

PERSONAL INJURY CLAIM

MEDICAL EXPERTS

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THE WHAT, WHEN, WHO AND WHY OF INDEPENDANT
MEDICAL EXPERTS



PERSONAL INJURY HOW TO INSTRUCT AN INDEPENDENT MEDICAL EXPERT



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Introduction

Welcome! My name is Katie and I run LawCat. I've put together this leaflet to assist you with your own personal injury claim. Whether you're considering bringing a claim yourself, or already have a claim running with a solicitor then this leaflet will help you understand the initial steps.

By the end of this leaflet, you will understand what kind of injury will qualify as a personal injury and what you need to understand regarding medical experts.

What is LawCat

LawCat offers explanations, laying out the legal process in a clear, and unambiguous way, with no legal jargon. LawCat is designed to help you understand the legal process so that you can create the solutions you need.

I first started LawCat in 2015, as a blog designed to answer the questions that people were raising to me in my role as a legal professional for a local firm. But when I noticed solicitor firms taking on less and less low value but valid claims, I began to see the concerns I had raised during my Master's degree, regarding legal funding, come to life.

Since the recent changes to legal funding solicitor firms are less able to take on low value but valid claims, leaving an entire section of the population without access to legal advice. Forcing them to bring claims themselves, without support or guidance. Free Legal Advice charities are available, but they have limited resources and are reliant on volunteers and government funding, which has recently been cut.

It was then I realised that LawCat would have to be more than a sporadic blog answering questions as and when they arose. LawCat would have to be a structured platform for people to find the information they needed to be able to make educated decisions about their claims.

LawCat currently offers explanations for Clinical Negligence, Personal Injury, Employment Law, Probate and Private Client matters.



At the date of writing this LawCat is offering online articles on various platforms as well as Personal Injury guides which walk you through bringing your claim and allow you to keep full control from start to finish. With clear, step by step guidance and an abundance of template forms and letters, LawCat's guides allow you to bring your claim your way.

What is “personal injury”?

According to the Law Society over three million people are injured in negligent accidents each year. Many of those accidents take place on the highway, involving motor vehicles, bikes, and pedestrians.

Personal injury is the name given to legal cases or claims brought against those who have acted negligently and caused you injury as a result.

This can include, but is not limited to:-

- Road traffic accidents
- Accidents at work, including industrial illnesses such as asbestosis, emphysema, pneumonia, vibration white finger, occupational deafness and stress.
- Tripping accidents
- Assault claims
- Accidents in the home or on holiday
- Defective product accidents

For the purpose of this leaflet we will be focusing on Road Traffic Accidents.

In order for your claim to be successful you will need to prove that the person who caused the accident, which in turn caused your injury, acted negligently. For an individual to have acted negligently in the eyes of the Court they must have **breached their Duty of Care** to you and that breach must have **caused you actual harm**.

What is an Independent Medical Expert



A medical expert is an independent medical professional who will review your medical records, examine you and use their professional skills and knowledge to evaluate your injury and form an opinion. They will then produce a detailed medical report in keeping with the Courts standards which can be used to both prove and value your claim.

Why do You Need an Independent Medical Expert

You need an independent medical expert to help you prove that your injury happened, that it happened because of the accident/negligence and that the symptoms you are reporting are correct for the type of injury you have. The expert will also give you a prognosis. All of this information will be contained in a report.

The medical report will detail your expert's findings and opinion on your accident and injury. It should be produced by a doctor/medical professional with a high degree of knowledge and experience in the relevant medical field.

The medical report will be crucial for your case, as a good report can make a case while a bad one can break it.

The report will set out, in a Court approved structure, details of your injury and whether or not such an injury is what would be expected from the accident you were involved in. The report will state the severity of your injury, the impact your injury has had on your life, and your likely prognosis.

The report is crucial as it will help you put a monetary value on your claim.

How to Find an Independent Medical Expert

If you have suffered a minor injury (whiplash, sprain, bruising, etc.), you should strongly consider instructing a GP expert. This will be an independent GP, it cannot be your own and ideally should be a GP from a different practice altogether. They must also be qualified to produce reports for Court.

If you have suffered a more serious injury such as a broken bone you should consider instructing a specialist, such as an orthopaedic expert for broken bones, or a neurologist for nerve damage, or a psychologist for a psychological injury. Again, this cannot be a medical professional who has treated you in the past; they must be independent.

How to Instruct an Independent Medical Expert

When you are ready to instruct an expert, the following websites will help you identify the correct type of expert and will provide you with contact details for them: www.expertwitness.co.uk and www.thelawpages.com.

Remember you will have to go and see the expert in person, so make sure you either find one local to you or you have the means to travel to them.

If you are still unsure about the type of expert you should be instructing discuss the matter with your GP they will be able to tell you what specialist you need to instruct.

Once you have chosen your expert, you will need to write to them, formally instructing them to assist with your claim.



You will need to explain the mechanics of your accident to them, what injuries you have suffered and what questions you want to be answered in their report. You should also send them copies of your medical records. If you decide to send your records through the post, you should make sure you do so through a tracked service, this way you can confirm your records have arrived safely.

Once you have instructed your medical expert, you should receive confirmation of your instruction and an invitation to see them for an examination.

Conclusion

You should now have an understanding of Personal Injury and what you need to consider at the beginning of your Road Traffic Accident Claim. If you want to use a solicitor or try to bring a claim yourself.

Remember, if you want to bring a claim yourself LawCat has step by step guides that will walk you through the process.

Did this leaflet answer your question?

For more articles and information on how your claim should be run then pick up one of LawCats Personal Injury Guides!

TEMPLATE LETTER OF INSTRUCTION



INSERT MEDICAL EXPERTS ADDRESS

Dear **INSERT EXPERT NAME**

Name: **INSERT YOUR NAME**
Address: **INSERT YOUR ADDRESS**
Contact Number: **INSERT YOUR CONTACT NUMBER**
Date of Birth: **INSERT YOUR DATE OF BIRTH**
Date of Accident: **INSERT THE DATE OF YOUR ACCIDENT**

I am writing to instruct you in the following matter. I was injured whilst **VERY SHORT, ONE SENTENCE SUMMARY OF HOW YOU WERE INJURED, E.G. IN A CAR ACCIDENT WHILST A PASSENGER/DRIVER, IN A FALL WHILST WALKING ALONG STREET X.** I would be most grateful if you would prepare a Medico-Legal Report for my Claim.

The circumstances of the accident were as follows: -

INSERT A SUMMARY OF YOUR ACCIDENT E.G.

On the DATE, I was driving on X Street at 30mph, I stopped at the traffic lights and the defendants vehicle hit me from behind knocking me forward and causing me injury.

As a result of the accident, my Client suffered the following physical injuries: -

- **INSERT BULLET POINTED INJURIES; INCLUDE AS MANY AS POSSIBLE, E.G. NECK PAIN, AN INJURY TO MY SHOULDER, BACK PAIN FOR X WEEKS, BRUISING, TRAVEL PHOBIA ETC**

I would therefore be grateful if you would let me have a medical report for the purpose of my accident detailing: -

- Any relevant pre-accident medical history.
- The nature of the injuries sustained.
- The treatment received to date.



- Prognosis and opinion on the recovery period for my injuries.
- Please confirm whether on the balance of probabilities, it was reasonable for me to receive voluntary care from my family and friends with domestic chores, shopping, driving, gardening, and any nursing care for the length of time I did.
- Please confirm, on the balance of probabilities, whether it was reasonable for me to lose income, if any, for the length of time I did.
- Could you please provide me with any indication in respect of your views for my condition in the future? Are you able to indicate as to whether my condition will improve, remain stable with the current level of disability or alternatively deteriorate? Could you possibly assess in percentage terms, each of the above potential occurrences.

If there are aspects of the injury which involve areas of expertise outside your own, could you please provide me with such indication? If this is so, I would be most grateful, if you could, please recommend what other areas require investigation with potentially a recommendation, as to the name and address of a Consultant in each field.

Please find enclosed for your consideration my medical records:

- **SEND THE EXPERT ANY GP, HOSPITAL OR PHYSIO RECORDS. LIST WHAT YOU ARE SENDING HERE**

I can confirm that liability has been admitted **IF LIABILITY HAS NOT BEEN ADMITTED SAY SO.**

You may also receive questions from either party in connection with the Report and I would be grateful if you would please, invoice the party who has asked questions of you for that work.

For the avoidance of doubt, I can confirm on the evidence I hold to date that there is no reason to suspect that I will be pursuing a claim against my Hospital or Doctors.

Finally, I am sure you will be aware of the changes to the Civil Procedure Rules and Part 35 of an Expert's Report. Simply by way of clarification, I would be grateful if your Report includes a new mandatory statement of truth of "I confirm I have made clear which facts and matters in the Report are within my own knowledge and which are not. Those that are within my knowledge are confirmed to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer." Furthermore, one of the other new amendments is that the Report must contain statements that (1) you understand your duty to the Court and have complied with it and will continue to comply with it, and (2)



you are aware of the requirements of Part 35, PD35, the Protocol and the PD on Pre-Action Conduct.

If you have any questions concerning the above points and you would like to discuss the matter, please do not hesitate to contact me.

I look forward to receiving your Report.

Yours sincerely

INSERT YOUR NAME