

Serious injury in a road crash

Help and information for victims,
and their family and friends, if the
crash happened in Scotland

Get in touch for help

0808 8000 401

help@brake.org.uk

www.brake.org.uk/support

Produced by **National Road Victim Service**

Run by



Funded by



Introduction

This guide aims to help if:

- you have been seriously injured in a road crash and the crash happened in Scotland
- you are a family member, friend, or helping someone injured.

This guide is particularly for victims and their families and friends affected by injuries that require urgent and ongoing care and help, that are:

- life-threatening (someone might die), and/or
- life-changing, meaning they cause one or more disability that affects independence, and/or cause ongoing pain, or require ongoing operations, treatments, or therapies.

Injuries may include, for example, head injuries, spinal injuries, internal injuries, facial injuries, or loss or damage of limbs.

Even if your injury seems minor, this guide may be useful to you. Some injuries that seem minor can still cause long-term challenges.

Who writes this guide?

This guide is by the National Road Victim Service, which is run by the road safety charity Brake.

We are an independent service working in partnership with other services to care for your needs.

We offer emotional support and practical help and advice. We also help people bereaved in road crashes.

**call 0808 8000 401 or email help@brake.org.uk
www.brake.org.uk/support**

Reading this guide

Use the contents on the next pages to go to a part of this guide you need to read. If the crash happened very recently, the first sections of the guide are most valuable to read now.

The online version of this guide

This guide is available online at [brake.org.uk/injury](https://www.brake.org.uk/injury)

You can download the complete guide as a pdf or read the web pages.

The online version of this guide contains hyperlinks to websites listed in this guide.

For more information about criminal offences and court procedures, go to www.brake.org.uk/courts

For lists of law firms and other organisations that can help you, go to www.brake.org.uk/orgs

If you do not have access to the internet, get in touch with the National Road Victim Service for information you need.

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Important contacts

Important contacts

You can use the space on these pages to write down the names and contact details of people you may want to talk to more than once.

Your National Road Victim Service caseworker

Contact Brake's National Road Victim Service to be assigned a caseworker to help you with emotional support and practical needs. Call **0808 8000 401** or email help@brake.org.uk.

Name

Phone

Email

Your police contact(s)

Police contact name

Station phone number

Mobile number

Times they can be contacted

Email

Notes

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Police officer in charge of the investigation

Name

Station phone number

Mobile number

Times they can be contacted

Email

Procurator Fiscal

Name

Phone

Times they can be contacted

Email

Solicitor helping you with a compensation claim

Name

Organisation

Phone

Times they can be contacted

Email

Other professionals helping you

(for example physiotherapist, occupational therapists, case manager, etc.)

Type of help

Name

Organisation

Phone

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Type of help

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SECTION 1

What happens now?

Help from the police

The police may or may not have contacted you already, for example to tell you about the crash if you were not involved in it.

What the police do

The police attend the scene of crashes and are responsible for investigating crashes to collect any evidence that might indicate a crime and could be used to prosecute someone. See page 68 for more information.

Your police contact

The police should provide the name of an officer who you can talk to.

The police should give you details of an officer responsible for the crash investigation, usually called the Senior Investigating Officer, and any other police officer you can also talk to.

Help from your police contact

The police can:

- help with immediate things, such as informing other people about the crash who need to know, such as other family members
- give you basic details of what has happened, that may be needed by a solicitor (see page 29) or an insurance company (see page 33)
- return belongings to you, found in a vehicle or at the scene
- tell you the location of a vehicle you own, if it was involved and they are examining it
- keep you informed about the progress of their investigation and whether anyone has been arrested, or charged, or is on bail (although they will not be able to discuss evidence with you)
- put you in touch with the Crown Office and Procurator Fiscal Service (COPFS), if it is decided to prosecute somebody for a crime, or if it is decided not to.

Depending on your case, the police may help with other things, such as:

- helping you visit the scene of the crash, if you were not in the crash and want to go
- helping you manage media interest in your case
- providing information and support later on, for example if there is a court case.

You may want to ask your police contact when it is best for you to contact them, so they have time to talk and can have information ready for you.

See page 65 for more information on the police investigation and criminal prosecutions.

Help from a police Family Liaison Officer

You may or may not be offered help from a police Family Liaison Officer (FLO) or other police officer with special training in helping families.

If you have not been offered help from a police FLO or other police officer, you can ask if this is possible, particularly if injuries are severe and there is a likelihood that someone will be charged with a crime.

The police have produced guidelines on family liaison that they should follow. You can access these guidelines at www.brake.org.uk/codes-and-standards

Help for victims of crime

Victims' Code for Scotland

The police, prosecution agencies, and courts are required to meet certain standards that aim to help victims of crime.

The Victims' Code for Scotland says that as a victim of crime you have the right to:

- have fair and equal access to services offered by criminal justice agencies
- be offered help in a professional manner, without discrimination of any kind
- be offered additional help if needed so that you and your family can access information and support services.

You also have the right to:

- be able to obtain information about what is happening in the investigation or proceedings, where it is appropriate and relevant
- be able to understand information you are given and be understood in any information you provide
- have your needs taken into consideration
- where appropriate, be able to participate effectively in the investigation and proceedings
- have access to appropriate support during and after the investigation and proceedings
- be protected from further victimisation, intimidation and retaliation during and after the investigation and proceedings.

If you are a victim under the age of 18 years, you have the right to have your best interests considered, taking into account your age, maturity, views, needs and concerns.

If, in your case, it is possible that someone may be charged with a crime, the Victims' Code for Scotland is there to help you.

You can read The Victims' Code for Scotland at
www.brake.org.uk/codes-and-standards.

For more information about support for victims of crime, go to
www.mygov.scot/victim-witness-support.

Telling other people about the crash, and getting their help

If your loved one is in hospital, some people may need to know soon, such as:

- other family members or friends
- an employer of an injured person, or their family members
- a school attended by an injured child, or a child whose loved one has been injured
- a specialist solicitor to represent you (see page 29)
- a motor insurer, if a vehicle was involved in the crash (see page 33)
- a house insurer, if an injured person's house is unoccupied
- neighbours.

You can choose to get in touch with people yourself, or ask someone to help you do this.

If you cannot find someone's contact details, the police may be able to help.

There may be everyday responsibilities that need to be taken over by others, quickly, such as care of children, the elderly, pets or property.

- Family, friends and neighbours may be able to help.
- You may also need help from social services or health services, or charities.

If you need help finding services to meet your needs, contact the National Road Victim Service.

If an injured person is conscious and able to make decisions, they should be involved in any practical decisions that affect them.

SECTION 2

At the hospital

Advice for family and friends

Why is my loved one in this hospital?

When someone is seriously injured in a road crash, the emergency services decide which hospital to take them to.

In some cases, this is not the closest hospital. It may be decided that care is provided best by a hospital further away. A person with very serious injuries may be taken to a Major Trauma Centre (MTC) for treatment. Major Trauma Centres are specialist hospitals that have all of the facilities needed to treat severe injuries.

If you know something important about the medical history of the injured person that might affect decisions about their care, tell medical staff as soon as possible. For example, if the injured person has a medical condition, allergies, or is on medication.

Why is my loved one in this hospital department?

An injured person may be cared for in a specialist unit, for example a unit for brain injury, spinal injury or burns.

Some seriously injured people are cared for in an intensive care unit (ICU). An ICU is for patients who need constant, close monitoring and help to support bodily functions, such as breathing or heart rate. ICUs have specialist doctors, medicine, and equipment.

An ICU is sometimes called an intensive therapy unit or critical care unit.

For more information about ICUs, go to the charity [icusteps.org](https://www.icusteps.org).

Sometimes, people injured in road crashes have more than one injury, and in some cases medical decisions are made about which injuries to care for first, and where this should happen.

Sometimes, an injured person may be transferred to a different hospital, depending on care they need at a particular time.

If you are not sure why your loved one has been taken to a particular hospital, or part of a hospital, you can ask to talk to hospital staff.

What treatment is being given to my loved one?

Medical staff will do their best to talk with family members, but sometimes it can be hard to understand care a loved one is receiving, for example if:

- injuries are life-threatening and medical care must happen fast
- there is more than one injury
- an injured person's medical needs change quickly.

You may find it helpful to say to medical staff:

- "When is a good time to explain what is happening?"
- "I didn't understand something. When can I talk to someone?"
- "I know I didn't have questions before, but I do now. When can I ask them?"

It can help to write down questions, so you don't forget to ask them.

Consent to treatment

Decisions should be made with the injured person's consent. However, this requires a person to have 'capacity'. Capacity means the ability to understand information, make an informed decision, and communicate that decision.

Often, a seriously injured person does not have capacity. They may be unconscious, or impaired by strong medicines given to them. In that case, medical staff will make decisions for them.

When making decisions about treatment, medical staff should consider:

- what the injured person would be most likely to want
- whether a treatment could be delayed until the patient has capacity.

If an injured person does not have capacity, family and friends can help communicate the views or beliefs of that person to medical staff. If an injured person is a child aged under 16, consent to treatment may be given by their parent or guardian, or in some cases by the child themselves.

Talking to an injured person

As well as causing physical injuries, a road crash can cause shock and distress. If an injured person is conscious, and you are visiting them or talking with them by phone, you may be able to help them feel:

- safer, and reassured they are getting medical attention
- supported, by telling them you care
- calm, by staying calm yourself
- informed, by helping them understand what is happening
- involved, by listening to what they say and helping them get what they need, for example water or more pain relief.

Sometimes it is not possible to talk to a seriously injured person because they are unconscious, or receiving treatment, or visiting is not allowed for a particular reason, such as infection.

Looking after your own needs

Coping when someone is in hospital can be very challenging if you are a family member or friend. You, or others, may be suffering from significant shock and distress, and experiencing a range of emotions and reactions. Different people react in different ways at different times. You may feel exhausted.

It is important to look after your emotional and physical welfare, and, if you are part of a family, to look after each other too. Remember to:

- eat regularly, and drink water or have comforting hot drinks
- stay warm, and get sleep when you can
- seek support, and support each other.

If you were also in the crash, and have minor injuries, it is important they are treated too. Make sure you receive any medical attention you need.

For more information on looking after yourself and emotional welfare, see page 53.

Help for children and families

If a child is injured and conscious, or a child has a family member or close friend in hospital, it is important to provide the love and support they need.

Children's needs are often the same as adults' needs. They need to feel safe, supported, calm, informed and involved.

Give children honest, short answers, using language they know and can understand easily.

Try not to give too much information at once. Give them a chance to ask questions.

The charity ICU Steps provides an activity book for children who are visiting a relative in an ICU. To download, go to [icusteps.org](https://www.icusteps.org)

Help for families right now

If you need emotional support for parents, children or young people, or help with arranging care for children, or any other issue affecting a family, contact the National Road Victim Service. We can put you in touch with specialist organisations that help care for families.

Help for families if also bereaved

Some children and young people affected by serious injury following a road crash have also been bereaved in the same road crash. If so, the National Road Victim Service can help get you specialist bereavement support and help.

Whatever your challenges, contact the National Road Victim Service for help and support, including finding other agencies that can support you at this time.

When someone is in hospital for a long time

Some seriously injured people need to stay in hospital much longer than other injured people. This could be because:

- they need life-sustaining treatment, for example help getting nutrition through a feeding tube, or dialysis to help kidneys work, or a ventilator to help with breathing
- they need other kinds of ongoing medical care due to the complexity of their injuries, for example several operations.

If someone is in hospital for a long time, you may have additional challenges. This could include:

- worry and uncertainty about your loved one's health
- financial challenges, for example if family income is affected
- challenges working or challenges at home
- transport challenges, if you live a long way from the hospital.

If a child or young person is in hospital for a long time, their education may continue while they are in hospital.

The Patient Advice and Support Service offers free, confidential advice and support for NHS patients in Scotland. They provide a point of contact in hospitals for patients, their families and their carers. For more information, go to www.cas.org.uk/pass.

If you are caring for a child or young person who is in hospital, you may be able to claim for the costs of food and travel through the Young Patients Family Fund. For more information, and to make a claim, go to www.mygov.scot and search for 'young patients family fund'.

Discharge from hospital, and what happens next

When someone is discharged from hospital it can feel like a big moment. For some injured people, the future holds a rapid recovery. However, for others, the future looks very different. For some injured people, it can include living with chronic pain, or more operations, treatments or therapies, one or more disability, or other changes. It can be difficult to know all the issues that might be faced in the future.

Before leaving hospital, you should be given a copy of a hospital discharge letter. This is a letter for your GP that helps them understand:

- injuries sustained and hospital treatment given
- any follow-up medical appointments needed
- medication prescribed.

Before leaving hospital, ask to meet medical staff to help you understand:

- the contents of the hospital discharge letter
- reasons for medication and possible reactions to it
- what future appointments are for, and what will happen in them
- the possible long-term effects of injuries
- how education will be arranged, if a child or young person is leaving hospital
- what else is going to happen next, to support an injured person's health and wellbeing, and who will provide that support.

If follow-up care is likely to be needed, or there is a new disability, it is particularly important that you leave hospital with an understanding of specialist health care or social care that is available to you, and how to contact people providing this care.

If you have left hospital and there is something you don't understand, make an appointment with your GP. They are your community health representative. Your GP can contact the hospital and ask for more information about what happens next and why. They can also seek help from other health care or social care professionals.

If you feel you are not getting the help you need, contact the National Road Victim Service.

SECTION 3

Seeking expert legal help

Seeking expert legal help

It is important to seek expert legal help as soon as possible. This page explains why, and how to do it.

Some people seriously injured in crashes and their families have significant needs lasting years. Sometimes, not all needs are obvious in the early days.

Financial compensation can help meet these needs and support welfare and wellbeing into the future.

Although it is not possible in all cases, it may be possible to claim for financial support. Sometimes, large amounts of money can be claimed. To find out if you can make a claim, and to proceed with any claim, you need expert legal help.

It is important to know that:

- a specialist personal injury solicitor, with experience in serious injury road crashes, should be consulted **as soon as possible**, to find out if a claim for financial support is possible
- it is much better to use a solicitor who is a specialist, rather than one you already use, or who is close to where you live, who is not expert
- a claim for financial support does not require someone to be found guilty of a crime
- an initial consultation with a specialist solicitor should be **free**
- even if you do not have funds to pay a solicitor, it is often possible to make a claim, if you have a legal case.

If a claim for financial support is possible, hiring a specialist solicitor early means they can:

- get to work, collecting evidence from the police and medical staff
- help you prepare one or more victim statements (see page 72)
- pursue the claim, with the best chance of most money
- help you get the support you need, quickly (for example care, rehabilitation, equipment and accommodation)
- seek early payments, if there are urgent costs that must be met quickly (for example changes to a home to help a person with a new disability, or medical care only available privately)
- help you with other things too, for example, understanding what is happening during a police investigation, criminal prosecution, and any court cases, and any media interest in your case.

How do I find a specialist solicitor?

To find a solicitor, contact the National Road Victim Service or go to www.brake.org.uk/legal for details of specialist solicitors who also support Brake.

Alternately, go to www.brake.org.uk/orgs for information about other organisations that list reputable solicitors.

For more information on claims for financial support, go to page 99

SECTION 4

Vehicles, insurance, and visiting the crash site

Vehicles, insurance, and visiting the crash site

Vehicles involved in the crash may have been taken away by the police. The police will do this if they need to examine a vehicle. The police can tell you where a vehicle is being stored and what is happening to it. More information about the police investigation of vehicles is on page 68.

You can pay for an independent examination of a vehicle if you, or your solicitor (see page 29), think this is needed. The Institute of Traffic Accident Investigators (ITAI) may be able to help you find a crash investigator to carry out an independent vehicle examination. For more information, go to www.itai.org. Police may charge a storage fee for keeping a vehicle for an independent examination.

Talking to a motor insurer

If your case involves a vehicle that you are responsible for, a motor insurer will need to be informed. The police can give you details the insurer needs, such as another driver's details. You do not have to tell the insurer what happened. You only need to say the crash is being investigated.

The insurer may offer a solicitor. It is up to you whether you choose this solicitor or a different one. It is important to use a specialist (see page 30).

Visiting the crash site

If you were not in the crash, you may or may not want to visit where it happened. Some people want to do this, so they can get a better understanding of what might have happened. Other people do not.

If you want to visit, your police contact (see page 15) can help you understand the precise location and any dangers, such as lack of footpaths or fast traffic. They may also be able to accompany you to ensure safety and answer questions.

SECTION 5

Media attention

Media attention

Journalists from newspapers, online media, radio or TV programmes, often want to cover crashes and court cases. You cannot stop the media from reporting on your case or publishing your name or where you are from. Journalists may publish or broadcast stories about your case without talking to you, or they may phone you, knock on your door, or approach you at a court hearing for a comment. They may ask to interview you or photograph you.

They may ask for photographs or videos of an injured person before they were injured, or afterwards. Journalists may also search social media for photographs or information they can use in their story.

Different people feel differently about the media. You may feel grateful for media coverage, or dislike it, or feel disappointed that there isn't more media coverage. It is up to you whether you talk to journalists or not.

You may decide to talk to journalists to help raise awareness of road safety, or to help find witnesses to the crash. You may find that you prefer to talk to some journalists but not to others. You may decide not to talk to journalists for personal reasons.

If you aren't contacted by journalists but want media coverage, you can contact them. You can ring up, email, or write to journalists. Alternatively, your solicitor or the police may be able to help you liaise with journalists.

Ask your police contact (see page 15) or your solicitor (see page 29) if there is anything you shouldn't talk about to journalists. If someone is accused of causing the crash, it is important not to make comments that could create problems for a police investigation, a criminal trial or a compensation claim.

Police help with the media

The police may be able to help you manage your relationship with the media, particularly in the first few days after the crash or around any court case.

If your case involved a death as well as serious injury, police best practice is to help you develop a 'media strategy' that takes into account your views on media coverage.

The police often release their own media statements about crashes and any resulting court cases to the media and will be able to give these to you. Your police contact should be able to pass on to the media any written statement you want to make, any photograph you want to see published, or home video you want broadcast.

Solicitor help with the media

If you have instructed a solicitor to pursue a claim for financial support (see page 99), you can ask them to deal with the media on your behalf. Your solicitor can help you draft statements, organise photographs, and explain what you can and cannot say, and why.

Photographs and videos

Sometimes families affected by crashes give the media a photo of an injured loved one, or a photo of them ill in hospital. They might do this as part of an appeal for witnesses or to explain to others the horrors of crashes. This is a personal choice. If you are doing this, you can ask the media to use a photo for a specific purpose and on one occasion, if you want, accompanied by specific words from you, and ask for the photo not to be used again.

If you would like a photo to be used on just one occasion, you should agree this with the journalist who contacts you, before the photo is used. It is a good idea to get a record of this agreement, for example by asking the journalist to email you, or asking the journalist if you can record their verbal agreement on your mobile phone.

You can release a photo to just one journalist or lots of journalists. Your police contact may be able to help.

You are advised not to give original photos or home videos to the media in case they lose them. It is better to give the media a digital copy, if you can.

Being interviewed by a journalist

Being interviewed by a journalist can be hard, particularly if they are a stranger and they want you to talk about how you feel. It can be particularly hard to do interviews that are being broadcast on radio or TV.

If you decide to talk to a journalist, it can help to ask in advance what questions they want to ask, and to think what you might want to say. If you are doing an interview at a radio or TV station you might want to take a friend for support, or, if you would prefer, ask for the interview to be done at your home.

Making a comment or complaint about the media

If you are unhappy with a journalist's conduct or think that a journalist has published or broadcast something that is incorrect or unfair, you can make a complaint to the relevant media outlet, following their published complaints procedure. Sometimes the media offers to print or broadcast an apology. A newspaper or magazine may offer to print a letter from you.

Media outlets often sign up to codes of practice that require them to respect privacy and feelings of victims. To read these codes, visit www.brake.org.uk/codes-and-standards

If you feel you are being harassed by a journalist, contact the Independent Press Standards Organisation (IPSO) helpline: [07799 903 929](tel:07799903929).

To make a complaint about broadcasting, go to www.ofcom.org.uk or call [0300 123 3333](tel:03001233333).

The use of social media

Communicating with friends, family or colleagues through social media (such as Facebook and Twitter) is an important part of many people's lives. You may find comfort and support through your use of social media at this time.

It is important not to make comments publicly on websites that could create problems for a police investigation, a criminal prosecution or a claim for financial support. If you wish to discuss such things with people who are close to you, it is safest to do so only through private messaging or email.

There are websites that encourage people to state their views on public forums (for example, on news websites). These forums often contain a variety of views. Some may not be sensitively worded nor fair comment. They may contain incorrect information.

A driver who has caused a crash may also post things on their own social media accounts that you may find upsetting. For your wellbeing, you may choose to avoid sites which could contain insensitive posts or incorrect information, and only visit places on the internet where you feel safe, supported and can trust what you are reading.

If you feel you are suffering online harassment, for example threats to harm you physically, talk to the police.

SECTION 6

Rehabilitation and disabilities

Rehabilitation and disabilities

Many seriously injured people need extensive and ongoing help to recover from their injuries, or to adjust to life with ongoing medical issues or one or more new disabilities. Medical professionals call this 'rehabilitation'.

After a serious injury, a programme of rehabilitation may continue for months or years. It may involve care in hospital or other specialist medical centres. It may include care at home, care at school, or care in someone's workplace.

Sometimes, it is not possible to know all the care that may be needed in the future. A plan of rehabilitation may need changing over time.

If you are pursuing a claim for financial support, your claim may help you access additional treatment and other kinds of help to enable the best possible rehabilitation. This may include hiring a professional case manager to help you create a plan to support your needs. Talk to your solicitor (see page 99).

Treatment after serious injury

The following specialists may provide treatment:

Surgeons. Some injured road crash victims require one or more operations, over a short or much longer period of time, to treat one or multiple injuries.

Physiotherapists use techniques such as positioning and exercise to improve or restore, if possible, mobility and independence.

After a head injury, **clinical psychologists** and **neuropsychologists** assess an injured person's needs and provide therapy. They may assess memory, concentration and decision-making. They may also assess behaviour changes and if an injured person is having difficulty adjusting to their injuries.

Speech and language therapists work to improve a person's communication skills. This may include understanding and expressing both written and spoken language and improving speech clarity. They can also help people who have difficulty swallowing.

Occupational therapists help an injured person overcome difficulties to enable them to carry out everyday tasks or occupations. They can help people to live more independently, or resume work or leisure activities.

For a list of organisations that provide information about treatment after serious injury, go to www.brake.org.uk/orgs

At home

Occupational therapists assess an injured person's level of physical functioning and put together a programme to help them regain as much independence and lifestyle as possible.

This programme depends on the extent of injury and resulting disability, whether the injured person lives with others or alone, and their type of housing.

For example, if a person's injuries result in mobility issues, ramps or wider doorways may need to be installed.

A recovering, or permanently disabled, person may also need a care assistant, or full-time help from a family member, to enable them to continue living at home.

Occupational therapists can also provide information and support to carers.

For some injured people, it is not possible to return home and they may need to live somewhere else that can provide the best, specialist care, either for the short term or long term.

At work

Injured people with disabilities, who previously worked, may or may not be able to return to their previous job.

Job centres employ advisers who specialise in disability employment. They can provide information about different schemes to help a disabled person return to work, including schemes that fund training or alterations to a workplace to make it possible for a disabled person to work.

Loss of earnings can be claimed as part of any legal claim for financial support (see page 99).

At school

If a child or young person has been injured, they may need extra support to help them continue their education. This will be provided by their school or nursery, or by your local education authority if a child or young person is not in school or nursery.

If a child or young person needs additional support for their learning, this support may be given in school, for example speech therapy.

If a child or young person has more complex needs, they may be assessed for a co-ordinated support plan.

To find out more about the support that schools and education authorities must provide, go to www.gov.scot/publications and search 'Education of children unable to attend school due to ill health'.

Transport

Consult your local authority and public transport providers to find out what accessible transport services are available. Some regions operate minibuses specifically for people with disabilities. If you need help researching transport options, contact the National Road Victim Service.

If an injured person wants to drive, it is important to inform the Driver and Vehicle Licensing Agency (DVLA) of any injury that may affect driving. This includes impaired limb function, visual disorders and head injuries which required treatment for more than one day in hospital. The DVLA will then seek information about fitness to drive from a GP or hospital consultant. For more information, go to www.gov.uk and search 'contact DVLA'.

Mobility centres can assess driving skills and evaluate eligibility to hold a licence. They also offer advice if a vehicle needs to be modified for someone with a disability. Go to www.drivingmobility.org.uk

Support for family and friends

It can take a long time for a person with ongoing medical issues or new disabilities, and for their close family and friends, to adjust to a new way of life. It may be physically and emotionally exhausting.

It is important that people who support injured or disabled people receive support they need. If you are a carer, contact your social services department for an assessment of needs. If you work, tell your employer about your carer responsibilities and ask about flexible working.

Friends and neighbours may be willing to help. Do not be embarrassed to ask for help. It is normal in your situation to seek help from others.

Carers UK is a charity supporting carers. Go to www.carersuk.org

More help and advice

There is much more help and advice for people coping with disability from disability organisations and charities.

For a list of organisations that support people with disabilities, go to www.brake.org.uk/orgs

Give feedback about health or social care

If you want to give feedback about health or social care you have received, you can do so on the Care Opinion website. You can say what happened to you, or someone close to you. You can say what was good, and what could have been better.

To give feedback, go to www.careopinion.org.uk and click on 'Tell your story'.

SECTION 7

Coping with shock and emotions, and getting support

Coping with shock and emotions, and getting support

Whether you are injured, or a loved one has been injured, it is common to suffer shock and have other emotional reactions. This section explains common reactions and how to help yourself and others. You, or others around you, may experience some, or all, of these reactions, or other things.

The shock of what has happened

Shock reactions can feel powerful, overwhelming and frightening. People in shock may go quiet, or scream, or moan or stutter. People may shake, or struggle to move. People may feel all kinds of heightened emotions and feel nervous, or jumpy, and find loud noises distressing.

People in shock may find it very hard to concentrate or do normal things. This may feel frustrating and upsetting. Understanding these things are happening because of shock can help people cope.

If suffering from shock, it is important to be somewhere safe and warm, to keep hydrated (with water or warm drinks) and have people around you. It is important to only do one thing at a time. If in shock, it is important not to drive, nor do anything else that requires concentration and carries risks, nor make big decisions you may later regret.

If someone is suffering panic

Some people find they have a level of distress that causes panic. If someone is suffering panic, it is important for them to be somewhere safe, and with people who understand what has happened and who can offer support.

This breathing exercise may help someone who is having a panic attack, so long as they have normal lung capacity.

- Breathe in slowly and deeply through your nose
- Hold your breath for a count of five
- Breathe out slowly and deeply through your mouth
- Hold your breath for a count of five
- Repeat for a few minutes.

Supporting each other in a family

If you are part of a family, it helps to remember that different family members may react in different ways, at different times.

It helps to try to accept each other's reactions, even if someone is behaving in a way that feels challenging, or you would not normally expect.

It is important that children and young people feel supported within families. Like everyone, children need to feel loved, informed of what is happening in ways they can understand, and feel that their reactions are accepted.

How you react, or how anyone else reacts, is normal at this time.

Sometimes, family and friends find it challenging to share thoughts with each other because they are trying to be 'strong', or for other reasons.

For help finding more support for families, including children and young people, call the National Road Victim Service.

Help from friends and other people you know

It is normal and helpful to ask for help from other people you know at this time. This could be friends, neighbours or others in your community, such as a faith or club you belong to. It is important to reach out and seek support. People may want to help, but not know they are needed, or not know how to help.

Even small things, such as a weekly phone chat, can be very helpful.

It also helps to talk to any employer, or a school a child attends, so they can provide emotional support too.

Confidential help

It is common to feel you need to talk to someone confidentially about how you are feeling, particularly if you are trying to support others, or feel you cannot talk to people close to you.

The National Road Victim Service can help you cope and find more help. If you need to talk to someone urgently, call Samaritans on 116 123 any time, day or night.

Some common feelings and reactions

I can't believe it has happened, and if only...

Some people feel bewildered. It may feel hard to believe the crash happened.

It is common to mull over the circumstances leading up to the crash and wonder if you, or others, could have done anything to stop it happening. It may feel so unfair. 'If only...' is a particularly painful thought process.

It may be particularly hard to bear at night, when tired, or alone, or if people around you are sleeping. It can be upsetting on waking to realise, once again, that the crash has happened. This realisation can feel like another shock.

Anxiety or worry

It is common to feel anxious or worried. You may worry about the safety of yourself or other loved ones, particularly on the road but also generally. You may be scared about what the future may hold.

Stresses previously taken as being part of life may feel less bearable. You may get upset at small things as well as the big things. You may feel tense, wound up or restless. You may also find you forget things.

Treat yourself gently. Give yourself the time and space you deserve. Think about what helps you be calm – and do that. For example, listening to music.

Anger

It is common to feel angry if someone is being held responsible for the crash. It is common to feel angry with society if you feel road safety is not treated seriously enough. It is also common to feel angry at other people who say things that you consider inappropriate or who do not offer help at this time. You may feel that 'nobody understands'. Anger can be particularly hard to bear if you are not used to feeling angry.

Some people feel like they are on a rollercoaster of emotions, or out of control. It may help to remember that emotional reactions are normal, and some days may feel less hard than other days.

People don't understand

You may feel guarded. It may feel hard to talk about what you are going through, particularly if you are worried people might ask questions or say things that may feel invasive, or might upset you in other ways.

You may feel that well-meaning people don't listen enough, or say things that could feel inappropriate, such as 'it will be OK', or 'that's terrible'. They may talk about their own, or someone else's injuries or illness, when you do not want to listen to someone else's story, or think their story is different to your situation. These things can feel understandably upsetting.

You can show someone this book to help them be more thoughtful of your needs and more considerate of what to say and how to help.

If you feel that someone is not being supportive, you may find it easiest to make a gentle excuse to leave a conversation that is upsetting you and seek support elsewhere.

I feel ignored

You may feel your emotional needs are not being met. This can feel painful – as though people are not recognising your need for help, or are rejecting you. You may feel that other people affected by the crash are unfairly getting more emotional or practical support than you.

If people are ignoring you, it may be because they are afraid they might say the wrong thing, or don't know they can help, or don't know how to help. Some people might not know what has happened.

More should be done to help

Some people feel a sense of unfairness. For example, it may feel that not enough medical or social support is being provided, or that a traffic offender has not been punished enough, or that a road safety problem is not being addressed by the authorities.

Some people find it helpful to join a road safety charity, such as Brake, or a charity representing the rights of people with particular injuries.

For a list of organisations that support road crash victims, go to www.brake.org.uk/orgs

Sleep, dreams and nightmares

It is common to have difficulty going to sleep, or staying asleep. Some people have vivid dreams or nightmares, due to their thoughts being in overdrive.

This may be followed by distressing feelings when you wake up, particularly if you wake up suddenly in the night.

Lack of sleep and nightmares can lead to physical exhaustion and it can be harder to manage emotions if exhausted too. Try to sleep when you can, even if this includes taking naps when you normally would be awake.

Other physical symptoms

A shock and distressing situation can cause intense and prolonged pressure, in addition to any injuries.

It is normal to suffer physical symptoms, occasionally or frequently.

- Energy levels may vary enormously
- Heart palpitations, feeling faint or dizzy, excessive sweating, tremors and choking sensations are common
- Muscles may tense up, causing pains, such as headaches
- Digestive problems may occur
- Women may suffer extra pain during menstruation.

Physical symptoms caused by emotional distress are painful and upsetting but should fade and disappear over time. If you are worried, talk to your GP.

Substance abuse

Some people faced with a shock or distressing situation find they want to turn to substances such as alcohol or cigarettes, or illegal drugs. This can damage mental and physical health and is not a helpful way to manage reactions.

It is harder to identify and address emotional and physical feelings if they are masked by the effects of substances.

Despair, or having suicidal thoughts

For some people, everything can feel bleak, or too hard to bear. For some people, this can be a fleeting thought that floats in and out, and then goes away. For others, it can be a lasting sense of despair or desperation that can lead to feelings that the future is too hard to face. This can lead to suicidal thoughts.

When in despair or having suicidal thoughts, it is hard to imagine feeling differently. It may help to know that many people who have experienced despairing and suicidal thoughts have moved on, over time, to feel very differently and live a full and positive life.

Often, these people have received help from others.

Please, reach out for help.

It is a sign of strength, not weakness, to ask for help you need.

- **Tell people you trust how you are feeling**
- **Ask someone, or several people, to look after you closely**
- **Read our advice on these pages about getting mental health help**
- **Call Samaritans any time, day or night, on 116 123.**

Help with mental health

If you think you may be struggling with your mental health, it is important to seek an assessment and diagnosis so you can be helped. It is not a sign of failure to seek help, and it is important to do so.

You may be diagnosed as having anxiety or depression. Sometimes, people affected by a crash are diagnosed with post-traumatic stress disorder (PTSD).

It is normal to be offered therapy, provided by a specialist professional. Therapy is often talk-based. Sometimes other kinds of treatment are offered too, such as medication.

When and how to seek an assessment of mental health

If it is a month or longer since the crash, it is appropriate to seek an assessment of mental health if:

- Your shock reactions are the same or worsening
- You have new and distressing reactions emerging
- You are suffering flashbacks or nightmares of what happened, or could happen, real or imagined
- You feel numb, or unable to feel anything positive, or you feel depressed
- You constantly think about what has happened, to the exclusion of everything else you need to think about, or feel anxious
- You cannot eat or sleep normally
- You are having suicidal thoughts.

These things are a guide only, and do not enable you to self-diagnose. If you have any reason to think you might need help, it is important to seek help.

You can seek help at no charge from NHS mental health services by visiting your GP and asking to be referred to an NHS mental health service for an assessment of your mental health needs.

You can also talk to a trained advisor through Breathing Space, which is a free, confidential service for anyone in Scotland over the age of 16 who is feeling low, anxious or stressed. Call 0800 328 9655 or go to www.breathingspace.scot and click on 'Living Life information'.

For a list of organisations that can help you access private therapy, go to www.brake.org.uk/orgs

Helping a family that has suffered a serious injury

If you are supporting a family that has suffered a serious injury, your help is valuable, however small. These tips help you to help, better.

DO:

Do expect a range of reactions, as described in this section. This is okay, as long as people are kept safe.

Do ask open-ended questions relating to someone's health and safety and to inform help you provide, for example:

- "Who is helping you / talking to you this week?"
- "What help have you been given so far?"
- "What shopping do you need?"
- "When would you like me to call you?"

Do listen patiently to their story, respecting diversity. Tell someone "You matter." Let them talk, if they want. Let them be silent, if they want.

DO NOT:

Do not talk about your own injuries or illnesses that are nothing to do with the crash. This is not active listening.

Do not say "you will feel better soon". This can imply serious injury is trivial. Do not expect to make things better, soon. The task is to keep people safe and feel supported.

Do not ignore signs someone may be at risk, for example, from suicide, or being unable to look after themselves, or being harmed by someone else. If immediate risk, dial 999.

Always prioritise your own welfare. It is possible to be traumatised by other people's experiences or be psychologically damaged by thinking you did or said something wrong when trying to help. Take time out for yourself. Eat, sleep, relax and exercise. Get support from family, colleagues and friends.

SECTION 8

The police investigation

The police investigation

Serious injuries on the road are investigated by the police and you can contact them to find out how an investigation is progressing. See page 15.

The police have a duty to gather evidence that might indicate someone, or more than one person, committed a crime and needs to be prosecuted.

A police investigation can take a long time. How long it takes will depend on your case, and the police can advise you.

Often, a crash has one or more causes that can be identified. Sometimes, but not always, one or more of these causes is a crime.

Sometimes, one or more causes are not due to a crime. It is not the main purpose of the police investigation to identify those other causes or call for any changes to be made to eliminate those causes.

If someone is injured, but there is no evidence a criminal offence has been committed, then it will not be possible for a criminal charge to be brought against anyone. Criminal charges require criminal evidence.

Evidence from people

People involved in the crash can be tested for alcohol and/or drugs, and have their eyesight checked. This includes testing injured drivers if permission is given by medical staff caring for them.

The police may seek other medical evidence. For example, types and severity of injuries can help indicate what happened in a crash.

People involved in the crash, or who witnessed the crash, or events leading up to or after the crash, may be asked to give a statement (see next page). They may also be asked to give the police their mobile phones. If there are not enough witnesses, police may issue an appeal for witnesses, through the media or through notices at the scene.

Any driver suspected of a crime at the crash scene will not normally be arrested unless certain conditions are met, but they will always be interviewed under caution. If they are arrested, they may later be released, while the police investigation is underway.

Giving a statement

The police may take statements from different people. If you were involved in the crash, you saw the crash, or you saw vehicles before or after the crash, you may be asked to give a statement. If you were not involved in the crash, but knew the movements of a loved one on the day they were injured, you may be asked to give a statement. If you give a statement, the police will write down and may record what you say.

If you have made a statement, a lawyer, or more than one lawyer, may want to interview you too. This is an essential part of the investigation and helps lawyers understand the evidence you are providing. Your contact details remain confidential – they cannot be given to someone accused of a crime.

It may be possible for a relative or friend to attend an interview with you to offer support. If you want to be accompanied, ask if this is possible. If you have communication needs, you may be entitled to assistance from an interpreter or intermediary (someone who helps communicate questions the police ask, and your answers).

Evidence from vehicles

Collision investigation officers, who are specially trained police officers, or employees of other agencies working in partnership with the police, may remove and examine vehicles to:

- find out if they have mechanical defects
- get more information about what happened, for example by studying vehicle damage or vehicle electronic data, to find out a vehicle's speed and braking, or how long it was driven for.

Cameras attached to a vehicle that were pointing at the driver, or the road, may provide vital information. Cameras are also used by some cyclists.

If a lorry, bus or coach was involved, then a vehicle examiner with particular expertise in studying commercial vehicles should undertake the vehicle examination, including looking at brakes and other potential major faults, and any driving records (showing when a driver took breaks and how long for).

Evidence from the scene

Collision investigation officers can photograph, video and measure the crash location, at the time of the crash and sometimes later too.

They record things like vehicle positions in the crash, skid marks on the road, and damage to objects, such as bollards. They also analyse any available footage, for example from street cameras (CCTV).

Employers

If the crash involved someone driving for work, the police, or other agencies, may need to investigate their employer to find out if there was any failure by the employer to ensure a vehicle was safe or driven safely.

They may need to interview people or seize paperwork.

The Health and Safety Executive (HSE) may get involved in the investigation. HSE inspectors usually only get involved if the police identify that serious management failures contributed significantly to the crash or if machinery that was part of the vehicle was at fault. The investigation will usually be conducted jointly with the police. The police will be able to tell you if the HSE are involved.

For more information about the role of the Health and Safety Executive in investigating road crashes, go to www.hse.gov.uk/roadsafety and click on 'the law and how it is regulated'.

The police are required to meet certain standards for how they investigate fatal or serious injury road crashes. You can read these standards at www.brake.org.uk/codes-and-standards.

Police reports

After a crash, police prepare a basic collision report that contains information about who was involved, where the crash happened, who witnessed the crash and the circumstances of the crash.

If a person has died in the crash, the collision investigating officer prepares a full report that contains additional information, for example witness statements and a post-mortem report. It can take the police a long time to gather all the evidence they need and prepare the full report. This will depend on your case and your police contact can advise you.

If the police investigation finds evidence that suggests a crime may have been committed, this evidence is compiled into a report that is sent to the Procurator Fiscal (see page 77) to decide if anyone should be charged with a crime. This report contains all the evidence relating to the police investigation. It is confidential and you cannot see it.

You are not automatically entitled to see any of the police reports. You may be able to get a copy of some reports after any criminal proceedings have finished, or if there is no criminal prosecution.

If you are making a claim for financial support, your solicitor will request an 'abstract' police report that gives brief details of the crash and who was involved. Your solicitor may also request extra evidence from the investigation or ask to interview police officers involved in the investigation. Your solicitor may only be allowed to interview the police or obtain extra evidence after any criminal proceedings are finished.

Before reading a police collision investigation report, you may want to ask your solicitor or the police what it contains. Police reports often contain sensitive information that you may find upsetting. You can ask the police or your solicitor to remove anything you don't want to see or read.

Once a police report has been sent to the Procurator Fiscal, you can still keep talking to your police contact about your case to find out what is happening, for example whether criminal charges are being brought, and any court dates.

The police are required to meet certain standards for the disclosure of information after a road crash. These standards are written into a Crown Office and Procurator Fiscal document called 'Access to Information Protocol'. You can read this guidance at www.copfs.gov.uk/access-to-information-protocol. An easy-read version is also available.

Making a comment or complaint about the police

To make a comment or complaint about Police Scotland, call 101 or go to www.scotland.police.uk and search for 'make a complaint'.

If you are not satisfied with the reply go to www.pirc.scotland.gov.uk.

Making a victim statement

A victim statement is a written statement by you, about the effect of the crash on you and your family.

You and other family members may be eligible to make a victim statement.

If you are eligible to make a victim statement, the Procurator Fiscal will write to you and explain what to do.

A victim statement is an important document because it will become part of the case papers and will be given to the court. This usually happens if an accused person is found guilty by trial or pleads guilty, before a sentence is passed.

Your victim statement will not always have an effect on the sentence.

You do not have to make a victim statement. If you choose not to, information about how the crime has affected your life can still be explained in court.

If you have not been offered the opportunity to make a victim statement but feel you are eligible, ask your police contact or the Procurator Fiscal. If you think of something later, that you want to add, you can make another statement.

More information, including details of who can make a victim statement and what can be included in a statement, is available in a government booklet called 'Making a victim statement'. You can read this booklet at www.mygov.scot/victim-statement.

Help writing your victim statement

You can write your own statement or someone else can write down what you say. You may wish to seek help with your victim statement, to ensure you:

- comply with the rules about what can be said in it
- say everything you want to say, with accuracy
- say everything that may be useful to be heard in various circumstances, for example prior to sentencing someone, when considering parole, or in a claim for financial support you are pursuing
- express your thoughts in ways that reflect your views and values.

You may want to seek help from:

- a solicitor you have hired to pursue a claim for financial support (see page 100) – they can ensure you include things in your statement relevant to that claim
- the National Road Victim Service
- your police contact
- other people you know in your family or community.

You may particularly want to seek help if you have challenges communicating, for example due to English not being your first language, or due to disability or illness.

The charity Victim Support Scotland can give help and advice on making a victim statement. Call 0345 603 9213 or go to www.victimsupport.scot to find details of your local office.

For more information about making a victim statement go to www.mygov.scot/victim-statement.

SECTION 9

The decision to bring a prosecution or not

The decision to bring a prosecution or not

A decision to bring a prosecution against a person, more than one person, or in some cases, a company, is usually made by a public agency responsible for prosecuting criminal cases that have been investigated by the police.

In Scotland, this agency is called the Crown Office and Procurator Fiscal Service (COPFS).

COPFS employs lawyers called Procurators Fiscal who oversee the police investigation and decide whether or not someone should be charged with committing a criminal offence.

The purpose of a criminal prosecution is to find out if someone has broken the law and appropriately sentence them.

Whether or not a criminal prosecution happens depends on the circumstances of the crash and whether there is enough evidence to support a criminal charge.

The Procurator Fiscal will consider the law, the evidence and whether it is in the public interest for someone to be charged with committing a crime. The crime has to be recognised in Scottish law and there also has to be enough reliable and credible evidence that the crime was committed by someone.

Sometimes several charges are brought. Sometimes no charges are brought.

If the Procurator Fiscal thinks a serious criminal charge should be brought against someone, they send a report explaining their recommendation to senior lawyers called Crown Counsel. Crown Counsel will then decide which charge or charges should be brought.

Some charges must be brought within certain time limits. The police or the Procurator Fiscal can advise you.

Telling the Procurator Fiscal what you think, and staying informed

The Procurator Fiscal acts on behalf of the public interest, not on behalf of victims. However, when deciding if a prosecution is in the public interest, they should consider your views about how the crash has affected your life and the lives of others.

You can help the Procurator Fiscal to hear your views and help them inform you about a criminal prosecution (whether it is happening, or charges are changed or dropped, and reasons why). You can:

- make a victim statement (see page 72)
- contact the Procurator Fiscal and ask them to keep you informed. You can do this directly or through your police contact, or solicitor
- ask for a meeting with the Procurator Fiscal, so that:
 - your views can be heard (see page 78)
 - you can find out more about a decision that has been made by the Procurator Fiscal already.

Evidence relating to the case cannot be disclosed to you at a meeting with the Procurator Fiscal.

The Procurator Fiscal is required to meet certain standards for the different stages of the investigation process and how they provide information about the investigation. These standards are written into a Crown Office and Procurator Fiscal document called the 'Family Liaison Charter'. You can read this document at www.brake.org.uk/codes-and-standards.

Criminal offences

There are many different criminal offences that someone can be charged with after a crash, depending on the evidence collected.

It may help to know that:

- some offences mention that an injury or injuries have occurred, but others do not
- sometimes it is only possible for someone to be charged with an offence that does not mention injury
- sometimes a person, or more than one person, is charged with committing more than one offence
- sometimes no one is charged with committing an offence
- sometimes different people are charged by different prosecution agencies.

For a list of offences that someone can be charged with following a road injury, and the maximum penalties for each offence, go to www.brake.org.uk/offences

Maximum penalties are fixed by law and are different for different offences, sometimes significantly. Courts often impose penalties lower than the maximum. Sometimes new offences are created or there are changes to the definition of offences or the maximum penalty for an offence.

If you need more information about why someone has, or has not, been charged with a particular offence, you can ask the Procurator Fiscal for a meeting (see page 78), or ask your solicitor (see page 29), or the National Road Victim Service, for help.

Charging someone and the possibility of bail

Someone charged with an offence is called 'the accused'. They may be arrested and then charged at a police station. Alternatively, they may be issued with a summons describing the charge and giving a court date.

An accused person may be remanded in custody (imprisoned) or given bail (allowed to remain free before their case is heard). The accused will be granted bail unless the court has reason to believe they would:

- not attend a court appearance
- commit an offence while on bail
- interfere with witnesses
- obstruct the course of justice.

An accused person remanded in custody may apply for bail at different stages, even if refused earlier. They may appeal against a decision not to grant bail. If bail is granted, the prosecution can appeal against the decision.

People on bail are required to turn up, when required, to court hearings. Other conditions may include limiting where the accused person can live, or preventing them coming near you, someone else, or where you live. A person on bail can also be electronically tagged.

An accused person who is on bail and possesses a driving licence will be allowed to continue driving while awaiting trial. If convicted of a crime, they may or may not be disqualified from driving.

If the accused is granted bail and their behaviour causes concern, for example you see them driving in a way you consider dangerous, or if they threaten you, report it to your police contact.

Changes to charges

Sometimes, if the accused is charged with a serious offence, the lawyers representing the accused ask the prosecution agency for the charge to be changed to a less serious offence, on the basis of evidence. This request can happen before a case goes to trial.

The Procurator Fiscal may decide to continue charging the accused with the serious offence or may decide to charge the accused with a less serious offence. Their decision is based on the evidence and what is in the public interest. It may include factors such as the availability of witnesses.

Victim 'right to review'

If a decision is made not to bring charges against someone, you have the right to request a review of the decision under a 'right to review' scheme. Talk to your police contact and the Procurator Fiscal. For more information, go to www.copfs.gov.uk/publications and click on 'Victims and Witnesses'.

Bringing a private prosecution or a judicial review

It is sometimes possible for a member of the public, rather than a public prosecution agency, to bring a private prosecution of another person for a criminal offence. However, this process is very expensive and legal aid is not provided. Private prosecutions are very rare events.

SECTION 10

Court cases, verdicts, punishments and restorative justice

Court cases, verdicts, punishments and restorative justice

Most criminal cases and appeals are held in public courtrooms.

In Scotland, there are different court processes for different charges in different courtrooms (for example, with a jury or not) and there are different possible verdicts and sentencing procedures, including rules on appeals and parole.

There is information about all these things on the Brake website. This information can help you understand what might happen in your case.

Go to www.brake.org.uk/courts

If you do not have access to the internet, or need help understanding court procedures, contact the National Road Victim Service.

Information and support for you through a court case

If the public are allowed to attend a court case, then you can choose to attend or not. The information below can help you decide if you want to go, and gives you advice if you decide to go.

If you are called as a witness, see page 90 for information.

Help in court

Many crash victims have never been to a court before and benefit from having help and support from their police contact, court staff and charities.

Help from your police contact and the court. Courts often provide support services for victims of crime. If you are not put in touch with this service, ask your police contact if it is available. Your police contact should keep you informed, for example about if an accused person is bailed, court dates, and appeals.

Victim Support Scotland. The charity Victim Support Scotland provides emotional and practical advice and support to victims and witnesses of crime. This help is free and confidential. For more information, call **0800 160 1985** or go to **www.victimsupport.scot**.

You can also bring friends and family to court with you. The court will try to find places for everyone to sit. However, maximum numbers will be restricted by seats available.

Frequently asked questions about court hearings

How will I know where to go?

If you have never been to the courthouse before, it may help to organise a visit on a different day, in advance of a court hearing, so you are familiar with where to go. It is good practice for victims to be offered an accompanied tour of a courthouse, and reasonable to request this, through your police contact, if you are not offered it.

Will I see the accused or their family/friends around the courthouse?

If the accused is on bail, they will be able to use the same public areas of the court, such as a café or toilets.

Many victims understandably want to avoid being in the same space as an accused person. For this reason, many courts now provide a quiet room for victims, where you can sit and wait for a court hearing. Ask if this is possible.

Will anyone accompany me during the court hearing, to offer support?

To arrange help during a court hearing, talk to your police contact, court staff or charity service. See page 86.

Where will I sit in the courtroom?

In the courtroom, you and anyone supporting you, as well as friends of the accused and any journalists, can sit in the public gallery. (If you are a witness, you will not be able to sit in the gallery until you have given evidence.) However, it may be possible for you to be seated away from the accused's friends in court. Ask your police contact or court staff if this is possible.

Will the lawyers prosecuting the case talk to me during the court hearing, so I can understand what is happening?

During a court hearing, the prosecuting lawyers will be busy prosecuting the case. However, court hearings can be complicated, and it is good practice that you are introduced to someone in the prosecuting team and informed about what is happening. Ask your police contact or court staff if you can be kept updated by a member of the legal team that is prosecuting the case.

Will I see or hear things that could be upsetting for me or others?

Evidence is presented in court for the benefit of the people judging the case and prosecuting or defending it. Sometimes you may not be able to see evidence being discussed (such as diagrams or videos). If you can see evidence, some of it may be upsetting. You may strongly disagree with one or more things said in court by a lawyer for the accused, or by a witness.

If you think you may get upset and need to leave the courtroom, you can. You are allowed to leave and re-enter a courtroom quietly. While you are in court, you are required to sit quietly and not talk. People who disturb court proceedings can be asked to leave.

Can I take notes in court?

You are usually allowed to take notes, but sometimes legal reasons prevent this. You should check with court staff first. You are not allowed to take photos or make recordings. You should switch off any phone or devices.

How long will the case take to be heard?

It depends on your case. Some cases are heard quickly, and others take many days. Sometimes, the start time of a hearing is delayed, or a hearing is postponed to another day, which might not be the next day. Sometimes a court building has many courtrooms in it. Sometimes the courtroom in which your case will be heard changes.

Your police contact or court staff should be able to keep you up to date with what is happening.

Victims of crime have the right to be treated with respect, understand what is happening, be heard, and receive support (see page 17 for more information about the rights of victims of crime).

Will I be asked questions about my victim statement in court?

You may be asked questions about your victim statement. This may happen if a victim statement contains information that could affect the outcome of a hearing, or if a victim statement contains information that contradicts other witness or victim statements, or for other reasons. You may be asked questions by lawyers prosecuting or defending a case.

If you are asked to be a witness in court

If you are a witness, you will already have given a statement. In some cases, this statement can be used as your evidence in court. In other cases, you may have to give evidence in court.

Being a witness in court is a new experience for most people. You should be assigned someone by the court to help you and give you information about what will happen. If you are unsure who is going to help you, or what will happen, talk to your police contact.

Support for vulnerable or intimidated witnesses

Witnesses who are vulnerable or feel intimidated may be able to give evidence with the assistance of special measures, such as:

- screening (so you and the accused cannot see each other)
- television links (so you can give evidence from somewhere away from the courtroom)
- allowing a supporter to sit with you while you give evidence
- closing the courtroom to the public while you give evidence
- allowing a written, audio or video statement to be used as evidence
- allowing you to give evidence at a different time and place to the court hearing.

The court has to follow guidelines when deciding who is eligible for special measures. If you want to find out if you can use any special measures, talk to the Procurator Fiscal or your police contact.

Restorative justice

Restorative justice provides an opportunity to meet or communicate with an offender to explain the impact of their crime on you. It also aims to help offenders take responsibility. Your involvement in restorative justice is entirely voluntary. The offender must have admitted to the crime and also be willing to participate.

Restorative justice often involves a meeting with an offender, guided by a trained facilitator. Alternatively, it could involve letter correspondence, or audio or video recordings. You will have the opportunity to consider and discuss what will work best for you.

If restorative justice is offered, you can talk to the facilitator about whether to do it or not. If it is not offered, and you want to consider it, talk to your police contact.

SECTION 11

If the crash happened abroad

If the crash happened abroad

If the crash happened abroad, there may be many added complications, such as access to medical care, different legal procedures or a language barrier. Brake's National Road Victim Service works with the Foreign, Commonwealth and Development Office (FCDO) to provide emotional and practical support in cases of death and serious injury in a road crash abroad.

If you have been in touch with the FCDO you should have been offered this support. If not, contact the National Road Victim Service.

You can also ask for support from FCDO Consular staff based at British Embassies, High Commissions and Consulates overseas, and in London in the Consular Directorate of the FCDO. These officials can:

- help you transfer money from the UK to pay costs
- offer information about the local police system and legal system
- provide details of local, English-speaking lawyers, interpreters and funeral directors.

FCDO staff cannot investigate crashes that happened abroad nor give legal advice.

If you have concerns about legal issues, a solicitor with experience of dealing with crashes abroad can advise you.

Foreign, Commonwealth and Development Office (FCDO) guidance called 'Support for British nationals abroad: A guide' explains what support is available. This guidance is available at www.gov.uk.

You can contact the FCDO for help and advice anywhere in the world by calling 0207 008 5000 or go to www.gov.uk. To find your nearest British embassy, High Commission or Consulate, go to www.gov.uk/world/embassies.

Paying for costs incurred abroad

The FCDO cannot pay any of your costs abroad, such as hospital or legal costs. However, it may be possible for you to claim back these costs as part of a claim for financial support or from an insurance policy, such as travel insurance. Keep receipts, consult a solicitor and check insurance policies.

SECTION 12

Claiming for financial support

Claiming for financial support

Financial support can be claimed by people seriously injured in a road crash. A legal process has to be followed in the civil courts by a solicitor you instruct.

An award for financial support does not depend on a driver being found guilty of a traffic offence in the criminal courts. Even if it looks like the injured person was partly responsible for the crash, it might still be possible for them to obtain financial support from someone else whose actions may also be to blame.

Financial support is usually paid by a driver's insurance company. If they were not insured, or can't be found, then an organisation called the Motor Insurers' Bureau will deal with the claim. (Find out more at www.mib.org.uk)

A suitably qualified and experienced solicitor can advise you whether you have a claim for financial support, pursue the claim on your behalf and work to ensure you are awarded the financial support you are entitled to.

As well as advising you about a claim for financial support, an experienced solicitor will be able to help with other matters, such as

- organising an assessment of your immediate needs
- applying for government benefits you are entitled to
- helping you prepare a victim statement
- representation at a Fatal Accident Inquiry (if someone also died in the crash).

Your solicitor should also support you and your family during any criminal proceedings. You or your loved one may be asked by the police to give evidence if someone responsible for causing the crash is being charged with a crime. Your solicitor can advise and support you through such things and can attend court during any public trial.

Hiring the right solicitor to pursue a claim for financial support

To pursue a claim for financial support, you need to instruct a solicitor. You are advised to use a solicitor who specialises in personal injury cases and who is qualified to act in the country which has jurisdiction. That normally means instructing a Scottish qualified solicitor if the crash happened in Scotland.

The Law Society of Scotland provides details of solicitors specialising in different areas of law on its website at www.lawscot.org.uk.

Any solicitor you are considering using should agree to meet with you for free initially, to advise you whether they think you have a claim or not. You may wish to meet with more than one solicitor. Different solicitors have different expertise and experience, different fees, and different ways to pay them.

It is important you understand any agreement you sign with a solicitor and particularly any costs involved in them pursuing a claim for financial support for you.

You can find a list of legal firms that specialise in personal injury cases on the Brake website at www.brake.org.uk/legal. All of the firms listed have signed up to Brake's Solicitor Code of Conduct for supporting road crash victims, and also kindly donate to the charity.

Here are some questions appropriate to ask a solicitor you are considering:

- How many serious injury claims involving a motor vehicle have you handled in the past year?
- Have you handled claims similar to this one recently, for example claims involving similar injuries? Were they successful?
- Will you handle this case, or will you pass it on to other solicitors in your firm who I haven't yet met? If so, can I meet them?
- How will I pay you and how much will it cost me if I win and if I lose?
- Will you support me and my family by attending any hearings and criminal court proceedings?
- Will you help me apply for government benefits such as Personal Independence Payments or Carers Allowance?
- Are you a member of The Association of Personal Injury Lawyers (APIL) or The Motor Accidents Solicitors Society (MASS)?

Consider whether the solicitor listens to questions and answers them fully.

The solicitor may ask you questions that seem challenging or unnecessarily detailed. Do not be put off by this, it shows that they are experienced and will prepare your case carefully.

If you are in any doubt about a solicitor, consult another. Some claims take years, so it is important you are happy with your solicitor of choice.

Your nearest specialist solicitor may work some distance from your home. However, it is more important to hire a specialist than a solicitor near you, or one you know already. You can do a lot over the phone, on video calls, by email and post, and some solicitors will visit you at home.

Solicitors are not allowed to make 'cold calls'. If you receive a call from someone who you have not contacted, they are likely to be a rogue company whose priority is to make money rather than look after the best interests of you and your family. Only deal with solicitors you contacted.

Do not delay

Do not delay in consulting solicitors. If you have a good chance of getting financial support, the solicitor you choose will want to work on your case as soon as possible. It can take time to compile evidence to support your case, and the earlier you hire a solicitor, the sooner financial support can be awarded.

Most claims must be submitted within three years from the date of the collision, although sometimes claims must be submitted within two years. Three years may sound a long time, but claims can take time to prepare. Injuries can be complex and it takes time to recover and determine the long-term effects on the injured person's life, both at home and at work. Evidence needs to be collected, including obtaining statements from witnesses and medical reports from different medical specialists.

Time limits for bringing claims are extended for children and vulnerable adults with particular medical conditions that affect their ability to manage the claim or make decisions about their finances or treatment. Your solicitor can advise you about this.

Rogue offers of help

Someone called a claims assessor, a claims handling company or a claims management company (CMC) may offer to pursue your claim for you, often on a 'no win, no fee' basis. They are not personal injury solicitors, and are not qualified or regulated to the standards of solicitors.

You may also be approached by someone representing the motor insurance company of a driver you want to claim from, offering to settle your claim directly and quickly with you, without the need for you to hire a solicitor.

Do not accept these offers of help. If you do, you will not be independently represented by a suitably qualified solicitor, and you may receive far less financial support than you are due.

Talking to your solicitor

Your solicitor should be available to talk to you regularly, on the phone or face to face. They should explain what is happening in straightforward terms and answer questions. You can ask questions if there is something that you don't understand.

It helps to keep notes of conversations with your solicitor and copies of correspondence, so you can keep track of your claim. Your solicitor will also make notes of your conversations and you can ask them to send you copies of their notes.

Ensure you know who is handling your case. Sometimes several people in a solicitor's office may work on your case but it is important you know who is the lead solicitor who has ultimate responsibility for your claim.

Complaining or changing solicitor

If, at any stage, you are unhappy with the service you are getting from your solicitor, you can ask to speak to the person at your solicitor's firm who is responsible for looking after clients. This person is often called the 'client relations manager'.

If you remain dissatisfied, it may be possible to change solicitor.

You can read information about making a complaint against a solicitor on The Law Society of Scotland's website at www.lawscot.org.uk.

The Scottish Legal Complaints Commission can help with your complaint and provide a template letter to help you write a complaint about a solicitor.

You can also complete an online form to make a complaint about a solicitor. To find out more, call the Scottish Legal Complaints Commission on **0131 201 2130** or go to www.scottishlegalcomplaints.org.uk.

Paying your solicitor

There are different ways to fund a claim for financial support and you should talk to your solicitor about the options available. Make sure you understand exactly what you will have to pay for if you win or lose your claim.

Some people pay for their solicitor as they go, either because they have the funds to do so or because they have an insurance policy that covers legal costs and expenses. Your solicitor can help you check any insurance policy to find out if you are covered for legal fees. Some insurance policies have a limit on how much they will pay to cover legal costs. You should talk to your solicitor about what happens when this limit is reached.

It is usually possible to pay your solicitor at the end of the case. If you win your case, the person you are claiming from will probably have to pay some of your legal fees.

Many people do not have available funds to pay a solicitor to pursue a claim for them. However, it should be possible to reach an agreement with your solicitor that means you won't have to pay anything, even if you lose your claim.

Depending on the agreement you sign with your solicitor, you may also have to pay your solicitor additional fees from your financial support payment, such as a 'success fee' for winning your case.

There are complex laws governing how solicitors are paid in compensation cases. It is important that you understand how your solicitor intends to cover the costs of your claim and any fees you may be personally liable for, at any time, if you win or lose your claim.

It is important that you do not sign an agreement that would result in your solicitor unreasonably taking a large amount of your financial support payment if you win your case. You should also be protected from having to pay expensive legal costs if you lose your case.

Legal aid

If you can't afford to pay your own legal costs, you may be entitled to legal aid. Legal aid helps you pay for legal advice and representation provided by a solicitor and is paid for by the Scottish government.

To find out if you are entitled to get legal aid you will need to find a solicitor that does legal aid work. They will be able to talk you through your options, let you know if you're likely to get legal aid and help you to apply for it.

You'll usually need to show that you can't afford to pay for legal help yourself and your problem is serious.

You may have to pay some money towards the legal costs of your case, or pay costs back later.

You may not need to pay anything at all, depending on your financial position and the type of legal help you need.

To find out more and get help finding a solicitor who does legal aid work, call the Scottish Legal Aid Board helpline on 0131 226 7061 or go to www.slab.org.uk.

Compensation types and the process of claiming

Establishing liability

For a claim to succeed, it must be proven that someone was fully or partly to blame for what happened. If that is not the case, then the claim will not be able to proceed and no financial support will be awarded. Your solicitor will advise about this at an early stage. If, after evidence has been gathered, liability is still not admitted by the other party, then the case may need to go to court for the judge to decide.

Financial support

If liability is proven, then the solicitor will need to work out the correct amount of financial support. Different awards make up a claim for financial support and they are listed below. Your solicitor will advise which apply to you.

Awards for injuries

Money may be awarded to compensate for pain and suffering, and how the injury has affected quality of life. The size of the award is determined by the severity of injuries and the suffering they have caused. The award will take into account the effect on an injured person's life, for example, inability to carry out normal day-to-day-tasks, play sport or enjoy other recreational activities as a result of injuries suffered. Damages may also be awarded for emotional or psychological suffering caused by the crash.

Awards for financial losses already incurred

Money may be awarded to compensate for money already spent or lost as a result of injuries. This may include:

- loss of earnings
- medical fees and equipment
- mobility aids and special housing
- carers (professionals or relatives), and travelling expenses.

Awards for future losses

Money may be awarded to compensate for expenses that will be incurred in the future as a result of injuries. Awards for future losses may include:

- loss of future earnings, including likely pay rises and promotions
- loss of pension rights
- on-going medical costs (e.g. physiotherapy)
- medical fees and equipment
- mobility aids and special housing
- carers (professionals or relatives)
- travelling expenses.

Compensation for bereavement

If your case also involved a loved one being killed, then it might be possible to claim financial support as a result of their death. Your solicitor can advise you about this and you can also find more information in our online bereavement guides at www.brake.org.uk/support-literature.

Preparing and negotiating your claim

Preparation of a claim by your solicitor takes time. The extent of injuries suffered will need to be proven by medical reports. Evidence of financial losses will also be required, for example documents from an employer showing loss of earnings. It is important to keep receipts of all expenses to show past financial losses. Your solicitor can advise you on what receipts you need to keep.

Once your solicitor has prepared your claim, they will contact the insurance company the driver responsible for the crash, from whom you are trying to claim ('the other side'). If the other side admits liability, then there will be no need to prove that part of the claim and your solicitor can start negotiating with them to determine how much they should pay.

Most claims are settled through negotiation rather than court action.

The other side may try to argue your claim is too high. For example, they may try to argue that injuries are less severe or less debilitating. The other side has the right to check injuries and losses for themselves and they may carry out their own investigations to check a claim is accurate, such as instructing their own medical experts.

Knowing that solicitors and insurance companies are negotiating over the value of your claim can be distressing, particularly if your case takes time to be resolved.

The time taken depends upon:

- how long it takes to collect all the evidence, including medical reports describing the severity of injuries and their long-term effect
- whether the other side disputes liability for the claim or the amount being claimed.

It is not necessarily in a claimant's best interests to ask for a claim to be settled early. This could result in a lot less money being awarded than is due. Generally speaking, if you accept a sum of money, you cannot change your mind and go back to ask for more. A case should progress properly so that evidence is gathered as soon as possible, but it is unsafe to proceed and settle before the clearest possible medical prognosis is available. The settlement amount will need to be enough to support all the injured person's needs for as long as necessary.

If a claim is likely to take some time it may be possible to receive an early, partial payment called an Interim Payment. This can be helpful to pay for rehabilitation or treatment, or for people facing financial hardship as a result of their injury, for example if they cannot work in their previous employment.

Ask your solicitor to keep you updated about how your case is progressing.

Offers made during negotiation

Both your solicitor and the other side can make offers of financial support during negotiations. Offers can be made over the telephone, in a meeting, letter or email. Some offers are made without any acceptance of liability.

Either side has the right to accept or reject an offer. Your solicitor should advise you about any offer you receive, the risks involved in accepting or not, and help you reach a decision. You should consider offers seriously.

Going to court to claim for financial support

If your claim for financial support for injuries cannot be agreed through negotiation, or if liability is not admitted, your solicitor may start legal action against the other side.

Even after legal action has started, your solicitor will continue to try to negotiate a settlement with the other side. Sometimes, the other side will make an acceptable offer just before a case is heard in court. Your solicitor will advise you on whether any offer made is acceptable.

If an agreement cannot be reached, your case will be heard in the Court of Session or the Specialist Personal Injury Court. Both of these courts are in Edinburgh.

Sometimes a case is dealt with in a local Sheriff Court.

Court cases are usually settled without the need for any evidence to be heard.

Success in court cannot be guaranteed. You cannot pre-determine the decision of a sheriff or jury. Court cases may also take a long time to be heard.

Claims for financial support on behalf of children

While agreement can be reached by negotiation between the parties, settlements for children are always approved by the court. The court hearing is usually short and fairly informal. In most cases, any money awarded is kept and administered by the court in a special account until the child is 18.

SECTION 13

Campaigning and useful organisations

Campaigning and useful organisations

Some people affected by road crashes wish to join a charity campaigning for road safety or a charity speaking up for the rights of people with particular injuries or disabilities.

You can join Brake at www.brake.org.uk to help us campaign for safe and healthy streets.

You can find a list of other organisations that may be able to support you after a road crash at www.brake.org.uk/orgs. This includes:

- organisations that support road crash victims
- organisations that support victims of crime
- organisations campaigning for safe and healthy mobility
- organisations that can help you seek expert legal help
- organisations that provide information about treatment after serious injury
- organisations that support people with disabilities
- organisations that provide lists of therapists who can assess needs and provide treatment
- Government bodies with responsibility for criminal justice and road safety
- your political representatives.

You can contact these organisations directly using the information provided.

You can find a list of legal firms that specialise in personal injury cases on the Brake website at www.brake.org.uk/legal. All of the firms listed have signed up to Brake's Solicitor Code of Conduct for supporting road crash victims, and also kindly donate to the charity.

Brake's National Road Victim Service can help you get the help you need from people and services in your community. Call **0808 8000 401**, email help@brake.org.uk or go to www.brake.org.uk/support.

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Association of Personal Injury Lawyers	Norfolk and Norwich University Hospitals
BABICM	NHS Foundation Trust
Birchall Blackburn Law	Police Scotland
British Red Cross	Scottish Government
Child Brain Injury Trust	Scottish Trauma Network
Crown Prosecution Service	Southmead Hospital
Crown Office & Procurator Fiscal Service	Spinal Injuries Association
Day One Trauma Support	Staffordshire and West Midlands Police
Digby Brown LLP	Tania Brown Ltd
Headway	Transport Scotland
HMCTS	The Brain Charity
Hugh James	The Trauma Audit and Research Network
Metropolitan Police	

Brake is committed to continuous improvement. Any comments on this guide's content are welcomed and can be sent in writing to:
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National Road Victim Service

Get in touch for help

0808 8000 401

help@brake.org.uk

www.brake.org.uk/support



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