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## What to do in the aftermath of an accident involving a defective product?

Here's what you should do if you are involved in an accident caused by a defective product.

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Medical attention should be your first priority. More often than not, injuries caused by a defective product can be serious, for example, burns (chemical or electrical) or even broken bones. If you have suffered any of these injuries you should call an ambulance for assistance.

There are some basic precautions you can take with regard to any new product which has been bought from a shop.

First and foremost, keep the receipt. This not only provides proof of purchase but will also have information about the product on it, the shop where it was bought and even the date and time you bought it. How long after buying the product did you actually use it? Have you used the product before, or was this the first time you used it? How often have you used the product? These are all important questions which will be asked, and they will assist you should you have to make a defective product claim.

It may be tempting to return the product for a refund, it is vital that you do not do this. That's the main piece of evidence and it must not be lost. Keep the product and all of its packaging. But if you do make a complaint, be sure to note who it was you spoke to and when you spoke to them.

Take professional advice from one of the team at Smith Jones to see what you can do about your defective product claim.

# Defective Product Process

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## 1. Enquiry Stage

The first thing we will need to do is take details about your accident and the injuries you suffered as a result. This will allow us to assess whether you can [make a claim](#). In the case of a defective product, we will ask for certain details, including:

- **How the accident occurred;**
- **Where you bought the product; and**
- **Whether you have retained the product and/or any receipts.**

We may also request any photographs you may have of the product, and photos of the injuries sustained.

## 2. Evaluating your claim

After taking the initial details, we will be able to determine whether your claim has reasonable prospects of success.

### a. Reasonable prospects of success

If your claim has reasonable prospects of success we will explain the funding process to you and get you signed up to our No Win No Fee agreement (if applicable). We usually conduct our sign-up via email, or if you prefer, we can arrange for a visit from a local investigator.

### b. No reasonable prospects of success

If your claim does not have reasonable prospects of success, we will provide you with our reasons, along with advice stating that you are entitled to obtain the opinion of another firm of Solicitors who may take a different view than ours.

Under our No Win No Fee agreement, no costs are expected up front. Without diminishing your overall indemnity to us in costs, unless you fail to keep to Your Responsibilities or the work we do for you goes beyond the scope of this agreement or you take out an ATE insurance policy or any third-party funding, **WE GUARANTEE that if you Win then, you will receive a minimum of TWO THIRDS of your overall damages.**

## 3. Collecting evidence

When you have signed up to our No Win No Fee agreement we will start the process of collecting evidence, which may include obtaining medical records, and even asking you to send us the defective product.

We recommend that you keep a journal of your injuries and symptoms, and how these affect your day to day activities, such as work or hobbies. This will be useful in determining how the injuries have affected you and can assist us in evaluating your claim.

## 4. Submitting your claim

We will submit your claim to the responsible party's insurer via the Ministry of Justice Claims Portal. We propose to submit your claim by way of Claim Notification Form (CNF), which will require approval by signature. WE WILL NOT submit this without your approval.

The insurer then has 40 business days to respond with a decision on liability for your claim. If they do not respond to your claim within the given time, then the matter falls out of the electronic process and into fixed fees protocol. The insurer will then have 3 months (from the day after the CNF was sent) to complete their investigations and provide a liability decision.

## 5. Admission/Denial

The next step depends on how the insurer responds to your claim.

### a. Admission

If the responsible party's insurer admits liability for the accident and injuries, then we obtain further medical evidence in order to prove how long the injuries may last and the treatment you require.

### b. Denial

If the responsible party's insurer denies liability for the accident, then the claim is removed from the Claims Portal.

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At this point, we will assign the claim to a member of our Fast-Track team, who will assess the prospects of your claim again and advise whether we are still able to continue with your claim. If prospects are above 60%, we will then proceed to obtain medical evidence.

## 6. Gathering medical evidence

Medical evidence helps us to prove what injuries occurred, how the injuries have affected your life, and how long it will take you to recover. This also helps us to put a value on your injuries.

We will arrange for you to see an independent medical expert. They will examine you, your injuries, and your medical records. In providing a report, they may recommend further evidence or treatment.

### a. Specialised evidence

Further evidence may be required in the form of a specialist report. For instance, if you have suffered psychological injuries as the result of an accident then there may be a recommendation for you to be assessed by a clinical psychologist. We can then arrange for you to see further experts, gain their opinions and act upon their recommendations.

### b. Treatment

Specific treatment may be recommended to aid with your recovery, such as physiotherapy. We can help to arrange this treatment through our network of medical experts and case handlers.

### c. Settlement

We will provide you with your options at every stage, including the option to settle the claim. We will never recommend a settlement without medical evidence being complete.

## 7. Settlement out of court

Following medical evidence being obtained, we will start the negotiation process. The medical evidence will allow us to value your injuries, but we will also need to take information about any other losses you may have sustained. We will request receipts to prove these other losses, which may be related to (but not limited to):

- **Prescriptions**
- **Travel expenses**
- **Lost earnings**

This will allow us to assess all the losses which have occurred due to the accident. We can then negotiate with the responsible party's insurer to ensure that you receive the compensation you deserve.

## 8. Taking your claim to court

If the defendant continuously denies liability or a settlement cannot be reached out of court, then your claim may have to be heard by a judge in the County Court.

This can be quite a daunting thought, but our team will make sure that you fully understand exactly what is happening. We will gather more evidence, including expert reports or witness statements, to make sure that we are fully prepared to present your case.

## 9. Reaching a settlement

When a settlement is reached, the third-party insurer will send us the compensation. Once compensation is paid by the insurers, our internal costs department will write to you with the details of how the costs are calculated.



# Why should I choose Smith Jones?

Smith Jones have been helping clients with their compensation claims for over 30 years, including claiming compensation for injuries caused by defective products. These claims can involve complex legal processes and it can often be difficult to determine who caused the injuries, but you can rest assured that your claim is in safe hands with the team at Smith Jones.

Our highly qualified and specialist team are here to get you the treatment and the compensation you deserve after an accident. In doing this, they minimise the financial risk to you by helping you pursue your claim on a No Win No Fee basis. This means that you only pay our legal costs if your claim is successful; in other words, if you win, we win.

We are specialists in personal injury law, which allow us to focus solely on your claim with none of the distractions that mixed practices face. We believe that this is the key to our success. But don't just take our word for it, our results speak for themselves:

- We won over £10 million for our clients in 2017
- Our average settlement value is £13,107.29

To begin making a claim, call us for free and discuss your situation with one of our expert team.

**0800 195 95 90**

We are available 24 hours a day, 7 days a week and are ready to take your call.

**smithjones**  
SPECIALIST PERSONAL INJURY SOLICITORS

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Use our claims calculator - [click here](#)

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