

seat belts - Your questions answered

What's the law concerning seat belts?

- *Seat belt legislation has been steadily increasing over the past 25 years*
 - *Virtually everyone now has to use their seat belt, including lorry drivers if a seat belt is fitted*
 - *1 in 10 front seat occupants do not use their seat belt, and young male drivers are the worst offenders*
 - *Most adults in the rear are unbelted. Surprisingly, so are many youngsters*
- On 31 January 1983 the first meaningful seat belt legislation came into effect. It was limited, though, only requiring the front seat occupants of cars and light vans to use a seat belt if available. At the same time, children under one carried in the front seat had to be restrained with a purpose designed restraint appropriate to their weight. Children over one had to use the adult belt, or some other appropriate system. Since then, there have been several amendments to the law. Children in the rear had to wear seat belts fitted from September 1989. In July 1991 adults in the rear were also required to use a seat belt. It became necessary for minibuses to be fitted with seat belts and for them to be worn. Recently in October 2001, it also became necessary for Large Goods Vehicles to have seat belts fitted to the front seating positions, and if seat belts are fitted they have to be used. We are therefore now at the situation where virtually everyone has to use an available seat belt, and there are few exceptions. Taxi drivers, those medically exempt, and if you drive an electrically powered vehicle you don't have to wear a seat belt, so long as it can't go too fast (over 16 miles per hour!). So drivers of golf trolleys and milk floats are exempt.

Are seat belts always used?

The short answer is 'No'. Around 90% of front seat occupants use their seat belts. Younger drivers are slightly greater risk takers than the middle aged and elderly drivers, and children in the front passenger seat are more likely to wear their seat belt (about 95%) compared to adults. It's the young male drivers who take the greatest risk with nearly 1 in 5 of them not using their seat belt. The ladies are much smarter with only 5% of them refusing to buckle up.

The situation is not as rosy for rear seat passengers, though. As we get older, the less likely we are to use rear seatbelts. 1 in 7 children under one are likely to be unrestrained. For toddlers it's 1 in 5, primary school children 1 in 4, and once we reach adulthood more than 1 in 2 will refuse to wear a seat belt. Surprising results. It beggars belief that many parents of small children, who presumably cherish their little ones, allow them to travel without a seat belt in the rear.

How effective are seat belts?

- *Seat belts are only 50% effective, but there are good reasons why*
 - *Most limitations are countered through engineering solutions; loads from unrestrained rear seat occupants is still a major concern*
- They save 50% of users from serious or fatal injury when involved in an accident. This may not sound very good, but one must take into account the limitations of seatbelts. A seat belt can't help a person involved in a wipe-out accident where their vehicle is steamrollered by a truck or where there is a large amount of intrusion. Seat belts cannot offer much assistance in side impacts. The seat belt will often be slack around the user when they are striking the side of the car. The main limitations of seat belts are slack in the webbing, intrusion into the occupants seating area, lack of space between the occupant and the surface which is going to be struck (for instance in side impacts), head strikes for drivers in frontal impacts, and unrestrained occupants coming through from the rear (should have told your Mother-in-law to belt up!). Systems have been designed to counteract some of these limitations. Airbags are everywhere now, including on the side structure of cars. Pretensioners take the slack out of the webbing and cars are increasingly being designed to limit intrusion. Unrestrained rear occupants remain a problem.

What about contributory negligence?

- *Seat belts are not a panacea, and have limitations which affect contributory negligence claims*

If someone is injured in an accident that wasn't their fault they are entitled to compensation. If they weren't wearing their seat belt, though, the value of the claim can be reduced for contributory negligence. For a long time this is used to be a maximum of 25%, but this amount has now increased.

Just because someone was not wearing their seat belt does not mean they automatically have the value of their claim reduced. Seat belts are not a panacea, and the circumstances of the accident have to be looked at very carefully. For example, if the occupant was involved in a side impact, it may very well be the case that the seat belt would have been ineffective, and so the occupant can rightly claim that failure to wear the seat belt does not amount to contributory negligence because the seat belt would not have made any difference.

- *There is no contributory negligence if the seat belt would not have been effective*

Things are rarely as clear cut as this, of course, and each case has to be taken on its merits.

What information do I need in a seat belt contributory negligence claim?

- *The vehicle is always the best source of seat belt information, such as evidence on the seat belt itself*

Always the best source of information on seat belt use is the crashed vehicle. It shows the impact type, the direction of force applied to the occupant (i.e., where they headed during the impact) what they struck and how hard, whether the seat belt was worn or not, and how effective it was. Litigation tends to start many months after an accident by which time the vehicle has often been repaired or scrapped. If it hasn't by the time the case arrives at your desk and you suspect a contributory negligence claim, then make great attempts to have the vehicle preserved and examined by an expert. It may save a lot of time, trouble and money further down the line.

- *If the vehicle is still in its damaged state, have it preserved and examined quickly*

When the vehicle is not available, photographs can be a great help. Medical records will need to be obtained (including for the other occupants, if possible); the police report often holds vital information as can statements from witnesses and involved parties.

Free initial discussion and assessment

If you wish to discuss any cases free of charge, want to send a file for a free assessment, or want a quote or to instruct us, please use the contact details below.

- *If the vehicle is no longer available, try to obtain photographs*

With our compliments

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- *Medical records for other people in the vehicle can sometimes be as important as the Claimant's records*