

## Accidents Abroad

### **Expertise and Understanding**

Legal advice from Irwin Mitchell

**This booklet provides some guidance about the legal rights of those who have suffered injury abroad.**

**The information is for guidance only as your legal rights will vary depending on the country in which your claim can be pursued and the particular facts of your case.**

## Accidents Abroad

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Choosing to pursue a compensation claim following an accident abroad is an important decision. What you need is expert advice from professionals acting in your best interest – from initial enquiry right through to successful outcome.

*"Just a few words to say thank you very much for your very professional advice throughout my road traffic claim in France. I am very pleased with the result and am back to full fitness now."*

**- Shane**

Every year, thousands of people have the misfortune to be injured in accidents abroad. These can range from trips, slips and falls to major airline and maritime disasters; and just as in the UK, there are usually laws to protect those who have suffered injury in such incidents.

Committed to the wellbeing and future financial security of all our clients, we will fight fearlessly to achieve the best outcome for you and your claim. We are renowned for our understanding of the issues affecting you and your family following a spinal cord injury, 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.*

Talk to a specialist advisor today

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

## Background

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If you have been involved in an accident abroad, whether as a independent traveller, in a group, on business or on holiday, you may be able to claim compensation for both your injury and (if you were holidaying) the fact that your holiday or trip was disrupted.

## Accident or incident

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Accidents abroad can occur due to many reasons and range from minor incidents involving a single individual to major disasters where large numbers of people suffer significant injuries – and everything in between.

## A complete service

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Seeking compensation following an accident abroad can be a complex affair involving foreign legislation, witnesses and specialist agencies. At Irwin Mitchell we will examine your case from every angle, provide effective and practical legal advice and help with any rehabilitation required.

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.

Your future wellbeing from all possible angles informs our actions and is central to what we do.

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

## Proven expertise

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Irwin Mitchell is one of the largest and most experienced personal injury law firms in the country. Our reputation for recovering compensation following an accident abroad is second to none and every year we recover compensation for people injured in this way.

### **Specialist team**

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Employing many of the country's finest personal injury lawyers, our highly specialised team has unprecedented expertise in the laws and issues that can affect a compensation claim for an accident that occurred abroad. As well as their skills in this area, some of our lawyers combine an understanding of accidents abroad with specialist skills in head injury claims, aviation and maritime incidents.

## Strength & sensitivity

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We have successfully helped people recover compensation after being injured in road traffic accidents, coach crashes, sporting accidents, slips and trips and many other types of accidents whilst overseas.

Combining powerful legal arguments with care and consideration, we will handle your claim with strength and sensitivity to ensure the best possible outcome.

## Travel Insurance

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In many cases we can help with your foreign accident compensation claim even if you had no travel insurance, as it may be possible to bring a claim in the UK Courts against your tour operator, employer or the insurers of those responsible for your accident. For example, if you were involved in a road traffic accident, we may be able to claim compensation against the insurers of the driver responsible.

From our very first meeting all the way through your claim and even beyond, we work tirelessly, introducing forward thinking and creative new ways to argue and win your case, recovering compensation not only for the pain and suffering caused by your injury, but also for any financial losses you may incur.

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## Dedicated Commitment

Irwin Mitchell is committed to you and 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.

### **50 lawyers in 80 jurisdictions**

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We offer an efficient, friendly and dedicated personal injury service and our team has extensive knowledge and experience in dealing with compensation claims arising out of illnesses and accidents abroad. We have 50 lawyers who litigate on claims ranging from several thousand pounds to seven figures and have foreign agents in more than 80 jurisdictions throughout the world. We also have offices in Madrid and Málaga.

## Top of the game

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Our Head of Practice, Clive Garner, is championed as a lawyer “at the very top of his game.” He secured millions of pounds in damages for illnesses and injuries suffered abroad in 90 class actions in one 12-month period alone. The group has successfully recovered damages for more than 10,000 clients who suffered illness abroad, including group actions involving holidaymakers at hotels in southern Spain, Majorca, Turkey, Tunisia and Dominican Republic

## Professional recognition

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Irwin Mitchell has won The Lawyer Award for ‘Litigation Team of the Year’ on at least two occasions. We are regularly top-ranked in legal dictionaries for our work in securing compensation for accidents and illness claims abroad. A recent entry in one of the leading directories stated:

*‘With huge resources, an impressive track record and a constant flow of cases, this firm is one of the recognised leaders in claimant work. Lawyers at this “eminent and highly motivated practice” are applauded for their wide-ranging experience, and for “always responding extremely quickly to clients’ needs.”*

## International reputation

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Members of our team regularly lecture internationally, are consulted on international law reform issues and hold positions of responsibility in several leading international organisations, including the Pan European Organisation of Personal Injury Lawyers and the American Association of Justice.

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## Holiday Injuries

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If your injury occurs while you are holiday, you may be able to claim compensation for your physical discomfort as well as the fact that your holiday was ruined.

If your claim is successful, you will be awarded compensation and the amount will depend on the individual circumstances of your case, including the extent of your injury and any financial losses you have sustained.

The amount of compensation will also depend upon the jurisdiction in which you bring your claim. Generally, with the exception of the USA, awards of compensation in the English jurisdiction are higher than those overseas.

## Injury awards

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Having suffered an injury abroad you may receive:

- general damages for the pain, suffering and loss of amenity caused by the injury. This will be assessed by the severity and duration of your injury, the risk of future complications and the effect that the injury has had on your life.
- out of pocket expenses (Financial Losses) which may include past and future expenses such as loss of earnings, travelling expenses, medical expenses, care expenses and other miscellaneous expenses.

## Ruined holiday

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If your holiday was disrupted, even if you were not the person injured, you may receive:

- Diminution (reduction) in holiday value – a sum to compensate you for the holiday you paid for but did not receive, up to 100% of the holiday cost.
- Loss of enjoyment of holiday – this is assessed by a daily rate or a percentage of your holiday cost depending upon the proportion of your holiday you were unable to enjoy.

Even modest problems during a holiday can result in awards in excess of the original holiday cost. Where problems are more serious, compensation significantly in excess of this can be recovered.

## Road traffic crashes

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Every year thousands of people are killed or injured in road traffic crashes abroad. The victims of these incidents include drivers, passengers, pedestrians, motorcyclists and cyclists.

Poor driving, inadequate road construction or maintenance, failure to adhere to traffic rules, excessive speed, poorly maintained vehicles, and drivers who are under the influence of alcohol or unqualified, all increase the chances of a crash.

Irwin Mitchell has unrivalled experience in acting for people who have been injured in road traffic crashes all around the world. We have an excellent record of bringing successful claims for our clients, winning record levels of compensation in many cases. Whether you have suffered a severe injury or something less serious, we will investigate all aspects of your claim fully and recover the compensation you are entitled to.

If you have been the victim of a road traffic crash overseas then you may be able to claim compensation. In most cases, to claim compensation a driver's fault must be proved. However, in some countries such as France, passengers, pedestrians and cyclists have an automatic right to claim compensation for their injuries, even if nobody is at fault.

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## Coach crashes

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Thankfully coach crashes occur very infrequently, but when they do they can have devastating effects on passengers and their families.

*"I should like to place on record my sincere thanks and appreciation for the work you have done on my case. You have been professional, consistent, understanding and communicative during the process"*

**- Shelagh**

Crashes may occur due to poor driving, inadequate road construction or maintenance, failure to adhere to traffic rules, excessive speed, poorly maintained vehicles, and drivers who are under the influence of alcohol or inadequately trained.

Irwin Mitchell has extensive experience in pursuing claims for the victims of coach crashes abroad, recovering several million pounds in compensation for our clients in countries including the USA, Spain, Turkey, Italy, Belgium, Austria, Namibia, Morocco, South Africa, Gran Canaria and Germany.

We have acted for British victims of most, if not all, of the major coach crashes during the last 10 years including high profile incidents in South Africa, Nevada and the Delhi coach hijacking. We have also been at the forefront of calling for improved safety regimes to protect current and future coach passengers' interests.

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## Aviation incidents

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As well as plane crashes, aviation incidents include accidents which occur during the process of embarkation or disembarkation from an aircraft.

Poor maintenance, failure to adhere to air traffic rules, pilots who are under the influence of alcohol or inadequately trained, and failure to comply with health and safety rules in airports all contribute to incidents, which kill or injure hundreds of people every year.

Irwin Mitchell has been acting for clients who have been injured on aircraft for many years. Handling individual and group actions for British victims of aviation disasters around the world, we were instrumental in bringing claims following the Mali and Tanzania plane crashes and the 9/11 attacks on the World Trade Centre.

If you are injured on an aircraft, it is sometimes possible to make a claim against an airline or carrier without having to prove fault. The provisions of the Warsaw and Montreal Conventions govern most claims for damages following air incidents and provide enhanced protection for passengers. Under the Conventions, if you have sustained injury following an incident whilst on a flight or during embarkation or disembarkation, you may have a claim against the carrier even if they were not at fault.

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## Maritime incidents

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Maritime incidents overseas kill or injure hundreds of people every year. Incidents range from the catastrophe of sinking to accidents onboard and even slips, trips and falls of embarkation and disembarkation.

Accidents involving ships occur through inadequate maintenance, failure to adhere to maritime rules, pilots who are under the influence of alcohol or inadequately trained, and failure to comply with health and safety rules in ports.

Irwin Mitchell is recognised as a leader in recovering compensation following maritime claims. Many of our lawyers have won record awards for clients in group actions and individual accidents claims. We have acted for thousands of clients in several ground breaking claims arising from accidents suffered on board cruise liners, pleasure crafts and other vessels around the world, including the AI Dana dhow disaster in Bahrain and the Alexey Maryshev in the Arctic.

Most maritime claims are governed by the Athens Convention which states that a claim can be made against the cruise company if fault on their part can be established. If the incident was caused by a defect in the ship then the cruise company may, in certain circumstances, be presumed to be at fault unless they can prove otherwise.

If your claim relates to a package holiday onboard ship, it may be covered by the Package Travel Regulations 1992. These regulations make a tour operator responsible for all services which are provided as part of the main holiday package. The regulations also set out legal duties that must be followed. If the tour operator or cruise company fails in their duty and this causes you injury, the regulations allow you to pursue a claim against the tour operator.

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## Sports incidents

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Injuries sustained while participating in a sports activity on holiday are fairly common and may give rise to a compensation claim.

The causes are many and include poorly trained instructors, badly maintained equipment, inadequate supervision, failure to adhere to codes of conduct and participants who are under the influence of drugs or alcohol.

Irwin Mitchell has successfully acted for clients who have been injured whilst involved in a wide variety of sporting activities all around the world, such as skiing, scuba diving and horse riding.

If you are injured on holiday it is important to talk to a solicitor as you may have a claim even if you think it was your own fault. Some sports are governed by regulatory bodies which set codes of conduct and you must get an expert opinion before discounting a claim.

The Package Travel Regulations 1992 may also apply to your claim if your sporting activity was included in a holiday package. The regulations make a tour operator responsible for all services which are provided as part of the main holiday package. The regulations also set out legal duties that must be followed and if the tour operator fails in their duty and this causes you injury, the regulations allow you to pursue a claim against the tour operator.

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## Injured while working abroad

Thousands of English citizens work abroad and it is inevitable that some of them will suffer an injury at their workplace.

Accidents at work abroad occur for exactly the same reasons as they do in the UK. Inadequate training and supervision, poorly maintained equipment and failure to adhere to health and safety rules are all possible causes.

Irwin Mitchell has huge experience in acting for clients who have been injured whilst working abroad. Depending on your contract of employment, you may be able to bring a claim against your employer if they had sufficient control over your workplace to be found at fault. If this cannot be shown, you may still have a claim against the owners of the premises where you worked.

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## Other incidents

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Many people suffer injuries abroad that may not be related to a holiday or through work.

Irwin Mitchell is able to offer high quality help and advice for those injured in other circumstances including:

- public liability claims, such as accidents at public events or tripping on uneven paving stones
- assaults
- hijacking
- rail accidents
- clinical negligence, such as botched cosmetic surgery
- accidents in hotels, such as slipping on a wet floor or falling due to a balcony rail
- collapsing
- illness cases including all types of gastric illness and Legionnaire's disease

Liability in these cases can be complex, but with our expertise in overseas cases, we will help you to recover full and fair compensation for your claim in the shortest possible time.

Talk to a specialist advisor today

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## Take action

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If you have had an accident abroad 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 freephone **08000 23 22 33**

### Free advice

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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 claims 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.

*"When I tried to deal with the tour operator myself, I got nowhere and I almost lost heart. Without the help of Irwin Mitchell's Travel team, I would have given up".*

**- Sheila**

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## When can I make a claim?

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

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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.

## Accidents abroad

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The time limits in which your claim can be brought vary throughout the world. For example, for bringing a claim following an air incident covered by the Warsaw or Montreal Conventions is only 2 years from the date of the event.

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.

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## Do I have a case?

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If you are unsure whether you have a claim, or even if you think the accident 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.

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?**

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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.

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## What will it cost me?

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

Contacting us for initial advice about your claim will cost you nothing. If we advise you to pursue a claim with us, we will review with you all the options for funding your claim, including 'No Win, No Fee'. We will advise you clearly and impartially on the best options to fund your claim without any cost to you.

A 'No Win, No Fee' agreement or can also be known as a conditional fee agreement gives you security and peace of mind when pursuing a holiday illness claim.

\*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.

Your lawyer will assess the prospects of winning your case and decide if they are able to offer you a 'No Win, No Fee' agreement. If you decide to accept that offer your lawyer will pursue your claim on the basis that if the claim is unsuccessful they will not be paid and the costs of any other party will be paid under an insurance policy which your lawyer will take out on your behalf.

If your claim is successful then your lawyer's costs will be paid by the other party. You will not however have to pay any costs providing you comply with its terms.

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## How much compensation will I get?

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**

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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.

### Compensation for your injury

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This is assessed based upon the pain, suffering and loss of amenity caused by the accident including the severity and any long term health complications. This will also take into account any financial losses you have suffered as a result of your accident.

### Compensation for loss of enjoyment

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Compensation may be awarded by the Courts to compensation you for the holiday you paid for but did not receive, loss of enjoyment because of your accident, any physical inconvenience/discomfort and any distress and disappointment.

We will advise you at the outset on how Courts approach the assessment of compensation, and how that will apply to your case. However, we are all different and the consequence of the same injury will vary from person to person.

### Keeping you informed

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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.

## How will my claim be progressed?

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

## Insurance

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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

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The vast majority of cases are settled before they go to Court; however, some will go to Court but we will keep you informed and we will be with you, every step of the way.

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Guidance with strength and sensitivity

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## Useful contacts

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## Irwin Mitchell

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