

A Summary Version of the Rehabilitation Code*

The 2015 Rehabilitation Code – Making a real difference to injured people

The Rehabilitation Code provides an approved framework for injury claims within which claimant representatives and compensators can work together. Whilst the Code is voluntary, the Personal Injury Pre-action Protocol provides that its use should be considered for all types of personal injury claims. The objective is to ensure that injured people receive the rehabilitation they need to restore quality of life and earning capacity as soon as possible and as much as possible. Although the principles are the same throughout, the Code recognises significant differences between the handling of lower value injuries (<£25k) and medium or catastrophic injuries.

The important features of the Code are:

1. The claimant is put at the centre of the process.
2. The claimant's lawyer and the compensator work on a collaborative basis to address the claimant's needs, from first early notification of the claim and through early exchange of information.
3. The need for rehabilitation is addressed as a priority. Time-frames are set out in the Code.
4. Rehabilitation needs are assessed by independent professionals with appropriate qualifications, skills and experience.
5. Initial rehabilitation assessments can be conducted by telephone or personal interview, according to the type of case. The resulting report should deal with matters specified in the Code.
6. The parties may consider whether joint instruction of rehabilitation assessor and provider would aid collaborative working and be in the claimant's best interests.
7. The claimant has the ultimate say in choice of case manager, and is not obliged to undergo treatment or intervention that is considered unreasonable. A guide to appointing and working with case managers accompanies this Code, but is not part of it.
8. The case manager should seek proactively to co-operate with treating NHS clinicians.
9. The compensator will pay for any agreed assessment of rehabilitation needs, and must justify a refusal to follow any of the rehabilitation recommendations.
10. Initial assessment (including the Triage Report for lower value injuries) is outside the litigation process.
11. Where rehabilitation has been provided under the Code, the compensator will not seek to recoup its cost if the claim later fails unless fraud or fundamental dishonesty can be proven.
12. The Code recognises that lower value claims (typically < £25k) have different dynamics, and that there will sometimes be a medical need for claimant solicitors to arrange treatment before getting agreement from the compensator. In these circumstances, the compensator is not obliged to pay for treatment that is unnecessary, disproportionate or unduly expensive.
13. In the interests of streamlining the process, most lower value claims will require a Triage Report only.
14. It is the intention that the parties adopt the principles of the Code beyond the Immediate Needs Assessment and throughout the rehabilitation process.

The working parties that drew up the 2015 Rehabilitation Code included representatives of ABI, IUA, APIL, FOIL, MASS, PIBA and CMS UK.

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*Although this document provides a summary, it should always be read in conjunction with the entire Code.

Time Scales (calendar days unless indicated otherwise)

Claimant solicitor	<ul style="list-style-type: none"> • Duty of every claimant solicitor to consider the need for rehabilitation from the earliest practicable stage in consultation with the claimant/their family and, where appropriate, treating physicians. • Give the earliest possible notification to compensator of the claim and need for rehabilitation. • Where the need for rehabilitation is identified by the compensator, consider this immediately with the claimant and/or their family.
Compensator	<ul style="list-style-type: none"> • Shall equally consider and communicate at earliest practicable stage whether the claimant will benefit from rehabilitation. • Where the need for rehabilitation is notified by the claimant solicitor, the compensator will respond within 21 days.
Both parties	<ul style="list-style-type: none"> • Consider choice of assessor and object to any suggested assessor within 21 days of nomination.
Immediate Needs Assessor	<ul style="list-style-type: none"> • Assessment to occur within 21 days of referral letter (but see below for smaller injuries). • Provide report simultaneously to parties.
Compensator	<ul style="list-style-type: none"> • Pay for report within 28 days of receipt. • Respond substantively to recommendations to the claimant solicitor within 21 days of receipt of report.
Lower value injuries (<£25k)	<ul style="list-style-type: none"> • As above, save that in the interests of speeding up the process, there will sometimes be a medical need for the claimant and/or their solicitor arrange treatment before the compensator has had time to approve it. In these circumstances, the compensator is not obliged to pay for treatment that is unnecessary, disproportionate or unduly expensive. • The claimant solicitor should communicate any rehabilitation needs to the compensator as soon as practical using the Claims Notification Form in the MoJ Portal. • The Triage Report, which will normally form the basis of treatment, should be made available simultaneously to both parties. • The compensator will respond to the report within 15 working days and pay for it within 28 days of receipt.