
Expert evidence, establishing liability and causation

When representing you in a personal injury claim, your lawyer will have to undertake a number of steps before the claim settles and you receive any money due to you in settlement. Firstly, they must let the other party know that you are intending to make a claim and ask them if they accept responsibility for the accident and therefore the injuries that you suffered. This is known as **establishing liability**.

If the other party accepts that they were liable for the accident, the firm will then assess the claim's value and try to negotiate settlement of it. If the other party do not accept liability the firm will do this anyway, as they need to understand how much the claim is worth if they need to take the matter to court for a judge to decide whose fault the accident was and how much you should receive in damages.

Your lawyer will have to **establish causation**, which means that the injuries and losses you are claiming were sustained as a direct result of the accident, and then value those damages and losses, which is known as **establishing quantum**. You may hear your lawyer use those terms.

Medical evidence

To support a claim for compensation for injuries you will have to prove that your current symptoms were caused by injuries sustained in the accident. To value the claim a Court will need to know how long it will take before you recover or if there will be lasting symptoms.

It is important to note that your lawyer is unlikely to be a medical expert who can provide medical advice and opinion that can be presented to a judge in court. They will therefore instruct medical experts to examine you and provide their opinion on the injuries you have sustained. You may have to attend an appointment with a medical expert so that they can examine you in person. It is important that you attend any appointments arranged for you by the firm as a failure to attend can reduce the prospects of a successful claim.

The medical experts are independent – they do not work for your lawyers. The experts also do not have a duty to you as a client, but to the courts, with the court expecting experts to provide an impartial opinion. This can mean that clients are not always happy with the contents of their medical report. If you receive a report that you feel is fundamentally wrong or contains errors, you should raise this with your lawyer who should listen to these concerns and can raise questions with the expert who can amend their report if they feel it is appropriate to do so.

The medical expert will seek to establish whether the injuries claimed for have been sustained AS A RESULT of accident, and to prove a link between the accident and the injuries sustained. They will seek to either rule in or out pre-existing conditions, and injuries sustained as a result of other accidents.

The firm will either instruct a medical expert directly to obtain the medical evidence, or may instead use a Medical agency. These agencies specialise in the provision of medical reports through their own sourcing of medical experts, expert witnesses, consultants and GPs. The expert that they recommend will then be approved by your lawyers as being appropriate to provide the evidence.

The amount of compensation awarded in a successful claim depends largely upon the nature and seriousness of the injuries sustained. A medical report will provide an opinion on the extent of the injuries sustained, whether they were sustained as a direct result of the accident, and set out an opinion on how long it will take for you to recover from those injuries, as well as recommending relevant treatment to assist with your recovery or whether any further medical assessments are required. The firm can then use that information to assess the valuation of the claim – how much compensation you should receive. They assess this by looking at other similar claims that have been determined by the courts, their own experience and expertise and other published guidance.

Other experts and expert witnesses

In addition to the medical experts, your lawyers may instruct other experts and expert witnesses to provide evidence in support of your claim. These include accident scene experts, engineers and motor vehicle experts. These experts will work in the same way as the medical experts – they are independent and will examine the evidence before providing a report for the court which is independent and impartial. If your lawyer is instructing such an expert, we would expect them to tell you they are doing so and the reasons for this, and then share the findings of the expert with you.

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