

What is the legal process to go through if you've been in a car accident?

If you're in the unfortunate position of being involved in a car accident, you should know that there is legal process that is followed in order for a compensation claim to be paid.

Stage 1 – Lodging your Claim

The first step following a car accident is to lodge your claim form with the Compulsory Third Party insurer (CTP Insurer) of the vehicle who caused the accident (the at fault vehicle).

In South Australia we now have multiple CTP insurers; these being:

• AAMI;

- Allianz;
- NRMA (formerly SGIC);
- QBE;
- YOUI

Following a motor vehicle accident, it is important that you obtain the motor vehicle registration of the other vehicle. You will then be required to identify the insurer of the vehicle, which you can do by using the South Australian Government's EzyReg App. Once you have the at fault vehicle's registration details, you will need to complete a claim form.

The claim form is to be completed and submitted within 6 months of the accident, or as soon as reasonably practicable e.g. in instances where the at fault vehicle was unable to be identified or was unregistered.

When completing the claim form, it's important to obtain medical evidence, for example, this can be in the form of a Medical Certificate which identifies your injuries.

Stage 2 – Determining liability and your eligibility/whether you are able to make a Claim?

Once the Claim has been lodged, liability i.e. who caused the accident and was at fault, is to be determined.

The CTP insurer may be required to investigate the accident further before they are able to provide their position about a liability. They may be required to obtain evidence from witnesses, or from Police reports (the Vehicle Collision Report). One benefit of having a lawyer is that they will be able to assist you with this process.

Once the CTP insurer has made their decision, they are to inform you in writing as to whether liability has been accepted, partially accepted or denied. At the same time, they are also required to inform you if there are any reductions to apply to the Claim. Reductions may include deductions due to intake of alcohol appearing in the system or for not wearing a seatbelt. The letter should also explain the reason for the CTP Insurer's decision.

If you do not agree with the insurer's decision and have not obtained legal representation then this may be a good opportunity in which to do so.

Stage 3 – Recovery

Following liability being admitted by the CTP insurer, then the CTP insurer may agree to fund reasonable and necessary medical treatment, care and support (this may even occur before a decision about liability has been made).

Whilst the CTP insurer recommends seeking pre-approval, we appreciate that this may not always occur and on that basis, we recommend that you keep your receipts so that they can be submitted for

the CTP insurer to consider for reimbursement.

In order to obtain pre-approval, it may be that medical evidence in support of the treatment is required; this may be sought by the insurer or if you have a legal representative, they will assist with this.

Stage 4 – Finalise the claim

Once injured persons have undergone their treatment and their injuries can now be considered to have stabilised, that is, their injuries are likely to remain as if there may be good days and bad days, then steps can be taken to finalise the Claim.

Depending on the complexity of one's injuries it may be that an Injury Scale Value (ISV) medical assessment is required to support your injuries and whether you are eligible for certain forms of compensation.

Further information in relation to the ISV thresholds can be found in our previous article, **What is the Injury Scale Value and how is it used in motor vehicle accident claims?**

If at this time negotiations occur and the matter is not able to be resolved then this is when solicitors tend to go down the Litigation path.

It is important to note that in order to protect an injured person's interest, a Claim must be lodged in the Court within three years of the date of accident. It is important to lodge a claim as soon as possible to prevent a Claim from running out of time and becoming statute-barred.

How can Andersons' help?

Manoeuvring through the whole CTP Claim process and legal process can be somewhat daunting. We recommend that you seek legal advice as soon as possible to get an understanding of your entitlements.

Andersons offer a free, first 30-minute consultation which will help you understand your likelihood of a successful claim. You are under no obligation to engage the lawyer after this meeting so you really have nothing to lose.

For most motor accident claims, we offer either a No win, No Fee or a deferred payment arrangement depending on the circumstances, and for most claims, the insurer will pay a significant contribution towards your legal fees.

To discuss your personal situation with one of **Andersons' personal injury lawyers**, please **contact us** here.