If you have been let down by a solicitor or claims management company in a personal injury case and have lost out financially as a result, you may be entitled to make a claim for compensation.

This short guide outlines the steps you need to take if you believe you have a professional negligence claim.
Where you seek advice or support from a professional individual, body or organisation (such as a solicitor, doctor, accountant etc.) they owe you a ‘duty of care’. This duty requires such professionals to adhere to a certain level of standard in their dealings with you.

What constitutes a duty of care will vary between different types of professions, but the general principle is that they should act in a reasonable manner and protect your best interests in as far as their remit allows.

If you have been the victim of a personal injury and have sought legal advice that you believe falls short of this reasonable standard, you may be able to make a professional negligence compensation claim.

In this short guide we’ll set out what you’ll need to demonstrate in order to make a successful personal injury professional negligence claim and what you should do next if you think you have a case.

Please note the information provided in this guide is designed to provide you with an overview only. Although we go to great lengths to make sure our information is accurate and useful, we make no warranties as to the accuracy or completion of the information supplied. The information does not constitute legal advice and Linder Myers accepts no liability for any loss that may be suffered in relying upon the information contained in this guide. If you want professional assurance that our information, and your interpretation of it is correct we recommend you consult a lawyer should legal advice be required.
To make a professional negligence claim you need to demonstrate that not only were you owed a duty of care, but also that the professional in question breached this duty, and that this breach caused you to suffer harm (whether physical or financial).

With regards to personal injury claims, you may have a professional negligence claim where the following has occurred:

- Where advice has been given that falls below the expected standard of a reasonably competent professional.
- Where strict Court time limits have been missed by your solicitor.
- Where a lack of care with regards to medical information sought/used can be demonstrated.
- Where incomplete earning information was sought/used in the initial claim.
- Where the claim has been rushed through with no consideration of ‘provisional damages’ or chronic pain (particularly likely where claims are processed quickly without a lot of detailed thought).
- Where the case has taken too long (evidence out of date).
- Where you have been badly advised with regard to funding

If your personal injury case has suffered as a result of such negligence you may be entitled to seek recompense.
Why do such claims arise?

There are many reasons why a professional negligence claim may arise, however with regards to personal injury cases, recent government reforms have seen the introduction of strict time limits for solicitors to submit documents in personal injury cases. Unfortunately some solicitors are failing to adhere to these deadlines.

In addition there are still too many ‘factory’ claims management companies with a focus on volume claims and a fast turnaround rather than the long-term needs of the injured party.

All too often these companies only consider the short term profit for themselves in pursuing personal injury claims, rather than the potential long term impact of such injuries, such as the onset of chronic pain or psychological injuries that can develop and have a devastating impact on a victim’s life. This lack of care and consideration leaves these firms open to professional negligence claims.

For personal injury victims this situation is of course, not acceptable and it is entirely understandable that personal injury victims will be looking toward their solicitors for recompense.
In order to make a successful personal injury professional negligence claim you will need to:

1. **Provide as much paperwork/evidence as you possibly can from the outset.**

   The ‘burden of proof’ is critical in professional negligence cases. If you cannot prove that there has been a breach in the solicitors duty of care, then there is no evidence to mount a successful case.

2. **Follow the correct procedure.**

   It’s important to understand the procedure when it comes to making a professional negligence claim. The starting point for any claim is the [Pre-Action Protocol](#) as set out by the Ministry of Justice.

   Designed to apply when an individual makes a claim against a professional provider (other than construction or healthcare professionals) the aim of the protocol is support the exchange of information early in the process so that the claim can be fully investigated and, if possible, resolved without the need for litigation.
The Pre-Action Protocol aims to:

- Ensure all parties are on an even footing
- Reduce costs
- Deal with the dispute in a proportionate manner with regards to the amount of money involved, the importance of the case, the complexity of the issues involved and the financial position of each party
- Ensure that the case is dealt with expeditiously and fairly.

While the protocol is not intended to replace other channels of pre-action dispute resolution, where these channels have failed the protocol should be used before any litigation starts and should you pay no attention to the protocol the Court may hold this against you.

To find out more about the Pre Action Protocol please go to www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_neg

3. Engage a professional.

Professional Negligence cases can be highly complex. With this in mind it is strongly recommended that engage a solicitor with the experience needed to help you mount a successful case (and to advise on whether a case is likely to succeed in the first place).
In 2013 changes to the way litigation is funded were introduced to help keep costs proportionate to the value of any dispute and to encourage early settlement. While many professional negligence claims can be settled out of court, more complex cases could go before a judge and the costs of making a professional negligence claim are therefore variable.

For most people looking to undergo a professional negligence claim they will have a choice as how to best fund any claim and that they should look to their solicitor as to the best option for them.

At Linder Myers we do not take cases that we think we cannot win on your behalf.

Priding ourselves on a transparent approach, after an initial free discussion about your claim we will be honest and upfront if we believe your chances of success are not high enough to proceed.

If we do decide to go ahead we offer a range of funding options which will be discussed with you at the outset of your case.
Where things have gone wrong it can be hugely upsetting and we understand that making a claim can be daunting. Not to mention the worry about putting your faith in another solicitor.

If you are considering making a professional negligence claim therefore, it’s crucial that you appoint a firm with previous malpractice experience and experience in the field in which the negligence has occurred (in this case personal injury work).

At Linder Myers we are committed to upholding the standards of our profession. Our dedicated personal injury lawyers have seen tens of millions of pounds worth of compensation awarded and we have specialist litigation solicitors with expertise in professional negligence claims.

Where appropriate, we also encourage mediation, avoiding the need for court procedures and reducing any unnecessary stress. Add to this a personal, caring and human approach, at Linder Myers our personal injury professional negligence solicitors always put your interests first and are committed to helping you achieve the redress you deserve.

With the limitation period in most professional negligence cases being six years from the date of the negligence, if you believe you have a professional negligence claim it is important to act swiftly.
About Linder Myers

Linder Myers is a firm of solicitors with specialist departments in nearly all areas of law. We pride ourselves on our commitment to clients in delivering efficient, high quality legal services.

Linder Myers specialises in the following areas of law:

- Agriculture & Rural Affairs
- Corporate & Commercial
- Commercial Litigation
- Commercial Property
- Corporate Recovery
- Costs Management
- Court of Protection
- Disputed Wills and Probate
- Employment
- Family
- Medical Negligence
- Occupational Disease
- Personal Injury
- Residential Conveyancing
- Trusts and Estates