

How do I pursue a claim on behalf of a minor?

To pursue a claim for PI there must have been a duty owed to the injured party. That duty must then have been breached and that breach resulted in injury or loss.

A Personal Injury claim can be pursued by anyone over the age of 18 with capacity to conduct the claim themselves. If the injured person is a minor, a Litigation Friend should be appointed to deal with the matter on their behalf. The Litigation Friend is usually a parent or guardian.

The main duties of a Litigation Friend are:

1. To fairly and competently conduct the claim on behalf of the child.
2. To have no personal interest in the claim which is adverse to that of the child.
3. To take all steps and decisions in the claim only for the benefit of the child

It should also be noted that the 3 year Limitation Period for a child expires 3 years after their 18th birthday. A minor therefore has until their 21st birthday to pursue a claim.

As with pursuing a claim for an adult, the liability position should be established. Once this has been done and a decision has been made that the claim is to be pursued, medical evidence will be obtained which will set out the accident circumstances, injuries sustained, prognosis period and any treatment which the expert believes to be appropriate. Medical appointments should be attended by both the Litigation Friend and the Claimant.

In the case of a minor, once the claim is ready for settlement a Barrister will be instructed to provide an advice on the value of the claim. The settlement will then need to be approved by the Court and as such the Court will set a date for an Infant Approval Hearing which will need to be attended by the Claimants Barrister, the Claimant and their Litigation Friend. The Judge will review all of the evidence and confirm whether they are happy for the claim to be finalised at that point and if they agree the valuation reached.

Once settlement has been reached, any monies awarded will be held in a Trust until the child reaches the age of 18, although applications for release of funds can be made.

It is therefore important that the Court is kept up to date with any change of address of the minor before they reach the age of 18.