



Compensation

Tinnitus is recognised as an injury in its own right in cases of civil law.

Mark Allen, Head of the Industrial Disease Unit and **Andrew Tucker**, partner at Irwin Mitchell, Solicitors, Sheffield, give an idea of what is involved in making a claim for compensation.

Claiming compensation for tinnitus

Tinnitus is often unpleasant. At worst, it is completely debilitating. Awareness about its causes and ways to reduce its effects are improving, but for some it remains incurable. As such, the message to people with tinnitus is too often "Lump it. It's only a bit of ringing in the ears ". This is not true, you do not have to lump it. Depending on what caused the tinnitus, you may be entitled to compensation.

Hopefully, this should go some way towards restoring some of your loss of quality of life. At the very least, it may help to pay for any treatment that is available. In any event, the possibility of compensation should certainly be considered. In some cases, it may require no more than an initial interview with a solicitor to confirm that no claim is possible.

In others, the interview may lead to legal proceedings and eventually to significant compensation. Which category you are in can be determined by asking some simple questions.

Who can claim? Tinnitus is sometimes caused by trauma. Where that trauma has been caused by another's fault or carelessness, the victim has a claim. Most usually, successful claims are brought by people who have been exposed to occupational noise, or who have developed tinnitus alongside road traffic or other injuries.

How can I claim? Not all solicitors have experience of dealing with tinnitus and related claims, and it is imperative to find one who knows what they are doing. Don't feel nervous about shopping around and asking such questions as :

- How many cases of this type have the solicitors dealt with in the past 12 months ?
- How many of those cases went to trial and what was the result ?
- Does the solicitor have a Legal Aid franchise ?
- Is the solicitor a member of the Law Society Personal Injury Panel ? (an accredited group of personal injury lawyers)

What will my solicitor do? Every case is different, and will be handled according to its complexity, value and the interests of the claimant. All solicitors also have different systems of working. However, you should expect your solicitor to take a detailed statement from you and arrange a medical examination.

If that reveals the basis of a good claim then the court proceedings may be commenced. More frequently, it will not be necessary to do that and the case will be settled long before a court has to become involved.

Time limits Time limits apply to the commencement of any claim for personal injury, and this applies to tinnitus claims as much as for anything else. If proceedings are to be commenced they must be brought within three years of when the person with tinnitus first knew, or ought to have known that the condition was caused by someone else.

This "date of knowledge " is often difficult to pin-point. In some cases the court will extend the three-year period if it is reasonable to do so. Nevertheless, this can never be relied on and it is crucial that as soon as a tinnitus sufferer considers they might want to make a claim, they consult a solicitor as soon as possible.

Costs of claim? Many solicitors offer a free initial interview, however thereafter you will be primarily responsible for your solicitor's costs. There are a number of ways of funding a claim. These include :

- Legal Aid
- Trade Union
- Private
- Legal Expenses Insurance
- Conditional Fee Agreement "no win, no fee."

Your solicitor would be able to discuss these various methods of funding a claim.

Who pays the compensation? In almost all cases it will not be the defendant (for example an employer) who will pay compensation, but their insurer. This makes no difference to most claimants, but it is worth bearing in mind when a company has gone into liquidation. If their insurer is still in existence, a claim can still be brought.

For example, notwithstanding the collapse of the steel industry in Sheffield in the early 1980s, claims for industrial deafness are still being pursued against their employers.

How much compensation can I expect to receive? Again, every case is different and compensation can vary enormously according to the severity of the tinnitus. Also it is important to distinguish compensation for tinnitus from compensation for other injuries which may be caused by the same trauma. For example, hearing loss, nausea and loss of balance are other injuries often found alongside tinnitus, and these can make a significant difference to the level of compensation.

Nevertheless, tinnitus is an injury in its own right and claimants are generally

looking at thousands of pounds where a claim succeeds. For relatively mild tinnitus, combined with some lack of concentration, impaired sleep and (to give a common example) enjoyment of music, claimants can usually expect to recover between £2,000 and £3,000 in compensation.

As the severity of the injury increases - moving through difficulty in hearing in social situations, irritability and other mood swings and the continuous interruption of sleep, deafness and symptoms of vertigo and nausea - claimants can recover up to as much as between £10,000 and £15,000. These figures are known as "general damages" which compensate for the injury itself. In addition, where tinnitus causes other loss, for example reduced earnings because of one's ability to work has been adversely affected, then those earnings can also be recovered. Where this happens, the compensation for such "future loss" will usually heavily outstrip the general damages. Add to this any

additional cost of counselling and therapy, and the compensation in severe cases can run into many thousands of pounds.

In conclusion The above questions are designed to give some idea of whether you may have a claim for tinnitus or related conditions. If, having read through them, you think you might, consulting a solicitor is the next step. This is straightforward, and most solicitors offer a free trial interview.

The courts have long recognised that tinnitus is an injury in its own right, and compensation is also paid by other agencies such as the Criminal Injuries Compensation Authority (where tinnitus has been caused by criminal assault), the DSS and the War Pensions directorate. These actions are entirely different to court actions, and based on different criteria. It is often possible to make one type of claim where another is unavailable. Your solicitor will be able to advise you.

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This information is not a substitute for medical advice. You should always see your GP / medical professional

The British Tinnitus Association - Registered Charity no: 1011145
Ground Floor, Unit 5, Acorn Business Park, Woodseats Close, Sheffield, S8 0TB

Freephone: 0800 018 0527

Tel: 0114 250 9933

Minicom: 0114 258 5694

Fax: 0114 258 2279

Email: info@tinnitus.org.uk Website: www.tinnitus.org.uk