

How to Make a Claim for a Serious Injury Abroad

Whether you have been involved in a road accident or injured yourself on the ski slopes, it is important to seek specialist legal advice as soon as possible as you may be able to make a claim for compensation.

Holiday Injury Claims

Accidents can happen on holiday just as they can in normal day to day life.

If the accident happens within England and Wales the normal rules apply as to whether a claim can be brought. If the accident was in a hotel and you allege that the hotel has been negligent in some way i.e. you tripped on a faulty stair causing you injuries, the usual rules of negligence/occupiers liability will apply and you would be entitled to bring a claim for compensation.

If however the accident happens when you are abroad, the claim may be subject to the laws of the country where the accident happened.

Package Holiday Injury Claims

If you suffered an injury as a result of a holiday provided by a package tour company, then a claim can be brought against that company in a UK court. Broadly speaking, your trip is classified as a package holiday if you paid a single company for travel, accommodation and food. For example, accommodation is normally part of the 'package', so if you tripped on a badly broken tile in your room, you may have a claim against the tour operator. Although the case may be heard in your local County Court, the local standards of the country where the accident occurred will be considered. A very common type of claim in these circumstances is food poisoning. Your legal adviser will determine whether or not a claim can be brought in the UK.

Air Travel

To pursue a claim involving air travel, you must prove that you suffered an injury (recent case law has suggested that this does not include psychiatric injury) as a result of an accident which is 'an unexpected or unusual event'. It was this argument that defeated the claims of deep vein thrombosis (DVT) that were brought by a number of victims in the UK some years ago. The time period for issuing proceedings is two years, compared to the normal three years in personal injury cases.

Sea Travel

The type of injury that can be claimed for is wider than in air travel and can include mental injury. Again the period for bringing the claim is only two years. Recent cases include the Novo stomach virus outbreaks onboard cruise ships and injuries caused whilst aboard ferries.

Skiing Accidents

The nature of skiing means that these holidays produce a large number of injuries and claims each year. Whether your claim can be brought in the UK will depend on some of the issues outlined above.

- Were you on a package holiday?
- Has the negligent party been traced?
- Are there elements of contributory negligence?

Country of Jurisdiction

It may be that your case will have to be brought in the country where the accident occurred. If this happens, we will work closely with a specialist personal injury lawyer from that country who we are confident will provide the best service. However, it is worth bearing in mind that there are a number of circumstances in which a claim can be brought in British courts even though the accident happened abroad.

The Rome II Convention allows claimants to bring actions in their home country courts for injuries sustained in other EU countries. This convention applies where it makes sense to bring the claim in the domestic court rather than in the foreign one. An obvious example would be where an accident happened in, say, Spain, but the parties involved were all from the UK. The legislation suggests that any compensation will be based on the system of the country where the accident occurred even though the case is heard in the UK.

How to Make a Claim

This is a highly specialised area of the law, so you should only go to a solicitor who has experience acting for individuals injured abroad. Brethertons Lawyers are members of Association of Personal Injury Lawyers (APIL) and the Pan European Organisation of Personal Injury Lawyers (PEOPIL).

The first step would be to consult with one of our litigation experts at Brethertons. We will provide a free initial interview and we may be able to act for you on what is known as a 'no win no fee' basis.