



# **YOUR GUIDE TO MAKING A CLAIM**

carpenters scotland



# Contents

Explanatory Definitions

Important Information -  
About Your Claim

Terms and Conditions of  
Service

# Explanatory Definitions

## **Defender**

The other person(s) involved in your accident against whom your claim is being made.

## **General Damages**

The Personal Injury aspect of your claim. The damages for the Personal Injury aspect of your claim cannot be calculated so need to be assessed by way of independent medical evidence.

## **Limitation Period**

The time limit within which you have to issue court proceedings. The limit is three years for injury claims and five years for other types of claim. If court proceedings are not issued within those periods, your right to bring a claim will be lost.

## **Legal Guardian/ Litigation Friend**

A person nominated as legal guardian to represent a child (or other protected person) in dealing with all relevant parties during a claim.

## **Personal Injury Pre-Action Protocol**

Your claim will be dealt with under the Personal Injury Pre-Action Protocol. This is an agreement between solicitors and insurers that is in place to regulate the claim process in Personal Injury cases.

## **Simplified Procedure**

These are claims which are less than a certain value as set by the Government. The current limit is £5000. Simplified claims do not include Personal Injury.

## **Special Damages**

Damages that can be calculated, such as loss of earnings or travel expenses incurred.

## **Third Party I Third Party Insurer**

The other person involved in the accident or against whom the claim is made, or their insurer.

## **ULR**

Uninsured loss recovery - recovery from the third party's insurer of any of your losses which are not covered under your insurance policy.

# Important Information – About Your Claim

## About Us

Carpenters is one of the largest, and the leading, providers of motor and injury legal services in the UK. We have more than 20 years' experience of looking after insurers and their customers, with a focus on securing the best possible outcome for our clients. Our client care documentation together with this Guide form our terms of business with you.

## Personal Injury

If you have suffered personal injuries arising out of the accident then you will be able to claim compensation.

We can also seek to recover all of your financial loss and other expenses. Further details are provided below.

## Mitigation

It is a requirement of Scottish Law that you must keep your losses arising out of the accident to a minimum, even though somebody else may be to blame. Please do not run up unnecessary costs or incur any expenses which can be avoided. These expenses may be unrecoverable, and you may be left with the costs.

## Repayment of Social Security Benefits

If you have received benefits as a result of the accident, in certain circumstances the amounts paid to you in benefits will be deducted from the damages you receive. We will discuss this aspect of your claim, if relevant, at a later stage.

## Industrial Injuries Disablement Benefit

Please also note that if you have contracted a disease or been injured during the course of your employment, you may be entitled to claim Industrial Injuries Disablement Benefit, which is a non means tested benefit. Whilst we cannot assist you in making such a claim, or advise you about your prospects of succeeding, we can tell you that you will not have to prove that your employer at the time of the accident was negligent or in breach of duty, only that you were injured due to your employment. There are qualifying criteria depending on the circumstances of your work and the nature of your injury/disease. If you require any further information, you should contact your local Department for Work and Pensions office. If you do make a claim, please let us know.

## Your Entitlement to State Benefits and Local Authority Support

Receiving an award of damages for personal injury can affect your current and future entitlement to means tested State Benefits and Local Authority support. If you are currently receiving one of the following benefits, an award of damages may mean that the level of benefit you receive will be reduced or stopped altogether:

Income Support

Family Income  
Benefit

Housing  
Benefit

Employment &  
Support Allowance

Council Tax  
Relief

Free eye and/ or  
dental treatment

Incapacity  
Benefit

Local Authority support in the  
home or funded residential care

If you are in receipt of any of the above, or may wish to claim them at some point in the future, we will need to know so that we can advise you accordingly if an award of damages is to be made.

## **Terms & Conditions of Service**

These terms and conditions form part of our agreement with you. By providing us with instruction, or by signing our Conditional Fee Agreement or Damages Based Agreement, you agree to these terms and conditions.

### **Limitation Periods**

If you have a claim for personal injuries, unless the claim settles, court proceedings must be issued within three years from the date of your accident, or three years after their sixteenth birthday if the injury is to a child.

If you have not suffered injury, your claim must be issued at court within five years from the date of your accident.

If these periods are missed it will mean that you will lose your right to claim damages (barred by the Prescription and Limitation (Scotland) Act 1973) and you will receive no compensation. Accidents abroad are subject to different timescales and we can advise you accordingly.

### **How long could my claim take?**

Every claim is different. At this stage it is difficult to give a realistic estimate of how long it will take to settle your claim.

A straightforward claim can be settled within twelve months, but others may take a lot longer. A claim can take longer to settle if liability is disputed, if it goes to court, or if you have suffered complicated injuries. Some timescales are set by the Courts/Government under regulatory protocol which are outside our control.

### **How much am I likely to get?**

The amount of compensation you will receive depends on how badly you were injured, how long your injuries take to recover and how much your other losses are. Whilst there are no fixed amounts for injuries, there are past reported cases and guidelines which we consult to give us a good idea of what you should receive.

### **Do I have to pay the other side's costs?**

You will not be responsible to pay the Defender's costs of the claim if you lose as long as your claim is deemed to be genuine (although there are some exceptions to these rules).

If the Defender makes you an offer which you refuse, but subsequently a lower sum is recovered, then you may have to pay the Defender's costs but these would be limited to the amount of damages and interest that you recover. We will discuss your options about this at the relevant time and explore whether you should take out an insurance policy against that risk.

You may also have to pay the Defender's costs if your claim has been determined to be fraudulent or your conduct has been unreasonable. We will provide detailed advice should these situations arise.

### **Will I have to go to court?**

Over 95% of claims never go to a court hearing. It is very common for issued cases to be "settled" at some point prior to the hearing date.

The most common reasons why a claim is issued into court is an argument about fault for the accident or the amount that is offered in compensation, or the three year anniversary of your accident has expired.

Once a case is issued all parties must adhere to a strict timetable laid down by the court. We will fully explain these procedures to you when we issue proceedings and as your case progresses.

### **What if the other driver is uninsured or I can't trace them?**

The Motor Insurers Bureau can compensate victims of uninsured or untraced motorists however you must have reported the accident to the Police within five days of it happening or as soon as reasonably possible.

If you suspect that the other driver has provided false detail, has failed to provide you with insurance details or not stopped to give their details you must report this to the police immediately and obtain a police reference number. The Motor Insurers Bureau can refuse to deal with your claim if you have not reported the matter to the police. We will provide you with further details if we have to take this route.

You can claim damages for personal injuries suffered and for uninsured losses.

### **Personal Injury**

Injury claims are valued by reference to the nature of the pain, suffering and any associated restriction, and how long the symptoms last.

### **Will I have to see a doctor?**

Yes you will need to see a doctor for a brief appointment if you have suffered any kind of injury, no matter how minor. The doctor will provide a report on your injuries and any possible treatment, which we may be able to arrange under the claim. The doctor will not be able to prescribe any medication or treatment and you should see your own GP for that in the first instance.

## What are uninsured losses?

These are the losses that your own motor insurance policy does not cover. We will attempt to recover these losses quickly, whilst causing you as little disruption and inconvenience as possible.

However, we do need your help to let us have as much necessary information as possible.

## Types of uninsured loss

Examples are as follows:

Policy Excess	Repair Costs	Hire Charges	Storage and Recovery Costs
Loss of Use	Care and Services	Damaged belongings, clothing and medical expenses.	
Loss of Earnings	Treatment Expenses,	Loss of enjoyment of holiday	Gym Membership

There may be other types of loss that you can claim, such as loss of pension. Essentially, if you have suffered any type of loss as a result of the accident we can consider including it in your claim.

### 1. Policy Excess

If you have a comprehensive insurance policy and your insurer has applied a policy excess, we can include that charge in your claim. Please provide the receipt.

### 2. Repair Costs

If you are insured third party only or third party, fire and theft then we can recover the cost of repairs to your vehicle. If your vehicle is a total loss we will ask the other side to pay the pre-accident value.

### 3. Hire Charges

Please let us know as soon as possible if you need to hire a vehicle however you must be aware that hire charges are very difficult to recover from the third party's insurers and you must only hire a vehicle if it is absolutely necessary in all the circumstances. If at all possible, borrow a vehicle from a friend or relative, or use public transport. If you do have to hire, this should be the cheapest vehicle possible, of a similar standard to your own and for the shortest time that you need it for.

It will be extremely difficult to recover hire charges if they exceed the pre-accident value of your own vehicle or the cost of repairs. In circumstances such as these you would be expected to purchase a replacement vehicle or pay for the repairs to your vehicle instead of hiring another vehicle. When making payment for the hire car please ensure that the garage states clearly on the invoice the registration number, year of manufacture, make of hire vehicle, mileage covered and the exact dates of hire.

#### **4. Storage and Recovery charges for your damaged vehicle**

You may need to pay the invoice before your car is released.

#### **5. A claim for loss of use whilst you are without a vehicle or a claim for travel expenses**

If you use public transport please keep all tickets/receipts and make a note as to the purpose of the trip. Only use taxis where absolutely necessary and again keep tickets/receipts and make a note of the purpose of the trip. If travelling by another vehicle make a note of the mileage and advise us of the type of vehicle.

#### **6. Care and Services**

If you need help around the house or with personal, and if friends or family provide this help or perform tasks that you would have performed had you not been injured, then you can claim damages at an hourly rate for the time spent by friends and family under the Administration of Justice (Scotland) Act 1982.

As examples, the time may have been spent helping you with the following:

Gardening

Shopping

Cooking

Cleaning

Laundry

Ironing

Personal care – bathing, washing and dressing

If you have received assistance with these or any other tasks, please let us know. We can then discuss calculation of the claim with you.

#### **7. Compensation for damaged belongings, clothing and medical expenses**

If possible we'll need to see either original receipts or quotes for the replacement cost of any damaged personal property/clothing. Generally you are only able to recover the cost of the item on a 'wear and tear' basis, and not the full replacement value.

Please try and remember the date that you purchased the damaged item and the cost at that time. These items may need to be inspected so please retain them and keep them in a safe place.

#### **8. Loss of Earnings**

If you have lost earnings following the accident we can seek to recover that loss on your behalf.

We will require documentation for proof of the above such as pay slips and bank statements, and we will need to write to your employer for details so please let us have their address when responding.

Note that even if you have been paid in full while absent, you may still have to pursue a claim for loss of earnings. Many contracts of employment say that if you receive sick pay as a result of an accident which is the fault of a third party, that sick pay is treated as a loan which becomes repayable by you on conclusion of your claim. In that situation you would therefore need to include a claim for loss of earnings in order to repay your employer.

If you are self-employed we will need to see at least three years of tax returns.

### **9. Rehabilitation Treatment**

If you have been injured, it is likely the medical agency will discuss with you whether you need physiotherapy or other rehabilitation treatment. If you chose to have that treatment, you will be responsible for the costs. We will include the treatment fees as part of your claim, and if the fees are recovered you agree under our terms of business that we can make payment of the fees recovered to the treatment provider on your behalf.

### **10. Loss of Enjoyment of Holiday**

If your injuries reduced your ability to enjoy a pre-booked holiday, we can consider including a claim in that regard.

### **11. Gym Membership**

If you are unable to attend the gym as a result of the accident you may be able to recover any monthly membership fees however you must firstly check your terms and conditions to see whether you are able to suspend payments. If you wish to include fees as part of the claim we will need sight of the contract and your gym should also be able to provide you with your attendance records.

**It is essential in respect of all these losses that you keep any copies of invoices and receipts.**

### **Data Sharing, Protection & Confidentiality**

Using your information we will process any data that we have about you in accordance with the Data Protection Act 2018 and General Data Protection Regulation. In order to deal with your claim efficiently we will need to share your data with relevant third parties who are also subject to Data Protection legislation. Please refer to the Fair Processing Notice provided with your client care letter. Note that data may be processed by Carpenters Limited should the claim originate in England & Wales. We are registered with the Information Commissioners' Office [www.ico.org.uk](http://www.ico.org.uk)

### **Your Medical Records**

We may be required to obtain your health records which contain information from almost all consultations you have had with health professionals. The information they contain usually includes why you saw a health professional, details of clinical findings and diagnoses,

any options for care and treatment the health professional discussed with you, the decisions made about your care and treatment, including evidence that you agreed, and details of action health professionals have taken and the outcomes. You must contact us immediately if you do not agree as this affects our ability to handle your claim.

Once you start your claim, the court can order you to give copies of your health records to the solicitor of the person you are making a claim against so he or she can see if any of the information in your records can be used to defend the claim. You do not have to give permission for your records to be released but if you do not, the court may not let you go ahead with your claim and, in some circumstances, we may be unable to represent you.

### **Your File**

We are obliged to keep a copy of your file. If you request your file, we will provide the same subject to payment of our reasonable administration fees of £60 plus VAT plus an additional 20 pence per sheet for the copy of the file that we will retain.

### **Your Right to Complain**

We have a documented Complaints Procedure which we will provide on request. Please let your file handler know as soon as possible if you are unhappy with our service or are experiencing any dissatisfaction.

If at the end of the process you remain dissatisfied, you may contact the Scottish Legal Complaints Commission who deals with all client complaints in the first instance and may refer matters to the Law Society of Scotland.

They can be reached on 0131 201 2130 or [enquiries@scottishlegalcomplaints.org.uk](mailto:enquiries@scottishlegalcomplaints.org.uk) or Scottish Legal Complaints Commission, The Stamp Office, 10-14 Waterloo Place, Edinburgh, EH1 3EG.

### **Your Right to Cancel**

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 apply to your claim which means you have a right to cancel your instructions to us within 14 days. This can be done via email, post or by using the Cancellation Notice attached to your client care letter. However, once you have received our terms of business and we start work on your file, you will be liable for our costs if you subsequently cancel your instructions.

### **Equality and Diversity**

Carpenters are committed to complying with all of our obligations under the Equality Act 2010. Please contact us if you would like a copy of our Equality and Diversity Policy.

### **Law and Jurisdiction**

Our agreement with you to provide legal services and these terms of business are governed by and construed in accordance with Scottish law.

## **Bankruptcy**

Please let us know immediately if you are currently an un-discharged bankrupt, or if you are made bankrupt while your claim is underway.

## **Call Recording**

We may record telephone calls to help us to have a record of your instructions to us and any information that we give to you over the telephone, or to monitor the level of service being provided to clients. It is not always possible to provide a recording as not all calls are recorded, there can be technical problems, or we may be unable to trace the call.

## **Money Laundering**

We comply with the Money Laundering Regulations Act 2017 and associated Financial Crime legislation.

## **Outsourcing**

Your insurer may originally have instructed Carpenters Limited (part of Carpenters Group) in England & Wales. If your accident occurred in Scotland, then the claim will have been transferred to ourselves as we handle claims under Scottish Law under the regulation of the Law Society of Scotland. We do outsource our ancillary support functions to Carpenters Group. We also may require third party companies to undertake work in connection to assist in the smooth running of your matter, such as instructing Counsel or other experts. We will have an agreement in place with any such outsourced providers to ensure that we are confident of their ability to work to a certain standard.

## **Electronic Communication**

We are happy to use email as a way to communicate with you, but you should be aware that confidentiality cannot be ensured nor can delivery of such mail. If you prefer us not to use email, please let us know.

## **Rights**

Any advice that we give is for your benefit, as our client. Third parties may not use or rely upon our advice.

## **Client Balances**

We have a duty under the Law Society of Scotland Account Regulations to take reasonable steps to return any monies to you following completion of your matter.

## **Conflict of Interest**

If a conflict of interest arises then we may not be able to continue to act for you, for example if we already act for the other party involved in the accident. However, we have arrangements in place with other firms of Solicitors so the transfer process causes minimal inconvenience and delay to your claim.

## **Ending the Relationship**

You can tell us to stop acting for you at any time. We can only decide to stop acting for you if we have a good reason and must give you reasonable notice. Examples of when we may stop acting are where:

- You do not comply with our reasonable requests for instructions and/or information and/or the relationship breaks down
- There is a conflict of interest
- We cannot obtain instructions from you or your instructions constantly change
- If we do not believe your action has reasonable prospects of success
- If we do not have appropriate funding to fund your action
- You are abusive to our staff or use foul or obscene language.

These are examples only but there may be other circumstances. If either of us ends the relationship, you remain liable for our costs and for disbursements we have paid on your behalf plus any costs and disbursements for the transfer of your file to your new advisers.

## **Fraud Prevention**

Please be aware that when we advise the third party insurers of your claim your information may be passed to the Motor Insurance Anti-Fraud and Theft Register (MIAFTA) which is run by the Association of British Insurers (ABI). The aim of this is to help the third party insurers check the information provided and to prevent fraudulent claims. If you do not consent to the insurers passing the information to the ABI, or to the ABI supplying information to the third party insurers regarding any previous incidents you have been involved in, you should let us know immediately. We may share your data securely with Insurers and professional bodies in the prevention of fraud.

## **Payment to You**

Our preferred method of payment is via bankers automated clearing system ("BACS") directly into your bank account. To enable us to do so, your case handler will ask you for your bank details at the appropriate stage of your claim. Please be assured that these details are stored securely within our system and visible only to our finance staff to make the payment. These details are subsequently deleted from our system. We can arrange for payment by cheque on request. Please note however that we are unable to pay your monies to a third party. Where large payments are concerned, it is company policy to pay via BACS.

## **Interest**

In accordance with the requirements of the Law Society of Scotland Account Regulations, any money received on your behalf will be held in a client account. We will pay a sum in lieu of interest on monies held in line with the terms of our payment of interest policy. It is important to note that interest will not be payable in all cases and that the rate received will be lower than that available to you had the monies been invested privately. The written policy is available on request.

## **Limitation of Liability**

Please be aware that we limit our liability to £2,000,000 in line with our professional indemnity insurance.

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Authority Registration No 625845  
Calls may be recorded for training and monitoring purposes

