Accommodation Claims

When someone has suffered a spinal cord injury the house they lived in before their injury will often be unsuitable for their needs. Accordingly, there will be a claim for new accommodation which will usually be more expensive than the value of their pre injury accommodation.

The way in which accommodation claims are calculated is not to compensate for the capital value of the required accommodation but the annual loss incurred by the Claimant due to the loss of income from the capital spent on the property.

A calculation known as a Roberts v Johnstone calculation (so called from the case in which the calculation was established) is used to calculate the accommodation claim. The calculation takes the difference in the price of the current property and the price of the new property that is required as a consequence of the Claimant's injury.

Investing in a new property means that the Claimant has to use part of their capital and to reflect this a discount of 2.5% is applied (representing the annual loss of investment). This figure is then multiplied by the life multiplier (see our factsheet on multipliers/multiplicands). The full cost of adaptations is recoverable; however, Claimants must give credit for any increase in the value of a property as a consequence of such adaptations. In addition, other costs such as moving costs and increased heating costs can be recovered.

Set out below is an example of calculation based upon a male claimant aged 30 at the time of the trial.

Value of current property-	£200,000
Value of new property-	£450,000
Difference therefore-	£250,000
£250,000 x 2.5% (discount rate) x 29.60 (life multiplier) =	**£185,000**
Plus adaptation costs-	£150,000
Moving costs-	£20,000
Total accommodation claim-	£355,000

In the above example there will be a shortfall of £65,000 (i.e. increased cost of purchase £250,000 + adaptation costs of £150,000 + moving costs of £20,000 = £420,000). What this means for the Claimant is that inevitably they will not recover the full cost of the increased cost of a new home. The situation is even worse for older Claimants or those with a low life expectancy where the life multiplier will be lower.

Ultimately, Claimants have to use other heads of loss to pay for the shortfall (often the award for general damages). For Claimants whose awards are subject to a deduction for contributory negligence (i.e. because they are partly to blame for the accident) this has a greater impact.

Claimant's Solicitors have lobbied against the current calculation which is unfair on Claimants who have to use part of their other damages (often the award for general damages for the injury itself) to cover the shortfall. At present however, we are left with this unsatisfactory calculation.

Options that can be considered are Reversionary Trusts, e.g. from the Claimant's death the property reverts back to the Defendant, which means the Claimant never actually owns the property. Many Claimants, however, do not like the idea of the uncertainty for their families upon their death or the requirement for there to be an on-going tie to the Defendant. Another option can be for Claimants to rent and receive a Periodical Payment (*see our factsheet PPO)* to cover the rent**.** This still, however, leads to uncertainty for the Claimant of having to obtain a long term lease and a landlord who is willing to allow significant adaptations to their property.

Watch our [video](#) to see how we can work with you to adapt your home.

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