



# Can I claim for psychological injury in a personal injury claim?

In all [personal injury claims](#) in South Australia there is the potential to claim mental harm suffered as a result of a compensable injury. A distinction is made between pure mental harm and consequential mental harm.

Accidents involving physical injury will usually also cause some psychological harm arising from the trauma itself or the impact of the injury on a person's quality of life.

## What is consequential mental harm?

Consequential mental harm is the psychological injury resulting from the physical

injury sustained as a result of a compensable accident. For example, a person suffers a back injury which restricts their ability to work and undertake normal daily activities and as a result they are diagnosed with an adjustment disorder as a consequence of the impact of the physical injuries.

## What is pure mental harm?

Pure mental harm (also referred to as nervous shock) is when a person suffers a psychological injury that is not consequential to a physical injury. For example, witnessing an accident in which a person dies or is seriously injured such as a car accident, an accident in which a person thinks they are going to die or arising from medical treatment such as a late medical diagnosis.

Proving a psychological injury whether consequential or pure mental harm requires assessment by a psychiatrist and/or psychologist and a diagnosis of a recognised psychiatric condition such as post-traumatic stress disorder, adjustment disorder, anxiety and depression.

Grief is not sufficient for a pure mental harm claim when a loved one has been lost in negligent circumstances. To make a claim for pure mental harm in these circumstances, you will need to have a diagnosis of psychiatric condition in addition to the grief.

Evidence of the relationship between the compensable accident and the psychiatric injury is required as well as evidence of the impact of the injury on an injured person's quality of life, ability to do day to day tasks and undertake employment.

This evidence is usually obtained by way of an independent medical examination as well as a report and records from any treating psychologist or psychiatrist.

The worth of a person's claim will depend of the extent of any permanent impairment arising from the psychiatric injury on their ability to undertake day to day activities and work.

It's important to keep in mind that with all personal injury claims in South Australia there is a three year time limit to lodge a claim for compensation with the court.

## How can Andersons Help?

At Andersons Solicitors we have a team of experienced [personal injury lawyers](#) who can assist you with the investigation of a personal injury claim and the entire claims process. We offer a free, no obligation 30 minute initial interview to understand your personal circumstances and assess your likelihood of a claim.

If you feel that you may have a claim, please contact [Suzanne Pinyon](#), a partner in our personal injury department or you can [contact the office here](#).