



ANDERSONS
S O L I C I T O R S

LawTalk Blog



A simple guide on what to expect when making a personal injury claim

Author: [Suzanne Pinyon](#)

Email: enquiry@andersons.com.au

Phone: 08 8238 6639

Date: Thursday June 1, 2017

So you've had an injury where someone else may have been at fault or negligent. Deciding to lodge a claim for compensation for personal injury, and even [consulting a legal practitioner](#) about the possibility of success of such a claim, can be extremely daunting for many people.

Often, for many months after an injury, you're attending medical appointments, rehab and maybe even counselling while also coming to terms with the limitations and restrictions that your injury is now having on your day-to-day life.

Medical attention and treatment should be foremost in your mind but it's also important to remember that there are time limits imposed by state legislation on the length of time you have to lodge a claim and to pursue a personal injury claim in court.

How long after my accident have I got to make a personal injury claim?

In South Australia the time limit for common law claims (the legal term for such claims) for personal injury is three years from the date of injury.

However there are some special provisions with respect to specific types of claims such as claims made under the provisions of the *Trade Practices Act* and also claims [involving children or people with disabilities](#).

In addition to “common law” claim time limits, there are also time limits imposed for lodging claims for [workers compensation](#) and [motor vehicle accident](#) claims. Seeking advice early, from a lawyer experienced in personal injury claims will ensure any time limits are understood and complied with.

Are the laws the same across Australia?

No. It's important to remember when seeking advice, even with initial enquiries made online or by phone, that you obtain advice specific to the location of your injury. The law varies from state to state in Australia and where you suffered your injury will determine the law that will apply to your claim.

There are many different types of personal injury claims such as claims arising out of:

- a motor vehicle accident;
- a work accident
- an accident in a public place or on someone's property;
- an injury resulting from medical treatment; and
- an injury resulting from an assault.

When seeking legal advice we strongly recommend you speak with someone skilled and experienced in the area of law relating to your specific injury claim. At Andersons, our solicitors specialise in practice areas so, for example, you can seek assistance from a lawyer who works primarily with workers compensation claims or perhaps a lawyer who works primarily with medical negligence or motor vehicle accident claims.

What information will I need to gather to provide to my lawyer?

The medical treatment you receive for your injury will be vital evidence in your personal injury claim. It is very important that you obtain the appropriate medical treatment and that medical advice and treatment is sought at an early time so that all relevant medical records can be obtained with ease and preserved and also so that you optimise your chance of recovery from your injury.

If you are considering pursuing a claim on behalf of a child or a disabled person where there are special limitation rules, it is crucial that all relevant evidence is preserved. Over the passage of time often medical records are destroyed or witnesses cannot be located or pass away, so the more detail and information you collect, the better equipped you will be to make your claim .

What will happen when I first contact a lawyer?

Most law firms practicing in personal injury law will offer a half hour free interview where you can discuss your claim and obtain some initial general advice about the type of claim you might have and whether it is in your best interest to pursue such a claim.

If you decide to engage a lawyer to act on your behalf, you will be required to complete a “retainer agreement” with the law firm. This document is a requirement imposed by (in South Australia), the Law Society of South Australia and it sets out your legal rights

and obligations with respect to the assistance and advice your lawyer will provide to you and any legal costs you will incur.

In the majority of personal injury claims your legal fees are not payable until the successful conclusion of your claim.

Your solicitor will then spend time with you obtaining a detailed statement about the circumstances of your injury and your personal history. Information sought could include;

- a personal history;
- a work history;
- details of any previous accidents or injuries;
- details of the injury for which you wish to claim; and
- any treatment received up to the time of making a statement.

The accuracy of the statement is very important in assisting the solicitor to advise you fully about your entitlements and the likely success of your claim.

You will be the primary witness in your claim so once again the earlier you seek advice about the claim and record your details of the event that led to your injury will mean an increase in the likelihood of a more favourable outcome for you.

Your solicitor will ask you to sign authorities enabling the solicitor to obtain all of the relevant medical evidence from medical practitioners and hospitals.

You will be required to undergo what is referred to as medico-legal assessments by independent doctors to assess your impairment and capacity to carry out daily activities and work.

In more complex matters or matters that are proving difficult to resolve, your solicitor may recommend that a barrister be engaged on your behalf. A [barrister works closely with the solicitor](#) and will assist with the claim and provide advice.

Will my claim end up in court?

The majority of personal injury claims are resolved by way of mediation or an informal settlement conference. This does not end up in trial in a court.

Although we've stressed that it's important to act early after your injury, it's also important to note that your claim cannot be resolved until you have reached a stage in your rehabilitation where your injuries are considered to be stable. Your injuries will be considered stable when the medical doctors do not expect any further change in your condition and future needs such as medical treatment and home assistance and future incapacity for work can be assessed.

If you've had an accident or injury and you think someone else is at fault, you should seek advice from a lawyer experienced in personal injury compensation.

Today's blog writer, [Suzanne Pinyon](#), has over 20 years experience with personal injury claims including [medical negligence](#), [motor vehicle accidents](#) and [public liability](#) claims like falls in a public place.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.