows that an injured party who delayed making a compensation claim for loss of earnings would potentially lose £93,250.

You have up to 3 years to make a personal injury compensation claim after the date you were injured through no fault of your own. It is always better to seek the services of a personal injury solicitor as soon as possible for many reasons, including the fact that the future discount rate will reduce your compensation.

At Simpkins & Co we have 25 years' experience in successfully handling personal injury compensation claims.

Call us for a **FREE** initial, no obligation consultation, or visit www.simpkinsand.co.uk. We are members of the Law Society Personal Injury Panel and the Association of Personal Injury Solicitors (APIL).

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Why is it important to find a personal injury solicitor who's signed up to the Serious Injury Guide?

There are many advantages, but a solicitor who has signed up to the guide and who is representing you in a personal injury compensation claim, will: -

- Make early contact with the defendant insurer or representatives
- Ensure early disclosure of documents
- In some cases, secure continuing interim payments for rehabilitation
- Give the claimant an opportunity to resolve matters outside of court proceedings to avoid court fees and a delay in obtaining the claimant's final settlement.

What does 'signing up' to the Guide mean?

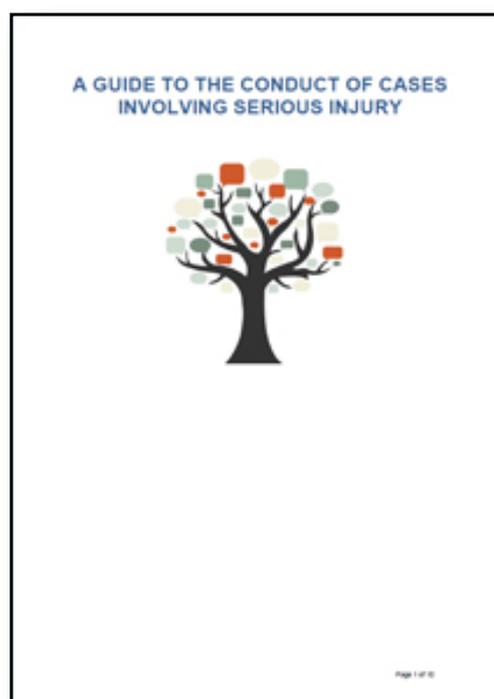
Signing up to the Guide signifies a commitment by the firm to follow the best practice process in all personal injury cases valued at or above £250,000, excluding clinical negligence and asbestos-related disease cases.

When you have chosen the solicitor you want to represent you, what happens if you don't have all the information needed for your claim?

The solicitor must contact the insurer within 7 calendar days of your instruction, but this is a notification that you are making a claim and the additional information needed can be provided at a later date. If your solicitor believes that the claim is of sufficient seriousness to be dealt with under this guide, that will also be declared at this stage so that the appropriate handler at the insurer can be allocated to the claim from the outset.

Will the insurer be involved in planning how the case proceeds?

The Serious Injury Guide promotes forward planning of claims through continued dialogue between the solicitor and the insurer. Regular contact, even by email or speaking on the phone, and agreeing to an action to move the case forward, will be beneficial for all parties and help ensure goodwill.



What about rehabilitation?

The Serious Injury Guide considers the most suitable approach when discussing rehabilitation in consultation with the claimant and/or the claimant's family. The Guide also takes into account the Rehabilitation Code and the Association of Personal Injury Lawyers (APIL's) Best Practice Guide on Rehabilitation.

What is an early interim payment?

Where liability has been admitted, insurers participating in the Guide have shown a willingness to make early and continued interim payments of damages where appropriate in certain cases. This means that the claimant does not need to wait until their case is completely settled before they receive any payment for their damages. This approach has also been endorsed by the courts.

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Why is it important to find a personal injury solicitor who's signed up to the Serious Injury Guide? ...continued

Does the Guide encourage the best interests of the claimant?

The Guide encourages full, frank and open discussions between all parties. The working relationship between the parties is key to negotiations and to the best and earliest settlement for the claimant.

Will the Guide be regularly reviewed?

A number of insurers have committed to training their case handlers on the processes outlined in the Guide so that they are knowledgeable and able to run appropriate cases with a minimum of difficulty. The escalation procedure outlined within the Guide requires the case to be passed to a more senior case handler should there be any issues. These issues will be flagged up and reviewed by APIL and FOIL (Forum of Insurance Lawyers). They will discuss how to rectify any problems that arise and ensure the Guide is kept up to date. The Guide will be kept under review to make sure it is achieving its aims.



At Simpkins & Co, we have signed up to the Guide. Steve Simpkins has 25 years' of experience in successfully handling serious personal injury compensation claims. Contact us on **01425 275555** to book your **FREE** initial consultation, or visit www.simpkinsand.co.uk. We are members of the Law Society Personal Injury Panel and the Association of Personal Injury Lawyers (APIL).

At Simpkins & Co Solicitors we deal in certain areas of the law, the ones we specialise in, giving you the **best service** from the right people. If you need support regarding any aspect of **personal injury, employment law, clinical negligence, business advice** or **Polish start-up assistance**, contact us to **arrange a FREE initial consultation** where we can also advise in relation to funding options as we appreciate that clients are often concerned about potential legal costs. **We may be able to act on a no win no fee basis**, or fixed fee arrangement, plus we can advise on whether legal expenses insurance cover is already in place via other means. We are always happy to take enquiries from Bureau advisors or clients.

Contact us to arrange a FREE INITIAL CONSULTATION: **01425 275555**
FREEPHONE: 0800 0832755 OR **FREEMOBILE: 0333 7777 420**

The above information and the content of this e-newsletter should never be taken as specific legal advice. If you have a legal problem then please contact Simpkins and Co, Highcliffe, Dorset, on 01425 275555 to discuss your issue in detail.

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