

# How to make a personal injury claim in Jersey

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# How to make a personal injury claim in Jersey

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## How to make a personal injury claim in Jersey

This is a guide as to when, and how, you can bring a claim for personal injury where the incident causing your injury happened in Jersey.

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## What is a personal injury claim?

Accidents happen. They can happen at any period of our lives, at work, on holiday, doing the shopping or playing sport. If you have been injured in an accident which was caused by another person you may be entitled to claim compensation for the loss you have suffered.

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## What is the legal test?

In order to be successful in a personal injury claim you need to prove 3 things:

**1. That the person at fault owed you a duty of care.**

Someone owes you a duty of care when they have taken some degree of responsibility for you. For example your employer owes you a duty of care to ensure you are safe when you are at work; the owner of a shop owes you a duty of care when you are in their premises, and other road users owe you a duty of care when they drive their vehicle.

**2. That the person breached their duty of care.**

If a duty of care can be established, then you also need to show that there was a failure to fulfil that duty. For example, if your employer does not maintain equipment properly leading it to fail and injure you; if a shop does not mop up a liquid spill or place a sign warning of it causing you to slip and fall; or a driver drives badly causing their vehicle to collide into you.

**3. That it was their breach which caused your injury.**

Finally you will need to demonstrate that it was the breach of duty that was the direct cause of the injury you suffered. For example if the equipment had been properly maintained it would not have injured you; if the shop had cleaned up the spill you would not have slipped; and if the other driver had driven well you would not have been in an accident.

If both you and the other person are in part responsible for your injury this is called contributory negligence. The Court will decide the percentage that each party was responsible for and will reduce any damages according to the percentage you are deemed to have contributed.

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## Time Limit

For most personal injury claims you must bring your claim within 3 years of the date of your injury. If a claim is brought after this period the defendant can apply to have it struck out without any other reason other than it has been brought beyond that time limit.

There are some exceptions to this. First, if you are under 18 at the time of the injury, the 3 year period may not start until you turn 18 meaning that you have until your twenty-first birthday to bring a claim. Secondly, in certain circumstances if the person responsible was your employer or there was some form of contract in place you may have a claim in contract, in which case you have 10 years to bring a claim. Finally, if there is a legitimate reason why it was impossible for you to have brought the claim within the 3 year period, for example where you did not have sufficient knowledge of the matter to bring a claim or where the injury was such that it prevented you from bringing a claim, then the claim may be permitted. If you are outside of the 3 year period we can advise if any of these exceptions apply.



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### Assessing your claim

If you want us to assess whether you have a potential claim for personal injury then please contact us. We will arrange an initial free 30 minute meeting to discuss the matter with you. If you have any relevant photographs, correspondence or other documents relating to the injury you should bring those with you. We will then assess the likelihood of success of your claim and let you know if we are able to proceed with your case either on a no win no fee basis or otherwise.

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### What can you claim?

Compensation is separated into general damages and special damages.

General damages are to compensate you for your pain, suffering and loss of amenity. Pain and suffering refers to the injuries that you have sustained, the duration of your injuries and any element of your injuries that is likely to be permanent. Loss of amenity refers to compensation for things you are unable to do, for example if you were unable to work, or unable to drive or play sports. The amount is calculated by referring to previous awards made for similar injuries to those you have sustained.

Special damages cover the costs you have incurred as a result of your injury, for example the cost of visiting a GP, travel to and from the hospital, replacement clothes or adaptation to your home because of your injury. We can advise you what items you will be able to claim for.

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### Experts

Depending on the severity of your injuries, or the nature of your claim, we may need to instruct an expert witness to produce a report. We work with a wide range of high quality experts, who would assess your claim and provide a report on either causation and liability (i.e. were you owed a duty, was it breached and did the breach cause your injury – the legal test) or on your condition and prognosis (i.e. the effect of the injury on you, how long your injury will effect you and in what way).

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### What happens next?

If you decide to proceed with your claim we will begin to gather all the relevant evidence such as medical records, a police report or a health and safety report. We will prepare what is referred to as a pre-action letter. This is a letter that is sent to the person you think is responsible (or their insurers) which sets out what you are claiming for, the circumstances leading to your injury and why you think that person was responsible.

Along with the letter we will send a schedule of loss. This is a list of the items for which you are claiming compensation.

We will then enter into discussions in an attempt to settle your matter out of Court. We always endeavour to settle the matter out of Court to reduce costs and to resolve matters more quickly.

If however a fair settlement cannot be agreed, our litigation team have extensive experience in taking cases to trial. If it is necessary to proceed to Court we will advise you further about the process at that time.

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**Contact us** If you want advice on any aspect of a potential personal injury claim then call us on 875875 or email us via [info@benestysyvret.com](mailto:info@benestysyvret.com). One of our team will be pleased to talk things through with you.

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**Disclaimer** This leaflet contains general information based on Jersey law and although Benest & Syvret endeavours to ensure that the content is accurate and up to date, you should seek appropriate legal advice before taking or refraining from taking any action based on the content of this leaflet or otherwise.

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