

Accident and insurance claims for sufferers of chronic back pain

- ◆ A claim for damages can be brought when chronic back pain can be shown to arise from road accidents or accidents at work
- ◆ Discrimination at work because of disability can also lead to claims under the Disability Discrimination Act
- ◆ Claims can be made on Personal Accident Policies and Ill Health Retirement Policies

How may a claim arise?

This information sheet has been prepared to give people suffering with chronic back pain (CBP) an idea of whether they may have a claim for damages and how to proceed. However this information is a starting point only and as all cases will be different, it is firmly recommended that you seek the advice of a lawyer who understands CBP.

Due to the debilitating nature of CBP, substantial awards of damages can often result. Such claims can arise in a variety of different ways

Claims arising out of accidents

- ◆ **Road Traffic Accidents**
If you have had an accident that was not your fault, you may well be entitled to compensation. This will not just be for the initial injury but also for the CBP caused by it or made worse by it.
- ◆ **Accidents at work**
Unfortunately these do occur and sometimes they can lead to CBP. Where there has been negligence leading to an accident, there may well be grounds for a compensation claim.

Other types of claims

- ◆ **Personal Accident Policies and Ill Health Retirement Policies**
Insurance companies are often reluctant to pay out on Personal Accident Policies and Ill Health Retirement Policies where CBP has been diagnosed. Many solicitors and, worryingly, doctors as well, minimise the significance of CBP, or query whether it can be permanent.

An experienced solicitor can marshal the evidence so as to persuade the insurer to pay out. S/he can also assist in putting the case to the Financial Ombudsman Service.
- ◆ **Professional Negligence**
Many solicitors are not very well informed when it comes to CBP and may appoint the wrong experts. They may simply have gone to the wrong type of medical experts to comment on CBP. They sometimes attempt to persuade their clients to settle for a fraction of the amount of damages their cases are really worth. Where that happens you may have a claim against your lawyers.
- ◆ **Discrimination**
The Disability Discrimination Act prevents unfair discrimination by employers towards employees suffering from a disability. If an employer is being unreasonable in what he expects you to do or is refusing to make reasonable adjustments to cater for your disability, an action for discrimination may be appropriate.

Making a claim

- ◆ **Retain an experienced solicitor.**

Look at the Law Society web site for their special interest group

If you already have a solicitor working on your case and you are dissatisfied with any aspect of its progress, you can change your solicitor any time. All you need to do is approach the solicitor whom you would like to handle your case. If he is prepared to take on your case, he will arrange the transfer.

- ◆ **Keep a diary of how you feel.**

Although keeping a diary may appear to be a time-consuming and tiring chore, it can be vitally important when it comes to litigation to be able to remind yourself of how you felt at a particular time. It can take a while from the initial diagnosis to the completed claim and a diary recording on a daily basis of the following could well be a valuable aid to charting your problems

- How you felt.
- The extent of the pain.
- What you were able to do or not do on a particular day.
- What medication you took.
- Any visits to a GP or specialist.

- ◆ **Keep all receipts and paperwork**

Should your claim succeed you are likely to be entitled to any expenses you have incurred as a result of the CBP. These could be medical bills, travel expenses or help around the home. Keeping all receipts is the best way of ensuring all these expenses are recovered.

Relevant Information

Law Society (www.lawsociety.org.uk) tel. 0870 606 6575

Action Against Medical Accidents (www.avma.org.uk) Helpline 0845 123 2352 (AVMA is a charity that supports people involved in medical accidents.)

Patient Advice and Liaison Services (PALS) (www.dh.gov.uk) or contact your local hospital or Health Authority

Independent Complaints and Advocacy Service (ICAS) contact your regional Health Authority

The Health Ombudsman 0207 276 2035

Editor's note:

Please bear in mind that litigation and giving evidence can add to your stress and pain levels and effect recovery or improvement.