



Can I bring a personal injury compensation claim for my child?

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In short, the answer is yes.

While we hope you never have to make the decision to take legal action for injury compensation on behalf of your child, if the situation arises, it is best for you to know that steps can be taken to protect your child's interests.

To say that your main concern will be your child's wellbeing is an understatement. While you can focus on ensuring your child receives appropriate medical treatment to achieve the best recovery, a lawyer can take the necessary steps to ensure your child's rights to make a claim for compensation are protected.

Each year, many children suffer injuries and disabilities as a result of:

- [motor vehicle accidents](#);
- accidents while at school;
- dog attacks;
- faulty products;
- [accidents in public places such as playgrounds](#); and
- due to medical negligence.

If your child is working and suffers a workplace injury or illness, they will also be entitled to make a workers' compensation claim.

The consequences of an injury or illness can be devastating for both the child and the family. It can also have significant impact on the mental wellbeing of the child and their family including:

- affecting a parent's ability to work;
- negatively impacting on the family's social life;
- affecting relationships with others; and
- the needs of the child to ongoing care.

The associated costs of managing the consequences of an injury or illness may be significant for the family.

If a child has been injured through accident or through medical error, then the child or their family may have a claim for compensation.

How can I make a claim?

A child is entitled to make a claim for compensation if they have been disabled or injured due to the negligence of a third party, including where the child's health and wellbeing has been caused by the negligence of a doctor, hospital or other health provider.

Where a mother, before the child was born, received medical treatment that falls short of that which the medical profession itself would expect (in other words negligent medical treatment; often referred to as medical malpractice) resulting in injury or disability to the child, the child can also bring a claim for compensation. For example, where a baby, during birth, suffers disability as a result of being deprived of oxygen.

While a child does not have the legal capacity to bring the claim themselves, the only requirement for a child claimant is that they are represented by a Litigation Guardian; that is, a person who acts in the child's interests and manages the claim on behalf of the child.

What can I claim on behalf of my child?

Children, when injured, may require different treatment to that of an adult. The cost of investigating and treating the child's injury or illness can be costly to say the least and ongoing for the remainder of the child's life. The outcome of the treatment may be difficult to predict at an early stage as the doctors may not know the impact of the injury or illness on the child until they reach adulthood.

When a child suffers a head or brain injury, it may take several years before the impact of that injury on the child can be appropriately assessed. Reasonable predictions on likely employment options for the child may be more accurately determined after the child completes their high school education.

The need for allied health intervention and/or therapies and for aides and equipment to manage the ongoing impact of the injury or illness may become more severe or obvious as the child grows up.

While we hope your child does not suffer a life-changing injury or illness, if he or she does, then many questions will be asked.

- What will your child need to help them manage their injury or illness?
- Can they go to mainstream school or is a special school required?
- Do they need ongoing occupational therapy input to manage their educational needs?

For a child who suffers a head or brain injury, the rehabilitation process can be long-lasting with the need for ongoing assessment of your child's needs; from childhood through to adulthood and often, for life.

Compensation that may be available for your child includes:

- damages (a lump sum payment) for the pain and suffering experienced by your child;
- money to compensate your child for their loss of earning capacity;
- funds for rehabilitation such as therapists and equipment to improve your child's quality of life;
- funds for the care needs (such as disability support workers) of your child.

When should I make a claim?

Strict time limits apply (even in the case of newborns, infants and very young children) and their entitlement to compensation may be lost if you claim late.

Our recommendation is not to delay speaking with a lawyer.

Why? Delay in notifying a third party of a potential claim could result in evidence being lost or destroyed, memories of witnesses fading or the inability to locate witnesses.

Claims involving children, particularly medical negligence claims, often involve quite complex issues. Navigating the issues to be addressed is quite challenging and there is usually a need to obtain expert opinion to support a claim. It is important that any professional opinion is sought from the most appropriate experts; which is difficult for the layperson to identify.

Get help from a personal injury lawyer

It is important to seek legal urgent advice from a lawyer experienced in compensation claims for children, to ensure the rights of your child are protected.

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