



AUTHOR / KEY CONTACT

# Fatal Accident Claims – A Factual Guide



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The provision for awards for fatal accidents is derived from two statutes: the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976.

Factors to consider:

1. Limitation;
2. The difference between a Fatal Accident Act claim and a claim under the Law Reform (Miscellaneous Provisions) Act 1934 Act;
3. Who is eligible to bring a claim;
4. Who is a dependant;
5. The type of financial dependency that entitles a party to claim

The time limit in fatal accident claims is generally three years from the date of death or from the date the death was linked to the negligence of a party that had owed the deceased a duty of care. In some cases, the victim may not have died immediately after the accident or negligence.

## The Law Reform (Miscellaneous Provisions) Act 1934

- Claims are brought on behalf of the estate
- The claim must be brought by executors or administrators
- No grant of probate, then no claim under this Act.

- Claims included industrial disease or clinical negligence claims, pre-death suffering, pain, suffering and loss of amenity and pre-death losses.

## Who can bring the claim?

Under the Law Reform (Miscellaneous Provisions) [Act 1934](#), the deceased's estate inherits the right to sue regarding the cause of death. A Law Reform Act claim can only be brought by the administrators or executors. Issuing the claim before the grant of probate in the case of an administrator will lead to the action being struck out, even if letters of administration are subsequently obtained.

There are four heads of claim under the Law Reform Act.

1. First, special damages (financial losses) occurring from the date of the cause of action until the date of death, but not future loss of earnings. Other typical items will be care costs, medical expenses and travel expenses. In addition, the cost of obtaining letters of administration or probate can be claimed.
2. Secondly, pain, suffering and loss of amenity sustained by the deceased between the date of the cause of action and death. In disease cases, there may be months or years of increasing incapacity or ill health prior to death.
3. Thirdly, damages for a deceased's awareness that their life has been shortened and their knowledge of the effect on his family.
4. The final head of damages is for funeral expenses which can also be brought under the Fatal Accidents Act 1976.

## Fatal Accidents Act 1976

- Must be brought by or on behalf of dependants
- No dependants – no claim

There is only one dependency claim. It is essential, therefore, to identify all potential dependents and include

them; otherwise, there is a risk of another dependent applying to be joined to the proceedings or possibly even suing for professional negligence for not being included in the first place.

The three heads of loss under the 1976 Act are:

1. Funeral expenses;
2. Statutory bereavement damages (current £15,120 for deaths on or after 1 May 2020); and
3. Claims for loss of income and services, for example, the loss of a mother's "services" to a child.

## Who can bring the claim?

- A dependent: spouse or civil partner
- A cohabitee (any person who was i) living with the deceased in the same household immediately before the date of the death and (ii) had been living with the deceased in the same household for at least two years before that date, and (iii) was living during the whole of that period as the husband or wife or civil partner of the deceased.
- Parent (or someone treated as a parent)
- Children
- Family members

## Examples of cases dealt with recently include:

1. The death of a man as a result of contracting campylobacter following the consumption of chicken liver pate. The claim was brought by both his widow under the Fatal Accidents Act and his daughter (as the Executrix) under the Law Reform Act, and damages paid out at £60,000.
2. The death of a man as a result of being exposed to asbestosis over a prolonged period. He contracted

mesothelioma and died. The claim was bought under the Fatal Accidents Act, and damages paid out to his widow for £130,000.

3. The death of a female following the mismanagement of prescription opioids. The claim is brought under the Fatal Accidents Act and is ongoing.

## How can we help?

[Fiona Brooke](#) is an Associate in the team and regularly assists the families and dependents of loved ones who have died as a result of accidents or clinical negligence. In addition, Fiona is a member of the Association of Personal Injury Lawyers and an experienced practitioner.

Fiona says: "At Lester Aldridge we have genuine experience of handling these types of cases. This is written as a factual guide to assist those considering bringing a claim after experiencing the worst possible time. I am aware that it does read as hard facts; however with each individual case, I work efficiently and with empathy to assist the bereaved during these cases, which can be extremely difficult and emotional."

A client from one of the fatal cases detailed above recently sent the following words of thanks to Fiona: "I would be happy to recommend you. Firstly I found you extremely proactive, replying to emails straight away and providing information as requested. The video call was extremely helpful, enabling a more personable experience which I believe enhances the relationship between the client and yourself. The outcome/option of an out-of-court settlement was warmly received... With thanks and appreciation to you."

Please contact Fiona for further information at [fiona.brooke@la-law.com](mailto:fiona.brooke@la-law.com) or 01202 786296.