



THE BIKERS
LEGAL EAGLE

**7 THINGS YOU MUST
KNOW ABOUT BIKE
ACCIDENT CLAIMS**

 Lampkin
& Co

ACCIDENT SOLICITORS

1 Stop before you make the first call!

If you've been injured in an accident that was not your fault you will be in shock. Your bike which is your pride and joy will have been damaged, your helmet and clothing ruined and almost inevitably you have sustained an injury. You may be angry that another person's negligence or stupidity has caused you all these problems and you will be determined to do something about it quickly.

My advice is to stop and think before you do anything!

Most people jump straight on the phone and ring their insurance company who, when they learn that another party is at fault, will fall over themselves to offer you their panel Solicitor. They will say you have legal expenses insurance on your policy which may or may not be true and will say that they will invoke that insurance policy to appoint their panel Solicitor. What actually happens in most cases is your insurance company will sell your claim to their tame solicitor for approximately £800. You will not see any of that money and it will come from the costs available to be spent on your case.

In most minor road traffic accidents any solicitor that handles your case will only be able to recover £1200 costs. This means that if they have paid £800 to the insurers just to get your name then they will only be left with a mere £400 to look after you and fight your case.

So be aware that as soon as you call your insurance company it is almost inevitable that they will try to sell your claim to a solicitor who may not be the best solicitor to fight your case. My advice is to select your own solicitor and in particular one who has experience and expertise in motorcycle accident claims. If you go direct to a solicitor you will ensure that a good and recommended professional will be looking after you.

Remember insurance companies just look after themselves. Solicitors have a duty to their clients so appoint a solicitor directly.

Only call you insurers after you have read this or spoken to me.



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2 Who is to blame? Ask an expert!

Another reason it may not be in your interest to accept your insurance company's solicitor is that they may not have expertise in motorcycle accidents.

Many solicitors who are bikers themselves will have this experience and you may want to benefit from their bike friendly work.

It is important because a lot of motorcycle accident claims need careful handling from the start. Quite often "at fault" car drivers when reporting to their insurance company and after having considered what happened in the accident will seek to blame the biker. I have lost count of the amount of times I've heard car drivers say they believe the biker is at fault because they "came from nowhere". Because of this they believe the biker must have been speeding or have been on the wrong side of the road. What it actually means is that they just did not keep a lookout.

Special cases such as filtering need very careful handling. Most insurance companies will rely on a case called *Powell V Moody* in which the motorcycle was overtaking a line of stationary traffic when a car emerged through the gap attempting to turn right and drove into collision with the biker knocking him and the pillion passenger to the floor. This is a reported case which held the biker 80% to blame. From the biker's point of view this is a disastrous case and if you are involved in an accident like this then you need a solicitor who has fought these cases successfully and is aware of other reported cases where bikers can achieve 100% recovery.

There are other motorcycle accidents too numerous to mention that need similar very careful handling.

Choose your solicitor carefully.



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3 No Win No FeeIs Good!

Do not be scared of engaging a solicitor on a no win no fee basis. This system is brilliant from your point of view. You have been injured suffered loss and damage because of somebody else's negligence and you need to engage a lawyer to take legal action against them and to make sure you recover your losses in full. In the past you have either had to qualify for legal aid or had the money to spare to pay your lawyer in any event.

The government introduced this no win no fee system which allows a solicitor, like me, to be able to guarantee to a client that they will never have to pay a legal bill. In English law the loser pays the winner's costs so provided the case is won your solicitor will recover their costs in full from the other side's insurance company. Since the introduction of the no win no fee system, the precise word for which is Conditional Fee Agreement, I have always had an agreement in place that states precisely that I will only take in respect of my costs the money I recover from the other side leaving client's damages untouched. I've conducted over 15,000 cases on this basis and never deducted a penny from a client! Not all solicitors have the same agreement however.

You should be careful to make sure you will never have to pay.

Also make sure that you will not have to pay for any fees as your case progresses. These fees are called disbursements and cover such essential costs as medical reports and court fees. Most personal-injury solicitors will fund these disbursements for you as your case progresses and recover them as part of their costs at the end of the case. These fees can be many thousands of pounds so make sure they will be funded as your case progresses.

Beware! There are still some claims companies who try to take money from client's damages.



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3 No Win No FeeContinued

Do you know the difference between a solicitor and a claims company? Until the turn-of-the-century it was illegal for a solicitor to pay anyone to have a case referred to him. Therefore referral fees were banned and so claims companies did not exist. At the turn-of-the-century and, in my view quite wrongly, the government allowed solicitors to pay referral fees for work and this created claims companies whose sole aim is to advertise for and gather information on clients who have had accidents and to sell their details to solicitors who are prepared to pay the highest amount.

I believe that this is an evil trade in people's misery and has caused an enormous amount of bad practice and bad publicity. You should be aware that a claims company cannot handle your case from start to finish. They cannot take the case to court and they are not qualified to give legal advice and assistance. All they do is sell cases to solicitors. The fees they charge are in the region of £800 per case and they may also add on irrelevant or unnecessary insurance premiums.

You will generally know if the company you are thinking of approaching is a claims company because they will be regulated by the Ministry of Justice where as a solicitor would be regulated by the Solicitors Regulation Authority.

Basically you should consider an insurance company, claims company or even a trade union who now sell cases, as a middleman. If you are happy about a middleman being involved in making a decision as to which solicitor gets your case and you are happy for them to effectively take a large chunk of the legal costs in your case for nothing then you can ring them. If however you wish to engage your own specialist lawyer go direct! You decide!



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4 What Can Be Claimed?

Motorcycle accidents inevitably cause damage and injury. You will be able to claim back any financial loss you have suffered in the accident provided you can prove liability.

Firstly your bike may be damaged and if you're fully comprehensively insured you will probably approach your insurance company and they will arrange the repairs and may supply you with a courtesy bike during repairs. Behind-the-scenes they may then approach the "at fault" insurers and recover their outlay thus reinstating your no claims position. They may or may not deduct your policy excess but if it is paid by you it will form part of your uninsured loss claim and will be handled by your lawyer.

If you are third-party insured your lawyer will engage an engineer to examine and inspect your bike and provide reports on the costs of repairs and write-off value.

You'll also be able to claim compensation for being without the use of your motorcycle and or any hire charges or a replacement bike provided you can show you needed it and the rates of hire were reasonable. **Be very careful when signing a credit hire agreement.** A lot of claims companies and hire companies will force you into a credit hire agreement but that may not be the best thing for you. The law in relation to recovery of credit hire charges is extremely complicated and you need the advice of an expert bike accident lawyer when making a decision as to whether to hire a replacement bike during the period of repairs. I repeat the law in this area is extremely complicated and you would need advice before signing the hire agreement from an expert solicitor.

Any clothing and equipment that had been damaged in the accident can also be claimed and you need to prove their value either by original purchase receipts or by obtaining replacement estimates for items of similar value.

If you've been off work as a result of your injuries you'll be able to claim loss of earnings. It is normally claimed by looking at payslips three months prior to the accident and working out average weekly loss and then making a simple calculation. If you are self-employed recovery of loss of earnings can be very complicated. Proof of previous earnings can be difficult unless paperwork and accounts are available. Taxi drivers can often have poor accounts and will find it very difficult to prove they have pre-accident earnings and therefore will have difficulty in proving and recovering their loss of earnings.



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4 What Can Be Claimed?... Continued

With severe injuries that will have an impact on future earnings, calculations become very complicated. We as expert lawyers use complicated tables to predict life expectancy, working life and working capacity and to calculate loss of earnings well into the future. In such cases claims for loss of earnings can run well into six figures.

Loss of congenial employment. You may even obtain an award of compensation if you're not able to return to your normal occupation but the law in this area is very complicated. Care and services. If a relative or friend has to spend time looking after you following the accident you should keep a diary of the tasks they perform and how long it takes because you will be able to recover a sum of money for their gratuitous care. This is calculated at a commercial hourly rate to which a discount is applied.

Basically you can recover any financial loss that you say flows from the accident and from your subsequent injury. We use our skill as expert personal injury lawyers to leave no stone unturned in considering your financial loss even if we have to look well into the future.

The other part of your claim will be pure compensation for your pain suffering and loss of amenity. Once we obtain medical reports on your injuries and know how that will impact upon your future life we will be able to advise you. We research previously decided cases to assess how much your case is worth. To give you some idea you may want to use our injury calculator although at such an early stage of your case this can only give you a rough guide. It takes skill and good legal arguments based on strong medical evidence to maximise your award of compensation.



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5 What is Different About Bike Claims?

As discussed above liability in bike claims can be very complicated. Filtering accidents are common place and insurers will select and use cases that have been previously decided and reported in their favour. There are other cases that have been decided in favour of bikers and the bike accident specialist lawyer, such as us, will have a library of such cases to use in difficult accident circumstances.

Because of the nature of powered two wheelers, accidents can often occur due to defective highways. We regularly fight cases against councils for failure to maintain the highway that cause catastrophic injuries including paralysis to motorcycle accident clients. Councils will inevitably defend such cases by raising the defence that they have a good and proper system of inspection and repair of the highway and therefore they are not to blame. We have conducted thousands upon thousands of cases against Councils for failure to maintain highway and we have become experts in trawling through computer generated documentation to try to find holes in the Council evidence of inspections. Most lawyers give up but we do not!

Diesel spills can also cause a problem but it is possible, provided you have good evidence, to claim for injuries and loss sustained in a diesel spill accident against the motor insurers bureau. Different cost rules apply to these cases but you may be able to recover some or all of your losses but you need good and expert advice.

A recent report has shown that the majority of accidents involving a bike and the car are caused by the car driver. The main cause is this lack of perception. This means that the main cause of bike accidents is car drivers just simply not perceiving the motorcycle is approaching. We have access to the full 179 page report which we use to strengthen the client's case on statistical evidence.

Bike cases are also different in the way that damage to property is dealt with. It can often take in-depth knowledge to be able to present engineering evidence about the value of the bike in court. We are specialists in dealing with modified motorcycles, classic bikes and bikes that have been enhanced and therefore of substantially more value.

Special rules also apply to helmets damaged in accidents. Whereas with other property damage and in particular damaged clothing you may not be able to recover the full amount of your loss because there will be an element of "betterment" you should recover 100% of the value of your helmet. The legalities of this are that generally speaking damages are assessed on the basis of your loss of value of the equipment on the day of the accident. Technically a second-hand helmet is worth nothing and therefore your loss could in real terms be assessed at nil. We argue however that your loss is the fact that you now need to buy a new helmet at full value and we have had this argument upheld in court on many occasions.

We are also experts in assessing the need and cost of having an adapted motorcycle if there are continuing disabilities.



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6 What to do if the Insurers Contact You?

It will be a term of your insurance policy that you should contact your insurers following an accident. My advice however is to do that as your second call and make your first call to me or a suitably qualified motorcycle accident lawyer. The reason for that is that if you contact your insurers they will almost inevitably try to sell your case for cash and that might not be the best thing to happen for your case. My advice is to speak to a good lawyer first.

Quite often however the at fault driver's insurance company will make contact with you having immediately recognised that they are liable for your loss damage and compensation. They are now using disgraceful tactics of putting pressure on accident victims to accept early settlements that are clearly not in their favour.

My advice is that under no circumstances whatsoever should you speak to a third-party insurance company without taking professional advice.

You must remember that the insurance company's only duty is to their shareholders and they owe you no duty whatsoever. They are only trying to pay you the minimum amount possible to escape from their liability. My advice is that provided your case is good on liability you will be able to engage the services of a professional motorcycle accident lawyer free with no cost risk and 100% guarantee that you will receive whatever they recover for you. Therefore what is the point of view exposing yourself to the danger of dealing with an unscrupulous insurance company who are just desperately trying to save their shareholders money?

My advice you get good professional help at the earliest opportunity before talking to an insurance company a trade union or a claims company.



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7. Guarantee and £250 Loyalty Bonus

Knowing the above I hope you can see that as an expert motorcycle accident lawyer I could either by my cases from insurance companies and claims companies or ask my clients to come to me directly. My aim is to do everything in my power not to give insurance companies and claims companies and other interfering middleman sleazy backhanders to receive cases.

All I want to do is to attract good quality deserving clients to come to me directly and I will reward them for their loyalty by giving them £250 worth of vouchers to spend at J&S Motorcycle Accessories Ltd. J&S have 12 stores nationwide and a good online presence and have a vast array of motorcycle clothing and accessories. I personally buy vouchers from them to give to my clients with my thanks. This is a pure gift from me. Further if you know a friend who I could help I would give them the vouchers and reward you with £100 of vouchers free. These vouchers are a loyalty bonus and are paid upon the successful conclusion of the case by us.

I personally guarantee that if we take on your case you will receive **100%** of whatever money is recovered on your behalf.

I personally guarantee that the only costs we get paid are the cost we recover from the other party's insurance company.

I personally guarantee that we will fund all your disbursements as your case progresses.

I personally guarantee that the only circumstances that would allow us to raise a bill payable by you is if you lie to or deliberately mislead us or instruct other solicitors without good reason.

I personally guarantee that when we successfully conclude your case we will give you **free £250** of vouchers from J&S Motorcycle Accessories. They have 12 stores nationwide and a good online facility www.jstv.com with a vast array of motorcycle equipment.

This is a gift from us to you to reward your loyalty in coming directly to us.

Refer a friend

If you know somebody who may benefit from our services please recommend us to them. If we successfully conclude their case not only will they receive £250 vouchers free we will give **you £100 vouchers as a thank you**. Yes that's a £100 gift of vouchers from us to refer a friend.

For more advice on any of the matters raised this in guide contact Mark Lampkin at Lampkin & Co Solicitors by any of the following methods:



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