

Legal Glossary

Adjournment – a postponement of a Hearing, either temporarily or permanently.

Adverse costs – these are legal costs which you may be ordered to pay to the other side. An appropriate BTE or ATE policy is likely to protect you against having to pay adverse costs, hence one of the main reasons we advise you to have such a policy in place.

After the Event Insurance (ATE) – if we are funding your case under a “No Win No Fee Agreement” and you do not have appropriate legal expenses insurance, we recommend that you allow us to take out an ATE policy on your behalf. An ATE policy will protect you from paying the other party’s legal costs and disbursements in certain situations, for example, if you failed to better at Court an offer made by the other side (unless you had unreasonably rejected our advice to accept the other party’s offer). The cost of the insurance is payable by you if your claim is successful, which we deduct out of your compensation at the end of your claim. If you do not win your case, you do not have to pay the insurance. The cost of the insurance ranges depending upon the type of accident and the amount of cover you require. The insurance is completely optional but we strongly recommend it.

Appeal – once a case has been decided at Court, there are circumstances where you can appeal a decision and the case is re-heard by a more Senior Judge.

Before the Event Insurance (BTE) – Insurance to protect you against paying disbursements and the other party’s legal costs which was purchased by you prior to an accident (as opposed to ATE which is taken out after the accident. BTE is often purchased or included within insurance products such as a home insurance policy. Details of whether you have cover will be in your policy documents.

Care and assistance – the care you receive during your recovery from injury for tasks which you would have been able to carry out but for the accident. This care could include domestic duties such as cooking and cleaning but could also include your loved ones taking you to hospital appointments.

Claim Notification Form – Most claims are lodged via an online portal. The Claimant Notification Form (CNF) is the formal notification of your claim to the individual/ company/ responsible for the accident. This form provides basic details about you, your claim, the accident circumstances and why you feel they were responsible.

Claimant – the individual making a claim for compensation

Conditional Fee Agreement (CFA) – also known as a “no win no fee” agreement. This is the legal contract between us which explains how your case is funded. The agreement mentions numerous terms including our fees, your responsibilities, and our duties to you. As part of the terms, this firm charges you a success fee amounting to a maximum of 25% of your final compensation award (excluding future losses).

Contributory negligence – Contributory negligence refers to situations where the injured person is partially at fault or contributed to the accident which caused their injuries. As long as primary liability can be established against the Defendant, then you will be entitled to compensation, however, the Defendant is not prevented from raising allegations of contributory negligence in order to try to reduce the amount of compensation they have to pay you. Your Solicitor will advise you if this is raised.

Counsel – This is a common term used when describing a Barrister. We may ask a Barrister to advise on your case and/or to represent you at Court. We may ask you to attend a conference with the Barrister, either by telephone or in person, to discuss your case at certain stages.

Court Application – a formal request to the Court to make an Order. For example, we may make an Application to Court to force the other party to provide us with records of your accident such as an accident report form or a cleaning inspection sheet.

Court Order – this is a formal order of the Court which must be followed. It could relate to numerous things the Court has decided. One of the most common orders is a Directions Order which lists key tasks for you to do by a certain date. If the deadline passes and we have not complied with the Order then your case may be struck out. It is therefore vital that you give us timely instructions.

Defence – if Court Proceedings are issued, the Defendant will be required to submit a “Defence” which is a formal document setting out their response to your case. For example, it may contain information as to why the Defendant feels they are not at fault for the accident.

Defendant – the individual or company defending a claim for compensation made against them. In most cases, the individual or company’s insurer will be defending the claim on their behalf.

Disbursements – This is money which your solicitor has to pay to third parties to help prepare your case. For example, court fees, the cost of a medical report, medical records, police report etc.

Disclosure – This refers to documents which are relevant to your claim which we and the other party are legally obliged to exchange. These documents may be supportive to your claim but in contrast, we must also disclose documents which may not assist your case. An example of a document is a medical report. If Court Proceedings are issued, these documents will be put in a list contained within a Court document entitled “List of Documents”.

General Damages – *The legal term, commonly referring to the injury element of the claim.*

Liability / Negligence – *This is a term used to describe who is at fault for the accident. If liability is admitted, we will look to obtain evidence to support your injury and financial losses in order to bring your claim to a successful conclusion. If liability is denied by the other party, then we will still fight your corner but we may need to gather more evidence to support your claim and obtain the best possible outcome for you. Whilst we cannot guarantee your case will win, we will do our best for you and only take on your case if we believe it has a good chance of winning.*

Loss of earnings – *This is income you did not receive as a result of being absent from work due to the accident. You will need to produce evidence to support any loss claimed such as wage slips, financial accounts and/or tax returns depending upon whether you are employed or self-employed.*

Medical report – *you will be required to attend at least one examination with an independent medical expert. The expert will write up his/her report in the weeks after your examination and his/her job is to give the Court the medical diagnosis of your injuries and give details of the recovery period and/or say if the injuries are permanent and if treatment is required. This report will help us to value your claim for compensation.*

Mitigate – *Your duty to keep your losses to a minimum. You must ensure that you minimize the loss by taking reasonable steps to ensure that, where possible, the loss does not increase, and do not take unreasonable steps which may increase the loss. For example, if you are off work because of the accident and are claiming for lost earnings, you have a duty to return to work as soon as you are fit enough to do so in order to minimize any loss arising from the accident.*

Negligence – *see Liability*

Part 36 offer – *a formal offer of settlement in an attempt to bring the claim to a conclusion. The offer can be made by either the Claimant (the person making the claim) or the Defendant (the person whom the claim is being made against) at any time within the duration of a claim and can be on the issue of liability or the valuation of the claim. A Part 36 Offer is open for acceptance within 21 days of it being made and after that time, can only be accepted with the consent of the parties or the Court. However, after 21 days, the party making the offer does have the right to withdraw.*

Particulars of claim – *This is drafted by your Solicitor or Barrister as the formal document sent to Court setting out the accident circumstances, identifying the parties at fault and the relevant breaches of law, details of the medical evidence and your losses. This will be sent to you for your approval and it is important that you check it is accurate because it will be cross-referenced with the evidence you give at Trial and any inconsistencies or inaccuracies will be used by the Defendant to undermine your evidence. This document can only be amended in very limited circumstances and usually only with the Court's permission.*

Prospects of success – *This is the assessment of whether we think your case will be successful and is usually expressed as a percentage. We only work on cases under a "No Win No Fee" Agreement if we believe it has prospects of success over 50%. We will review your case at key stages and let you know if your prospects fall below 50%.*

Quantum – *This refers to the value of your claim for compensation and could be made up of many heads of claim such as personal injury compensation, travel expenses, loss of earnings, vehicle repairs, physiotherapy charges etc. It is important to keep and pass receipts of your losses to your Solicitor as this will help us to recover the costs.*

Special damages – *this is term mostly used to describe the financial losses you have incurred as a result of the accident. These losses are claimed in addition to your personal injury compensation and could include, for example, loss of earnings or medication costs. These losses will be outlined in a formal Schedule of Loss which we will submit on your behalf. It is important to keep any receipts.*

Success fee – *this firm used to recover a success fee from the individual or company at fault for the accident but the law changed in 2013 and is now instead recoverable from the individual who makes a claim for compensation. The success fee is payable by you at the end of your case but only if you win and recover compensation. The success fee is capped at 25 % (inclusive of VAT) we will deduct this out your damages before sending you the balance of your compensation.*

Trial – *This is the final hearing which will determine the outcome of your claim and is usually heard before a District or Circuit Judge in a County Court. We will instruct a Barrister to act on your behalf who will fight to win your case.*

Witness statement – *a formal and detailed statement in your own words detailing how the accident happened along with the impact the accident has had on your life. This statement will usually be taken by your Solicitor when Court Proceedings have been issued. Your witness statement will form the basis of your evidence at Trial it is important is accurate as you will need to sign a statement of truth as part of the statement.*