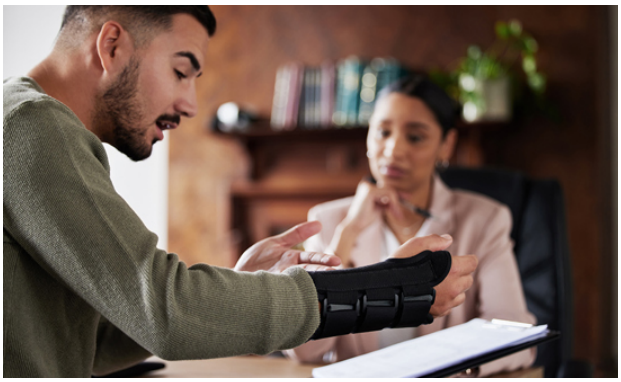


A guide to personal injury claims – the types of claims, the differences and the similarities

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When a person is injured and considering whether or not to make a claim for compensation, it can be very difficult to understand what type of personal injury claim they should make. It's often difficult to understand the differences between various claim types. Personal injury claims involve complex legal concepts and jargon, which make the whole process even more confusing.

This blog looks at the more common types of personal injury claims in Queensland and briefly summarises the similarities and differences between them.

Different types of personal injury claims in Queensland

The most common types of personal injury claims in Queensland are:

Motor vehicle accident - Compulsory Third Party insurance (CTP) claims

CTP claims are compensation claims where the injuries were caused by a motor vehicle.

Learn more detailed information about CTP claims here

WorkCover common law claims

This type of claim is related to worker's compensation, where the injuries were caused or materially contributed to by the injured person's employment and where you can establish fault (negligence) on the part of your employer or another responsible person/entity. A WorkCover common law claim provides compensation in addition to worker's compensation statutory entitlements.

Learn more detailed information about WorkCover common law claims here

Medical negligence claims

This type of claim is brought against a medical practitioner, allied health professional, medical service provider and/or a facility due to medical malpractice.

Learn more detailed information about medical negligence claims here

Child sexual abuse claims

This type of claim provides compensation for survivors of childhood sexual abuse. Survivors of abuse can bring a claim against an institution and/or the individuals who had a duty of care during the period of abuse.

Learn more detailed information about child sexual abuse claims here

Public liability claims

This is a claim for compensation for injuries which occur due to the negligence of another party. One of the most common types of public liability claims are ‘trip and fall’ injuries but there are many other types of scenarios that fall into this category too.

Learn more detailed information about public liability claims here

Similarities between different types of personal injury claim

General process

Personal injury claims in Queensland will usually follow the same general process as set out below.

Regardless of what category of personal injury claim your matter might fall within, it will involve what is called a ‘pre-court process’. As that phrase suggests, this involves various steps that must be taken to try to resolve the claim before you are able to bring a claim to the court.

The ‘pre-court process’ concept has been in place in Queensland for over 20 years (30 in the case of motor vehicle accident claims) and is designed to compel the parties to attempt to settle the action early (in most cases within about 12 months) and avoid what is usually a very costly exercise in running the claim through the court system.

The following is a summary of the steps involved (for ‘pre-court’ and then, if the claim can’t resolve at end of that process, court proceedings).

Pre-court process

Complete and serve a notice to the Respondent (the other party) of the claim;

Respondent’s responds to the notice;

investigations take place;

A compulsory conference takes place; and

Final offer is made.

Court process

File and serve court proceedings;

Trial;

Decision is made by the court.

Strict time limits apply to most personal injury claims

With the exception of historic child abuse matters, a general 3-year ‘limitation period’ (time limit) applies to all categories of personal injury claim in Queensland.

This is a complex area of personal injury law, but generally anyone considering bringing a claim for damages (compensation) for personal injury needs to keep in mind that they only have 3 years from the date of injury (event which caused their injury) in which to legally initiate their claim. Generally, this requires filing with the court by the expiry of the three-year period.

Whilst each category of claim has different rules/requirements (substantive and

procedural), the golden rule is that you need to seek legal advice about your claim as soon as possible. Limitation periods are strictly enforced/insisted on by defendants and/or the courts (if called upon).

An experienced personal injury lawyer will be able to advise you about all relevant time limits which might apply to your particular claim. Do not delay in seeking this advice. Many lawyers will give you this advice free of charge when you call to discuss your potential claim. IM Lawyers provides free initial advice and runs claims on a ‘no win, no fee’ basis.

FREE ADVICE FROM A PERSONAL INJURY LAWYER: 1800 001 339

Requirement for information

Regardless of which category your personal injury claim might come within, the following information needs to be obtained (or at least given consideration to):

medical information about:

- the claim-related injury; and
- other previous injuries that have an impact on the loss suffered as a result of the claim-related injury,

information about how the injury occurred;

information about who you think is responsible for the injury;

expert opinions (if relevant), such as medical specialists, engineers, accountants etc.

Differences between different types of personal injury claim

Applicable legislation

Each of the categories of personal injury claim noted above is governed by a different Act of Parliament and regulations. The major legislative instrument for each of the types of claims are set out below:

Personal Injury Claim Type	Major Legislative Instrument
Motor Vehicle Accident / Compulsory Third Party Insurance (CTP) claims	Motor Accident Insurance Act 1994 (Qld)
Workers' Compensation / WorkCover Common Law claims	Workers Compensation and Rehabilitation Act 2008 (Qld)
Medical negligence claims / Abuse claims / Public Liability claims	Civil Liability Act 2003 (Qld)

Intricacies

Each of these legislative instruments includes specific requirements relevant to each type of personal injury claim.

Standard format for the Notice of Claim

This is generally because for each type of claim the information that will need to be obtained will be different. For example, CTP claims after a road accident require information about the vehicle(s) involved which can be gathered quickly in the standard CTP claim form.

Pre-court processes

Differences in the pre-court processes in terms of the timing of certain steps and required reports and information.

Phrases and concepts

Differing phrases for similar concepts are used across the different types of claims.

Get help from a personal injury lawyer

This article only touches on some of the complicated issues involved in personal injury claims in Queensland. The law continues to evolve and change, and having an experienced, competent personal injury lawyer on your side will maximise the likelihood of a successful compensation claim.

IM Lawyers' team of experienced personal injury lawyers will ensure your claim is conducted efficiently and effectively to ensure you recover the maximum compensation you deserve for the injuries you have sustained.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.