

PERSONAL INJURY CLAIMS FOR CHILDREN

Children will have accidents. This is life. However, sometimes children are injured in accidents which are caused by the negligence of others, e.g. birth injuries caused by the mismanagement of pregnancy or labour, road traffic accidents, slips, trips and falls and defective electronic devices or toys. If a child has been injured because of the negligence of another person, that child is entitled to compensation for the injury and loss.

When a child has been injured, the last thing on parents' minds are to contact a solicitor. The main concern will be getting the child to a hospital or a doctor. Sometimes child injuries are minor but sometimes they are more serious and can lead to missing school for an extended period of time, sports may be out of the question for the foreseeable future and perhaps there has been permanent scarring. The cost of medical treatment can then become high for parents. These are only some of the scenarios which may cause parents to meet with a solicitor regarding injuries to their children.

A child is a person under the age of 18 years. They are minors. They cannot engage solicitors to act on their behalf. A person over the age of 18 years needs to bring the case on behalf of the child. This person is called a next friend and is usually a parent or a guardian.

Time limits are always important in personal injury cases. The usual time limit is 2 years from the date that the injury occurred. However, for children, this 2 year period will not start to run until he/she turns 18 years of age. It is always recommended that any claim for injuries be brought as soon as possible.

The case itself will proceed in the normal course through the Injuries Board and, if necessary, the courts. However, the best interests of the child will always be at the heart of the case. If there is any settlement reached or an award made by the Injuries Board, it will not be enough for the legal team to advise the parent(s) of the child to accept it or reject it. It will also need to be approved by a Judge. If a Judge is happy that the compensation is adequate for the injuries, he/she will approve the amount and it will be lodged in court to the child's benefit until he/she attains the age of 18 years. If a Judge is not happy that the compensation is adequate, he/she will not approve it and the case must either continue or the other side may be happy to increase the amount of compensation payable to finalise the case.

Any expenses incurred by the parent or next friend as a result of the child's injuries can be included in the case, e.g. doctor's fees, pharmacy expenses, travel expenses and any other relevant expenses. If successful with the case, these expenses will be paid out to the next friend and will not be lodged in court with the compensation for the child's injuries.

Before the child turns 18 years of age, applications can be brought on his/her behalf before the court to have some of the money paid out for the benefit of

the child. In order to be successful with these applications, proof will have to be shown to the court that the money is required for a real benefit such as education or healthcare.

So what should you do if your child has been injured in an accident?

- **Medical Attention:**
Get your child to a doctor or a hospital, as soon as possible. The welfare of the child is of the utmost importance.
- **Report:**
Report the accident to the relevant person. If injured in a shop or a crèche, report it to the manager. If injured in a public place such as a park, playground, footpath, report it to the local county council or city council. If injured in a road traffic accident, report it to An Garda Síochána. If injured by a defective toy or electronic device, report it to the shop and the manufacturer. If injuries were suffered because of mismanagement of pregnancy or labour, report it to the director of the hospital. You should report how the accident happened and the injuries. You should also keep a copy of any written reporting such as an email or a letter or the name of the person to whom you reported the incident and the time and date of the reporting.
- **Gather evidence:**
Record the names and addresses of any witnesses, take photographs of the injury, take photographs of the location of the accident, if possible, and record any other relevant information.
- **Speak to a specialist personal injury solicitor:**
If your child has been injured in an accident which was not their fault, please contact our office for further information.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**