

Accessing common law compensation

In some instances the process to access common law compensation can be straightforward. This is when another person, party or organisation is at fault and where you sustained a 'serious injury' in your transport accident. It is sometimes more complex and can take more time. This is when it is not clear who is at fault, or if more information is needed to understand your injuries or the accident circumstances.

Many people choose to engage a personal injury lawyer to represent them throughout the common law process.

Below is a simple outline of the key steps to access common law compensation after we receive a 'serious injury' application. *This does not take into account your personal situation or circumstances.*

You may like to contact us, or engage a personal injury lawyer for more information on how this applies to you.

	Step 1: Understanding your injuries and accident circumstances	Step 2: Deciding if you're eligible	Step 3: Negotiation and settlement	
	<p>DO YOUR INJURIES MEET THE LEGAL DEFINITION OF 'SERIOUS INJURY'?</p>	<p>WAS SOMEONE ELSE AT FAULT?</p>	<p>YOU & YOUR LAWYER WILL NEGOTIATE WITH US TO AGREE ON YOUR COMPENSATION AMOUNT</p>	
The TAC	<p>To help us understand if you have a 'serious injury' we may:</p> <ul style="list-style-type: none"> • Ask you for more information • Ask you to attend medical examinations • Ask for information from your treaters. <p>We will use this information to help us decide if you have a 'serious injury'.</p>	<p>If your role in the accident is unclear, to help us understand this, we may:</p> <ul style="list-style-type: none"> • Independently investigate the accident circumstances • Have a view on the level of fault of everyone involved in the accident. <p>We will use this information to help us understand who was at fault in the accident.</p>	<p>We will:</p> <ul style="list-style-type: none"> • Decide if you have a 'serious injury' • Form a view about who was at fault in the accident • Write to you or your lawyer (if you have one) with this decision. <p>If you are eligible and have a 'serious injury' we will give you a Serious Injury Certificate or confirm you have an impairment of 30% or more.</p>	<p>We will:</p> <ul style="list-style-type: none"> • Assess the amount of compensation you should receive • Attend a settlement conference to hear from you and your lawyer • Work with you and your personal injury lawyer to agree on the compensation amount.
You	<p>You may need to:</p> <ul style="list-style-type: none"> • Provide us with the information we ask you for • Attend medical examinations. 	<p>You need to:</p> <ul style="list-style-type: none"> • Provide the information we ask for • Consult a personal injury lawyer. They can provide independent legal advice on your role in the accident and how it may impact your entitlement to common law compensation. 	<p>You need to:</p> <ul style="list-style-type: none"> • If we grant a 'serious injury', you need to engage a lawyer (if you don't already have one) to progress your common law claim. <p>You can:</p> <ul style="list-style-type: none"> • Ask a lawyer for advice on how to review our decision if we decide you are not eligible. 	<p>You will:</p> <ul style="list-style-type: none"> • Work with your personal injury lawyer to negotiate the amount of your compensation • Attend a settlement conference with the TAC • Receive compensation once the amount has been agreed.
Your lawyer	<p>If you appoint a lawyer, they will:</p> <ul style="list-style-type: none"> • Work with you to understand if you have a 'serious injury' • Act on your behalf to seek a 'serious injury' decision from the TAC • Help you gather any information we need. 	<p>Your lawyer will:</p> <ul style="list-style-type: none"> • Advise if you are likely to be eligible • Act on your behalf and work with us on the next steps • Work with you if the TAC believes you may be at fault or partly at fault in the accident. 	<p>If we decide you are eligible</p> <ul style="list-style-type: none"> • Your lawyer will act on your behalf on the next steps. <p>If we decide you are not eligible</p> <ul style="list-style-type: none"> • Your lawyer can provide you with independent legal advice about reviewing our decision. 	<p>Your lawyer will:</p> <ul style="list-style-type: none"> • Assess the amount of compensation they think you should receive • Act on your behalf to negotiate with us on your compensation amount • Act on your behalf in Court proceedings if we can't agree on the settlement • Attend your settlement conference.