

REPAYING WELFARE BENEFITS IF THE CLAIM SUCCEEDS

If you receive any welfare benefits because of your injury, you may have to repay some or all of them should you succeed in your claim. This applies whether your case goes to a full trial and you succeed or whether your claim is settled out of court by agreement. The reason for this is that you will be compensated by the Defendants and the law stipulates that you are not entitled to be compensated for the same loss twice over.

Thus if, for example, you can no longer work because of the negligence you may be entitled to claim Incapacity Benefit as a result. If you have claimed Incapacity Benefit and we then succeed in obtaining an award that includes compensation for your loss of earnings, then the Department for Work and Pensions will recover the amount of the Incapacity Benefit that you have received out of your compensation.

The Department for Work and Pensions will only recover benefits from the corresponding compensation award. Thus, as already explained, if you claim Incapacity Benefit this will be recovered from your loss of earnings claim because Incapacity Benefit is intended to compensate for loss of earnings. Similarly, if you are in receipt of an Attendance Allowance on behalf of a relative who looks after you this will be recovered from your compensation award for care costs because Attendance Allowance is intended to compensate for the cost of care.

If however, you were paid more (for example) Incapacity Benefit than you were awarded for loss of earnings, then the amount of the Incapacity Benefit you will have to pay back will be capped to the amount of the compensation award for loss of earnings.

The benefits that are deducted are those received up until the date when the claim is resolved or up to five years after the date you sustained the injury, whichever is the earlier.

The following benefits will be recovered from any compensation that you receive for loss of earnings during the relevant period:

- Disablement pension payments
- Incapacity benefit
- Income support
- Invalidity pension and allowance
- Jobseeker's allowance
- Reduced earnings allowance
- Severe disablement allowance
- Sickness benefit
- Statutory sick pay
- Unemployability supplement
- Unemployment benefit

The following benefits will be recovered from any compensation that you receive for the cost of care incurred during the relevant period:

- Attendance allowance
- The care component of disability living allowance
- Disablement pension

The following benefits will be recovered from any compensation that you receive for loss of mobility (i.e. transport and travel costs) during the relevant period:

- Mobility allowance
- Mobility component of disability living allowance



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You will not have to pay back any money from your compensation for your pain, suffering, disability and injury, i.e. the general damages.

The scheme is administered by the Compensation Recovery Unit of the Department for Work and Pensions. Every claim for compensation for personal injury has to be registered with them and they then issue a certificate showing the benefits that have been paid and which they will require to be recovered from your compensation. We will send you a copy of the certificate when we receive it from the Compensation Recovery Unit so that you can check it and be sure that you agree with their figures.

The way the scheme works is that when a compensation payment is agreed or awarded, any benefits that you have received and which fall to be recovered are deducted from the compensation that is to be paid to you by the Defendants and is passed by them to the Compensation Recovery Unit before the balance is paid over to you. You will not be required to make any payment yourself.

The above is a very broad summary of the scheme. We will advise you fully as to how the scheme will affect your particular claim.