

# Road Traffic Collisions

## **Expertise and Understanding**

Legal advice from Irwin Mitchell

**This booklet provides some guidance on the legal rights of those injured as a result of a road traffic collision.**

This information relates to the law and procedures in England and Wales. Please contact us if you need advice about the law and procedure in other legal jurisdictions.

Although there have been significant improvements in road safety in the UK, road traffic collisions are still an all too common occurrence. Many people are injured or killed in these collisions. Road traffic collisions often have devastating and long term consequences for the injured person and their family.

Road traffic collisions present specific and unique problems for those injured as a result and as such require specialist legal advice to ensure the best outcome. At Irwin Mitchell we believe that our clients deserve the best possible legal advice, medical care, rehabilitation and specialised support following such an event.

Our dedicated team will fight fearlessly to achieve the best outcome for you and your claim. We are renowned for our understanding of the issues affecting those involved in a road traffic collision and we know what positive action to take to make a difference.

We will deliver the highest level of professional advice and expertise combined with dedication and sensitivity.

*Above all, we put you first.*

*"I am writing on behalf of all my family and myself, to thank you for all the hard work and difficulties you dealt with on our behalf. We are really most grateful for all your efforts and compassionate understanding of our worries and hope you will convey our thanks to all your staff!"*

**- Ellen**

Talk to a specialist advisor today

Freephone **08000 23 22 33** or visit  
[www.irwinmitchell.com](http://www.irwinmitchell.com)

If you have been injured as a result of a road traffic collision, Irwin Mitchell can help you get the compensation you are entitled to.

### Road Traffic Collisions

---

Unfortunately, road traffic collisions are an all too regular occurrence on our roads and can result in a range of injuries for drivers and pedestrians alike.

At Irwin Mitchell our specialist lawyers have unparalleled experience in all aspects of road traffic personal injury claims, including:

- Complex multi-vehicle incidents
- Crashes involving pedestrians
- Whiplash claims
- Claims involving serious brain and spinal injuries
- Uninsured driver claims
- Crashes involving cyclists
- Crashes involving children
- Public transport claims
- Claims by passengers
- Hit-and-run cases
- Motorbike claims
- Fatal crashes

### Complications

---

Some collisions feature more complicated circumstances such as hit and run, uninsured drivers or even a deliberate collision. In such cases it is still possible to recover compensation.

The Motor Insurers Bureau (MIB) has various schemes in place to help you if you have been involved in this type of collision. There is also the Criminal Injuries Compensation Authority (CICA) if the collision was deliberate.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

Irwin Mitchell is one of the largest and most experienced personal injury law firms in the country. Our reputation for handling claims following road traffic crashes is second to none and every year we recover compensation for people injured in this way.

### Specialist team

---

Employing many of the country's finest personal injury lawyers, our highly specialised Road Traffic Collision team delivers expert, insightful and effective advice. Combining powerful legal arguments with care and consideration, we will handle your claim with strength and sensitivity to ensure the best possible outcome.

### Immediate concerns

---

Depending upon the extent of your injuries, you may well have other immediate concerns too – about your long-term health, your job and your finances, for example. Irwin Mitchell can help you recover compensation for any expenses or losses that you have incurred as a result of a road traffic collision.

### Our service

---

The service we provide is about much more than securing compensation. We can help with all manner of health, social and financial issues, from arranging and purchasing specialist equipment and accommodation, to education, employment and income provision through various types of investment.

Our service includes:

- Immediate investigations to determine who was at fault,
- Interim payments wherever possible to help fund private healthcare, rehabilitation and financial security,
- Taking into account any worries you may have such as financial needs, state benefits and your employment or other rights,
- Expert support for you to access rehabilitation and employment opportunities,
- Specialist in-house services such as Personal Injury Trust advice, financial planning, Wills, Powers of Attorney and periodical payments.

Your future health and financial wellbeing informs our every action and is central to what we do.

Irwin Mitchell is committed to you and to achieving the best outcome for your claim. We'll ensure that you are well cared for throughout the process and do everything we can to secure the compensation to which you are entitled.

### Roadpeace & Brake

---

As corporate members of Roadpeace and Brake, the leading road safety charities, we are often asked to comment on road safety issues in the national and regional media. We also deliver training to police Family Liaison Officers and are accredited by the Association of Personal Injury Lawyers (APIL).

### Campaign for improvements

---

At Irwin Mitchell we have a long history of campaigning with leading organisations active in all manner of personal injury. Together with these groups we seek improvements in road traffic management to prevent collisions wherever possible, and to improve the quality of life and levels of compensation for those who have suffered injury.

### Recognition

---

Our ground-breaking support for clients with serious injury has been recognised many times, and we have recently been presented with the claimant's solicitors Rehabilitation First award.

### Over and above

---

We are sponsors and fund raisers for several leading road safety charities and support groups - with a large number of our team volunteering their skills at national, local and at an individual level.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

If you have been injured in a road traffic collision it is important to seek legal advice as soon as possible. Even if you don't know whether you are entitled to make a claim or not, you should speak to one of our specialist advisors right away.

You can talk to a specialist advisor today on **08000 23 22 33**

#### Free advice

---

The sooner you contact us the better your chances of making a successful claim. To find out if your circumstances could lead to a claim, contact us on the number above or visit our website and complete the online claim form.

Once you have made contact, we will give you free advice on whether we think you could make a claim. It is then up to you to decide to proceed. Should you wish to go ahead, we will make an appointment to see you at a convenient time and place.

*"You are the only personal injury lawyers we know, however we doubt whether a finer team has yet been born to surpass your collective expertise."*

**- Richard and Ingrid**

In many personal injury cases there are strict time limits on when you have to start court proceedings for your claim. For this reason it is vital that you seek advice from one of our specialist advisors immediately.

### Time limits

---

In English law and in most cases, the time limit for starting a personal injury claim is three (3) years from the date of the accident or incident giving rise to your injury. However, that limit can vary and may be shorter or extended depending on the circumstances of your case.

### Road Traffic Collisions

---

In the vast majority of road traffic collisions that result in injury, the time limit for claims will be three (3) years from the date of the injury. In some very limited cases, such as where children under the age of 18 are injured and for people with very severe injuries, the Court can decide that the normal time limits will not apply.

### More detail

---

In the case of collisions outside England and Wales time limits may be less and in some cases, where the injuries are caused by criminal assault, the time limit for making a claim may also be different.

The sooner you contact us the better we are able to prepare your claim, but in any case we will give you clear advice about the time limits that apply to your particular circumstances.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

If you are unsure whether you have a claim, or even if you think the collision might have been your fault; you must always call us to talk it over. We'll assess your case free of charge, tell you what we think and then you can decide if you want to go ahead.

#### Track record

---

At Irwin Mitchell, we have a long track record of winning compensation cases where the client initially thought they did not have a claim or that the law did not protect them.

#### What are my chances of winning?

---

When you contact us we will give you realistic advice on the chances of winning based on the information you provide. It is not possible to give a definitive answer on any case, however, the more information we have the more accurate an assessment we can make.

We will always give you an honest, straightforward opinion.

If you are worried about legal costs, don't be.

Contacting us for initial advice on your claim will cost you nothing. If we advise you to pursue a claim with us, we will review all the options for funding it.

At Irwin Mitchell our preferred option is our "No Cost To You" scheme which under a "no win no fee" agreement means that:

- If you win you keep 100% of your compensation,\*
- If you lose, you pay nothing,\*\*
- There are no hidden costs.

When we discuss your claim in more detail we will tell you if the "No Cost To You" option is available or if we need to look at other funding options.

You may for example be able to fund your case through trade union membership or legal expenses insurance.

\*Does not apply to group actions or accidents and illnesses outside England and Wales and is subject to compliance with the terms of your funding arrangements.

\*\*Subject to entering a 'No Win, No Fee' agreement with us and complying with its terms.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

The amount of compensation you receive will depend on many factors, including how seriously you have been injured, how the injury has affected your life, how much money you are considered to have lost and will lose as a consequence and the extra support you will need in the future.

### Individually assessed

---

From the outset, our team will advise you on how the Courts approach the assessment of compensation and how this fits with your circumstances. The fact is that we are all different and the consequences of a similar injury will vary from person to person. The Courts will always assess your claim on an individual basis and award compensation according to its findings.

If your claim is progressed under Irwin Mitchell's "No Cost To You" scheme you will receive 100% of any compensation awarded to you.\*

### Keeping you informed

---

As we learn more about you and your injury, and obtain further evidence such as medical reports, we will be able to provide a more accurate idea of what the Court is likely to award to you. You can be assured that we will do everything we can to recover the maximum amount of compensation available to you and organise payment terms to suit your immediate and ongoing needs.

\*Does not apply to group actions or accidents and illnesses outside England and Wales and is subject to compliance with the terms of your funding arrangements.

Talk to a specialist advisor today

Freephone **08000 23 22 33** or visit  
[www.irwinmitchell.com](http://www.irwinmitchell.com)

We will investigate your case thoroughly by gathering witness statements, accident reports and other relevant details about your injuries and ongoing requirements. All this information will be collated and presented to the Courts.

### Insurance

---

A claim will then be made against the relevant person or body, and it is likely that their insurance company will get involved. We will then wait for a response from the insurance company you are claiming against. This can go one of two ways; either they will decide to meet your claim, or they will not.

Don't panic if an insurance company turns down your claim at first as this often happens - it does not mean that your claim will fail.

### Out of Court

---

The vast majority of cases are settled before they go to Court, however, some will end up going before a Judge. It can take a lot of time to prepare a case for Court so you will need to be prepared for delays.

Don't worry, this is normal and we will keep you informed all the way through.

We know this is a lot to take in but we will be with you every step of the way making your claim as easy and stress-free as possible.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

In the tragic event that a member of your family is killed in a road traffic collision, you may be entitled to claim compensation.

This is also the case if the person who died was your spouse or the partner you were living with. The laws that relate to these types of situations are very complicated and you should seek the advice of a specialist solicitor.

The compensation awarded following the death of a family member will be based on how dependent you were on the person who died, or how dependent you were on their services such as looking after your house or DIY.

#### **Bereavement award**

---

There is also a standard award for bereavement, which is currently a single payment of £11,800. We realise that this is not very much, particularly in cases where young children are involved, and we are campaigning to increase levels of compensation in cases of this nature.

In addition to the bereavement payment, funeral and associated costs can also be recovered within the claim.

We will be able to advise you clearly on your entitlements and support you through the process.

In the event of a collision leading to a family member or friends death, an inquest will be held. An inquest is convened by a Coroner to establish four facts: the identity of the person who died, where this happened, when and the reason for their death.

An inquest may be opened and adjourned immediately if the Police are investigating the collision. Any criminal proceedings that follow may also have an impact on whether the inquest actually resumes or not. Family members of the deceased can attend an inquest and as they are formal, it is best to attend along with your solicitor so that they can explain what is happening and ask questions on your behalf.

Irwin Mitchell have many specialist advocates who can represent you at an inquest if you have a lost a love one in a road traffic collision.

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

There are many myths around road traffic collisions that often cause unnecessary emotional confusion for victims and their families. As a result, some victims and their families may not wish to consider the possibility of pursuing compensation to help with their future care, rehabilitation and support needs.

Here we highlight the top ten common myths:-

**1. The Police did not prosecute so there can't be any compensation claim?**

This is not true. There are many circumstances where there is insufficient evidence for the Police to prosecute for a criminal offence but there is sufficient evidence to bring a civil claim for compensation. These issues are dealt with in different Courts and there are different thresholds for proving the claim. Therefore never assume that because there are no criminal charges that there is no claim for compensation.

**2. The driver was uninsured so how can I progress a claim?**

In every situation where someone is injured or killed in a road traffic collision involving a vehicle, whether that vehicle is insured or not, an innocent party will be able to pursue a claim. There are three possibilities:

- The driver is insured – in these circumstances a claim is brought against the driver which will then be dealt with by his insurance company.
- The driver is uninsured but there is a valid Policy of Insurance for the vehicle that was involved in the collision. Where the driver is uninsured but there is valid insurance on the vehicle that he is driving at the time, then that insurance company has to deal with any claim brought by another person as if the driver was insured.
- Neither the driver nor the car has any valid insurance – in these circumstances a claim has to be brought against the Motor Insurers' Bureau (MIB) Uninsured Driver Agreement. The MIB will appoint an insurance company to deal with the claim as if they were the insurers of the driver at the time of the collision.

In all of the above circumstances an innocent third party who is injured in a road traffic collision can pursue a claim, and if their claim is proven can obtain full compensation and full payment of their legal costs.

### 3. **The driver did not stop and I haven't been able to trace them so there is nothing that I can do**

Not true. There is another branch of the MIB which is the Motor Insurer's Bureau Untraced Driver's Agreement. Under this Agreement a claim can be pursued by an innocent victim of an untraced driver. The scheme is a little more limited than the Uninsured Driver's Agreement and therefore, whilst compensation can be awarded, there are some limitations to this. In addition there are limits on the amount of costs that can be recovered; however, a claim can still be pursued.

### 4. **I wasn't wearing a seat belt so it's all my fault**

The wearing, or not, of a seat belt can be relevant to whether you will be considered to have contributed towards your injuries. If the accident was not your fault, you will still be awarded compensation. In many cases, the failure to wear a seat belt will result in more serious injuries being suffered. If this is the case, then the most you could lose from your claim for compensation is 25% of the full amount you could have received if you had been wearing a seatbelt. In some cases however, if it is determined that the failure to wear a seat belt had no relevance to the severity of injuries sustained; in those cases nothing should be lost from the value of your claim.

### 5. **The car was being driven by a family member/my spouse so I cannot claim against them**

Again the relationship that you have with the driver is irrelevant. If the driver is responsible for the collision and drove negligently, then whilst it may not be ideal for family relationships, there is no reason why you cannot pursue a claim. An insurance company will deal with the claim in exactly the same way as if you were injured by a stranger and any restrictions are therefore from an emotional point of view rather than from a legal perspective.

### 6. **I knew the driver was drunk or under the influence of drugs at the time so I cannot claim**

Knowledge of the competency of your driver is a relevant consideration that the Courts will consider. There are many occasions when even in circumstances where a driver has taken alcohol or drugs, a claim can still be pursued. Legal advice should always be taken in these circumstances and we will always give you an honest, straightforward opinion.

### 7. **The collision took place sometime ago now so it's probably too late to claim**

In most cases, the time limit for starting a personal injury claim is 3 years from the date of the collision. For children and those who are not capable of managing their own legal affairs, however, different rules apply. The Court also has a wide discretion to allow certain claims to proceed despite being outside the period of 3 years from the accident date. You need to obtain specialist legal advice as soon as possible.

**8. The driver was foreign and was insured through a foreign insurance company/the collision occurred abroad. How do I progress a claim?**

Whilst it can be more complicated to pursue a claim and there may be foreign jurisdictional elements (which may involve different time limits for pursuing a claim), the fact that a driver is foreign or the fact that the collision occurred abroad, does not in itself prevent you from pursuing a claim. Early legal advice is recommended in these circumstances given that different countries have different timescales within which to bring to claim.

**9. My Solicitor was great when I moved house and/or made my will so they will know what to do for my road traffic collision, won't they?**

Many Solicitors now specialise in a particular area of work and whatever legal advice you are looking for, you should always ensure that your Solicitor has the necessary experience and expertise to properly advise you. This is even more important in circumstances where you are seriously injured, as someone who is not a specialist may well miss opportunities to access an early admission of liability; early access to interim payment funds and maximise the compensation recovered. Always make sure that you make a full enquiry as to the expertise of the Solicitor that you intend to proceed with and always remember that you can take a second opinion.

**10. I did take advice at the time of the road collision and was told that there was no claim. I now think that advice was wrong, but can I do anything about it?**

Solicitors, just like any other professional, can get it wrong and, if they do get it wrong then a claim for professional negligence can be made against them. If you are no longer able to pursue a claim that was valid because of the advice that you received from a Solicitor, then you can make a claim against that Solicitor and recover compensation that would otherwise have been awarded following the road traffic collision. Solicitors are required by their professional body to carry insurance to cover such claims and therefore you should have no qualms in pursuing this remedy if it is available to you. Again, making a claim against a Solicitor is a specialist area and you should ensure that you go to an appropriate specialist who has experience in professional negligence claims.

At Irwin Mitchell we understand that contacting a lawyer might seem like a big step, especially if you haven't done it before. That's why we go out of our way to make sure that if you get in touch with us we make you feel welcome, safe and secure.

We understand the issues affecting you and your family if you are injured in a road traffic collision and our renowned team of experts will fight tirelessly to ensure that you get the best compensation, medical care, rehabilitation and support possible.

Talk to a specialist advisor

Freephone

08000 23 22 33

Text 'CLAIM' to 61993

and someone will call you back

or visit [www.irwinmitchell.com](http://www.irwinmitchell.com)

*"May I thank you for the way my claim has been handled, after my accident my confidence was very low indeed but the sympathetic handling of my case restored my confidence"*

- John

Talk to a specialist advisor today

Text claim to **61993** and someone will call you back

### **Brake**

PO Box 548  
Huddersfield  
HD1 2XZ

Telephone: 01484 559909  
Email: [brake@brake.org.uk](mailto:brake@brake.org.uk)  
Website: [www.brake.org.uk](http://www.brake.org.uk)

### **Cruse Bereavement Care**

PO Box 800  
Richmond  
Surrey  
TW9 1RG

Telephone: 0844 477 9400  
Email: [helpline@cruse.org.uk](mailto:helpline@cruse.org.uk)  
Website: [www.crusebereavementcare.org.uk](http://www.crusebereavementcare.org.uk)

### **Department for Transport**

Great Minster House  
76 Marsham Street  
London  
SW1P 4DR

Telephone: 0207 944 8300  
Website: [www.dft.org.uk](http://www.dft.org.uk)

### **RoadPeace**

PO Box 2579  
London  
NW10 3PW

Telephone: 0208 838 5102  
Email: [info@roadpeace.org](mailto:info@roadpeace.org)  
Website: [www.roadpeace.org](http://www.roadpeace.org)  
Helpline: 0845 4500 355

### **ROSPA**

Edgbaston Park  
353 Bristol Road  
Edgbaston  
Birmingham  
B5 7ST

Telephone: 0121 248 2000  
Email: [help@rospa.com](mailto:help@rospa.com)  
Website: [www.rospa.com](http://www.rospa.com)

Freephone **08000 23 22 33**

[www.irwinmitchell.com](http://www.irwinmitchell.com)

Text claim to **61993** and someone will call you back

## Irwin Mitchell

**Birmingham** Imperial House, 31 Temple Street, B2 5DB

**Glasgow** Stewart House, 123 Elderslie Street, G3 7AR

**Leeds** 2 Wellington Place, LS1 4BZ

**London** 40 Holborn Viaduct, EC1N 2PZ

**Manchester** Bauhaus, Rossetti Place, Quay Street, M3 4AW

**Newcastle upon Tyne** Gainsborough House, 34-40 Grey Street, NE1 6AE

**Sheffield** Riverside East, 2 Millsands, S3 8DT

## Irwin Mitchell Abogados

**Madrid** C/Alberto Aguilera, 62, 28015, Spain

**Málaga** Calle Puerta del Mar 15, 29005, Spain



Irwin Mitchell LLP is a limited liability partnership registered in England & Wales, with number OC343897, and is regulated by both the Solicitors Regulation Authority and the Law Society of Scotland. The word 'partner', used in relation to the LLP, refers to a member of the LLP or any employee of, or consultant to, the LLP (or any affiliated firm) who is a lawyer with equivalent standing and qualifications. A list of the members of the LLP, and of those non-members who are designated as partners, is displayed at the LLP's registered office: Riverside East, 2 Millsands, Sheffield, S3 8DT.