



Association of British Insurers

THIRD PARTY ASSISTANCE CLAIMANT GUIDE

May 2010



Injured as the result of a recent accident? How the other side's insurer can assist you

If you have been injured, and someone else may be at fault, their insurer can offer assistance to help you put the accident behind you, at no cost to you. This leaflet explains how the other side's insurer or appointed claims handler ('the insurer') can assist you, and what your rights are when dealing with the insurer.

You can also find further information at:

http://www.moneymadeclear.fsa.gov.uk/news/product/settling_a_claim.html

How can the other side's insurer help me?

Depending on your particular case, the insurer can offer you a range of services designed to help you put the accident behind you. The insurer, or their appointed claims handler, will do everything possible to restore you to the position you were in prior to the accident, and discuss progress with you throughout. It is important to note that, under law, only reasonable losses connected with the accident can be compensated for.

The services that may be offered are explained in greater detail below.

<p>Helping you recover from injury</p>	<p>The insurer can provide early assistance to manage your pain and condition and get back to normal, by arranging for a medical professional to assess and provide treatment if necessary, including for any rehabilitation needs.</p>
<p>Vehicle Repairs</p>	<p>The insurer can repair damage to your vehicle using their approved repairer networks, at no cost to you.</p> <p>If your vehicle cannot be repaired economically, the insurer can arrange to agree a pre-accident value with you/ the owner of the vehicle. They can also remove and dispose of vehicle salvage if necessary.</p>
<p>A replacement vehicle</p>	<p>A free replacement vehicle can be provided to you, while you are without your own vehicle. This avoids you having to enter into a credit agreement with a vehicle hire company, and the vehicle will be delivered and collected.</p>
<p>Reimbursement of any lost earnings</p>	<p>If you have missed work because of the accident, the insurer will consider any lost (net) wages. You will need to provide documents to show how much you have lost, for example wage slips. In the interim, you may be offered an initial payment while full details of any lost earnings are worked out.</p>
<p>Payment for other losses</p>	<p>If you have suffered other losses as a result of the accident, such as damage to clothing or personal effects, the need for bus or taxi fares, or for help with housework, the insurer can also help by making payments for these losses.</p>
<p>Compensation for your injury</p>	<p>Once any rehabilitation and/or medical treatment is complete and the medical professional is happy that your injury is resolved or resolving, the insurer will discuss the amount of compensation you are entitled to receive for the pain and any injury you have following the accident. The amount of compensation is assessed according to the information you have given the insurer together with any details provided by a medical professional and the insurer will agree the amount with you.</p>
<p>Putting you in touch with a solicitor</p>	<p>The insurer can put you in touch with an independent solicitor, either through their own referral system (whereby they may receive a referral fee should you use that solicitor) or by providing information about how to access the Law Society or the Citizen's Advice Bureau, or how to make a claim under your legal expenses policy (if applicable).</p>

There are six main steps in resolving your accident claim:

Step 1: Immediate aftermath and initial contact with the insurer

Who	<p>After the accident, the insurer may contact you where they understand their customer is at fault, in order to put things right. This could be by letter, phone call, an email, or a text. The insurer will explain who they are and why they are contacting you. They will never appear uninvited at your place of residence.</p>
What	<p>The insurer will explain what services they are able to offer you. These services may include a replacement hire car while yours is being repaired, repair of your vehicle, and medical treatment if required, at no cost to you.</p> <p>The insurer will explain that you are under no obligation to take up the services offered, and that you are at all times entitled to seek independent legal advice. You may wish to consider other options such as using the small claims track or, if applicable, your comprehensive motor insurance, legal expenses policy, or trade union membership.</p> <p>If you do decide to accept the services offered by the insurer, then they will begin organising the services for you.</p> <p>If you decline the offer, the insurer will confirm this in writing and will cease any further contact with you.</p> <p>Bear in mind that you have a responsibility at law to keep your losses to a reasonable level, and the insurer may not be liable to pay for any unreasonable losses incurred.</p>
When	<p>The insurer will try to contact you as soon as they can after the accident to offer help. There is no set timeline for you to consider your options; however it is important to know that there are time limits to bringing a claim in court, depending on what type of claim it is.</p>

Step 2: Assessing your injury and arranging help

Who	If you have suffered an injury, the insurer can provide early assistance by arranging for medical treatment if required, including rehabilitation.
What	<p>The insurer will provide the details of medical treatment, including rehabilitation assistance, in writing to you, including details of the provider. As required by law, the insurer will register your claim with the Compensation Recovery Unit, which is part of the Department of Work and Pensions (DWP). The DWP may send you a copy of the certificate issued to the insurer. This is for your information only, and need not be passed onto the insurer. Any treatment provider will be local to you and will be provided at no cost. You can choose your own medical professional.</p> <p>The insurer may also obtain a medical report, which helps assess the nature and extent of your injury and help value the compensation for the claim. You will receive a copy of this report and have the opportunity to check it for errors. Where your medical records are required, the insurer will explain why and provide a consent form for you to sign.</p> <p>If further medical investigation is required after an initial report because the injury prognosis is uncertain (for example the instruction of additional medical experts), this will be explained to you by the insurer. In such circumstances, the insurer will strongly recommend that you seek independent legal advice at this time, as it indicates that the injury may be more complex in nature.</p> <p>If you suffered minor pain following the accident, e.g. typically only a few days in duration, then the insurer may not require a medical report or an examination to value the injury. However, you have the right to ask for a medical report and examination if you wish to have one. If a minor injury later becomes more serious than anticipated, and the outcome is different to that on which the offer is based, then you have the right to renegotiate your compensation with the insurer.</p>
When	Assessing any injury and arranging help will be done as soon as possible, to minimise your discomfort. The insurer will advise you of the likely timescales for assessing and valuing the compensation for your injury and keep you fully informed. They will arrange to have regular updates with you (at agreed intervals) about your injury if necessary.

Step 3: Assessing the damage to your vehicle and arranging help

Who	The insurer can organise for your vehicle to be repaired if necessary. Any provider will be local to you. If it is not economical to repair the vehicle, then the insurer may offer you a sum for the value of the vehicle. The insurer can also arrange for the removal and disposal of salvage at no cost to you. If you need a replacement vehicle while yours is off the road, the insurer can also arrange for one to be provided. You may be approached by a hire company who offers to provide you with a replacement car while yours is off the road. If you do consider this option, it is recommended that you ask for information about all their costs and about any contracts you have to enter into, as the insurer may not be liable for vehicle hire charges which are beyond a reasonable amount, so you may have to pay the difference.
What	The insurer will provide you with written details of the repairer and also give details of the vehicle hire costs that they will pay for you if you need a replacement vehicle while yours is being repaired. The insurer will discuss and agree with you/ the owner of the vehicle a value for the vehicle if it cannot be repaired economically.
When	Assessing and repairing damage to your vehicle will be done as soon as possible. The length of time it takes to repair will depend on the severity of the damage. The insurer will provide an estimate of the likely timescales and keep you fully informed of progress.

Step 4: Reimbursement of any lost earnings and any other losses

Who	The insurer will ask you about other losses you have incurred as a result of the accident.
What	If you have lost earnings as a result of your injury, you will need to get some documents to show how much you have lost, for example, a wage slip. The insurer will ask you about other losses, such as damage to clothing, the need for bus or taxi fares, or help with housework, and explain what you need to show, to help them calculate the amount of compensation. For losses associated with the injury, the insurer will offer interim payments to you, until the final compensation payment is made, and explain how these will be offset against the final offer of compensation. It is important to note that under law, only reasonable losses connected with the accident can be compensated for.
When	The insurer will advise you of timescales for any interim payment to be received.

Step 5: Receive an offer of compensation for injury and other damages

Who	The insurer will discuss the amount of compensation you are entitled to receive for the pain and any injury you have following the accident.
What	The amount of compensation is assessed according to the information you have given the insurer together with any details provided by a medical professional. The insurer will provide details of the offer of compensation in writing. They will also remind you of your right to seek independent legal advice. The offer will include an amount of compensation for your injury and may include compensation for other losses associated with the injury.
When	Once your injury is resolved or resolving. This will depend on how quickly the injury resolves. If your injury is complex or involves a child, the insurer will strongly recommend you seek independent legal advice.

Step 6: Accept and receive compensation

Who	You can accept the offer at any time, either in writing or verbally to the insurer. There is no set time to accept the offer and the insurer will not withdraw the offer, however it's important to know that there are time limits to bringing a claim in court, depending on the type of claim. The insurer may check whether you received the offer and if you have any queries or concerns.
What	If you feel the offer is inadequate, the insurer will be happy to discuss any concerns; otherwise you can seek independent legal advice. The insurer can refer you to an independent solicitor that they know. They will advise you if they receive a fee for referring you to the solicitor, should you decide to opt for that. Alternatively, you can nominate a solicitor of your choice. With your consent, all your correspondence with the insurer will be sent to your legal representative to facilitate a quick resolution. The insurer will deal directly with your legal representative for the remainder of the process to resolve your claim.
When	If you accept the offer, the insurer will pay you the agreed compensation amount as soon as possible. This should normally be within ten working days.

Why should I deal directly with the other side's insurer?

Dealing directly with the insurer has a number of benefits. The claim is managed with as little inconvenience to you as possible, and at no cost to you. Independent research commissioned by the Association of British Insurers has shown that people who deal directly with the other side's insurer receive fair compensation faster when compared with those with legal representation.¹

Moreover, reducing unnecessary legal costs will help keep everyone's insurance premiums down. For example, as much as 10% of motor premiums are spent on legal costs alone.²

How can I be sure that I will be offered fair compensation by the insurer if I don't have a solicitor?

It is not in the insurer's interest to offer you an unfair amount, and the process for valuing an injury claim is the same, whether you are legally represented or not. The saving comes to the insurer in not having to meet unnecessary legal costs and this helps insurers keep premiums down.

How am I protected?

The Financial Services Authority regulates insurers and sets out the principles they must follow. This includes acting with integrity, due skill, care and diligence and observing proper standards of market conduct, at all times. If in breach, a firm is liable to face disciplinary sanctions. And, of course, your right remains at all times to seek independent legal advice.

What if things go wrong?

The insurer will do everything they can to ensure that your claim is handled as quickly and smoothly as possible. However, if you feel unhappy about any aspect of the process or the offer you receive, then contact the insurer and explain your concerns. You are also entitled to seek independent legal advice at any time.

What are my other options?

You are free at any stage, and have the right, to use a legal representative. The insurer can put you in touch with a solicitor or provide information on how to contact the Law Society or Citizen's Advice or make a claim under your legal expenses policy or through your trade union membership (if applicable). You can also, depending on the value of the claim, use the small claims track in the courts system, which many people use without legal representation. The small claims track value limits are up to £5000, or, where personal injury is involved, where the personal injury element is valued below £1000. You are responsible for the costs of bringing a claim in the small claims court.

¹ See http://www.abi.org.uk/Publications/ABI_Publications_Outcomes_for_legally_represented_and_unrepresented_claimants_in_personal_injury_compensation_fc1.aspx

² See 2007 ABI/IUA Fourth UK Bodily Injury Awards Study, pg 10

Are there situations where it is better to have legal advice?

While insurers wish to have this process open to most people, insurers will strongly recommend that independent legal advice is sought in certain situations, for example:

- If the injured person is under 18 years old.
- Where there is complexity over who was at fault for the accident.
- If you have a limited understanding of English.
- Where the injury involved requires more than one medical report or has a degree of complication, persistence or permanence.

Resolving your claim: the typical process

Step 1: Initial contact

You and the other side's insurer make initial contact, and their services will be explained and offered to you, depending on your needs. Your rights, such as the ability to seek independent legal advice at any time, will be explained. You decide whether to accept the offer of help. If you choose not to deal with the insurer, they will acknowledge this in writing, and no further contact will be made.

Step 2: Assessing your injury and arranging help

Where you have suffered an injury, the insurer can arrange medical assessments and treatment, as well as rehabilitation, where necessary. The assessments will normally result in a medical report which assesses the nature, cause, extent and impact of the injury in order to help value your claim.

Step 3: Assessing the damage to your vehicle and arranging help

If you accept the insurer's offer to provide help, the insurer will confirm this in writing, along with a timeframe for providing services such as organising vehicle repair. The insurer will update you on the progress of the claim at agreed intervals, e.g. every two weeks.

Step 4. Reimbursement of lost earnings and any other losses

The insurer will ask you about lost earnings and other financial losses incurred as a result of the accident. They will offer you an interim payment for losses while full details of the compensation are worked out, and explain how these will be offset against the final settlement.

Step 5. Receive an offer of compensation

Once any rehabilitation is complete and the medical professional is happy that your injury is resolved or resolving, the insurer will discuss the amount of compensation you are entitled to receive for the pain and any disability you have following the accident. The amount of compensation is assessed according to the information you have given the insurer together with any details provided by a medical professional and the insurer will agree the amount with you. The insurer will provide the offer in writing and remind you of the right to seek independent legal advice.

Step 6. Accept and receive compensation

If you accept the offer, the insurer will pay you the agreed compensation amount as soon as possible, normally within ten working days.

If you feel the offer is inadequate, your insurer would be happy to discuss your concerns. If necessary, an independent medical assessment can be arranged.

However, if you are still unhappy, then the insurer can refer you to an independent solicitor, or alternatively, you can nominate a solicitor of your choice. All your correspondence with the insurer will be sent to your legal representative to facilitate a quick resolution. Your insurer will deal directly with your legal representative for the remainder of the process.

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