

# Brethertons BIG FAQs Series

## Quantum

Elsewhere in this series we have covered basic information on Liability – that is whether compensation will be paid. The amount of compensation claimed is often referred to by lawyers as ‘Quantum’ of the case. Quantum is essentially the Latin word for ‘amount’.

### Who should know about Quantum in a serious injuries case?

Anyone with an interest in or a role in making or countering assertions made about how much compensation the Claimant should receive in a life changing injuries case will need to be familiar with Quantum, that is the financial value of the compensation being sought in respect of the loss occasioned to the Claimant and for whom the Defendant or Defendants are said to be liable to the Claimant for.

### What is Quantum?

In broad terms Quantum is the compensation value or amount of the claim.

### Why is it known as Quantum?

Quantum is another Latin term used by lawyers as a term of art. It is in essence shorthand for compensation being sought or in issue.

### Where is Quantum likely to be a key issue?

Quantum is likely to be an issue throughout the case and until compensation is paid. It will usually be of secondary importance to Liability until Liability is resolved but it will be of concern to the party against whom the claim is made from the outset since it is the financial amount of that party’s potential liability. Quantum might well be the major issue in the case where for example Liability is not contested, or where it is admitted or otherwise established by the Claimant. It is entirely possible (though rare) for a case to proceed all the way to a Trial solely on issues in respect of how much compensation should be paid.

### When is Quantum calculated and decided?

An experienced solicitor will have a reasonable idea of Quantum at the outset, but it is largely peripheral at that point. By the time Liability is admitted or disputed the solicitor will need to engage with and advise more specifically on what the value of the claim is likely to be. Where Liability is disputed it would be premature to finalise a valuation unless and until the solicitor is in possession of the various expert reports that help quantify the parts of the claim going particularly to continuing and future losses – for example medical, care and case management, psychology, therapies, technologies, accommodation, and lost earnings. The solicitor will prepare a Schedule of Loss which is served after proceedings are issued. But will almost certainly be updated closer to the eventual Trial Date the proceedings work towards. The Defendant will also complete a similar exercise and prepare a Counter Schedule setting its view of Quantum at such time as the Defendant has sufficient information to be able to do so.

### How is Quantum decided?

The amount of compensation to be paid should be that sum the Judge finds (or it is advised will find) that the losing party should pay the Claimant in respect of the liability it is established the Defendant is responsible for. It is decided based on the evidence advanced in support of the claim and the evidence advanced in disputing the amount claimed. The sums asserted by each party as being the appropriate sums are set out in detailed Schedules and Counter Schedules of Loss based on the evidence each party to the claim relies on. Those documents quantify the amount claimed against a range of ‘heads of loss’ covering pain suffering and loss of amenity, past losses and future losses. Within the past and future losses sections there is further subdivision based on for example income and expenditure incurred to the settlement date and then income and expenditure that will continue to be incurred and in what amounts and over what periods into the future. That ‘forecast’ relies on the expert evidence obtained, and its correlation with the lead medical evidence about the nature and extent of the injury and on life expectancy.

The lawyers will then work into the calculations extensive actuarial information designed to ensure the Claimant has sufficient compensation to reflect the losses sustained but so that the sum is neither over or under assessed. The concern here is to avoid putting the successful Claimant in a position whereby the advanced receipt of sums then invested do not grow to a point that represents a betterment of their situation as opposed to achieving the aim of putting them so far as money can in the same position, they would have been in had the Liability and loss not arisen.

If you would like any more information or have any questions, please contact:

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