

Brethertons BIG FAQs Series

Roles – People Involved In My Case

A spinal cord injury claim can involve dozens of people who might ultimately need to appear before a Judge if the case is not resolved prior to a Trial. Meeting the various people who are potentially going to be involved on both sides is not always necessary but understanding something of their roles can certainly help understand who is doing what, when and why. Necessarily what follows is a very basic introduction!

Who are you likely to need to have involved in your case?

You will have encountered numerous clinicians prior to beginning the process of claiming compensation. But depending on how you were injured you may well end up needing to interact with case managers, insurers, benefits advisors, financial advisors, solicitors, barristers, lay witnesses, expert witnesses and ultimately Judges during the course of your claim.

What is their contribution likely to be?

Case managers (usually funded by an interim payment compensation) have a similar role to that you may have seen in the hospital environment. A good case manager acts like a buffer between you and the outside world. Whatever you need they can help source.

Insurers tend to be the first representative of the opponent (or Defendant) save in clinical negligence cases involving NHS trusts where that role is fulfilled by an organisation called NHS Resolution. Insurers tend to authorise the appointment of solicitors who conduct matters thereafter subject to the insurer's instruction which is itself undertaken on behalf of the Defendant.

Benefits advisors and financial advisors (and others such as counsellors) are often introduced by the solicitor to help with the most pressing financial issues that may be on your mind at the outset, though often these issues will be dealt with in a spinal cord injuries rehabilitation centre.

Solicitors (and specifically litigation solicitors) are the lawyers who will orchestrate your claim. They work closely with barristers who will advocate the case if it gets to Court. Other solicitors who can help with for example family law, property law, and wills, trusts and probate (estate planning) law and costs law may become involved later on.

Barristers are the people who advocate (that is present) a party's argument to the Judge at Trial and or in settlement meetings or mediation. Barristers are self-employed, whereas solicitors tend to work in firms. Involving a barrister as a strategist from the outset is sensible in life changing injury case and better than the advocate of your case coming to it with all its complexity immediately prior to Trial.

Lay witnesses are people who may be asked to give evidence on factual matters if the case progresses to Trial. They are not required to assert opinions. You will be a lay witness to what happened and what the consequence of your injury is.

Expert witnesses are professionals who are asked to offer opinions to assist the Judge on matters within their area of expertise and experience. They are not required to assert findings of fact. Some will be addressing 'liability' (that is whether compensation should be paid). Other will be addressing 'quantum' (how much compensation should be paid). In a spinal cord injury case on liability, it may be necessary to involve experts on road traffic collision, accident reconstruction, seatbelts, surveillance, engineering, surveying and similar; and on medical breach of duty and causation from paramedics, trauma and emergency care, neurosurgery, neuroradiology, neurology, microbiology, spinal cord injuries rehabilitation. The spinal cord injuries rehabilitation expert (who may often also be the only treating medic involved in the case) is usually the lead medical expert and their evidence informs the quantum experts evidence in for example – psychology, care and case management, physiotherapy, occupational therapy, assistive technology, and accommodation.

Judges manage the case when it is in Court from the point where it is issued and ultimately to a Trial. In spinal cord injury cases the High Court's Queens Bench Division is the appropriate forum. A Master will deal with the developments prior to Trial where a Trial Judge will make a judgment on the issues before them. Later on, after compensation is awarded a Costs Judge will preside over the detailed assessment of costs phase by which what the Defendant will pay towards your costs is determined.

Why are these roles important?

All these roles are important. Where they are needed their absence would delay or undermine progress being made in pursuing your case. Each is tasked with helping shape what is ultimately going to need to be judged by the Trial Judge in connection with what compensation you may recover. Your litigation solicitor orchestrates the involvement of all those with roles outlined above and elicits from each what will need to be established in order to secure the outcome you pursue the claim to achieve.

Where are the people doing these roles based?

The spinal cord injuries specialism is essentially a nationwide undertaking. Being a niche area of law, the numbers of genuinely specialised professionals are relatively modest. Experienced professionals engaged in helping people with spinal cord injuries are comfortable with operating at a nationwide rather than a local or regional level. That means that many of the roles outlined above will be based all over the country but travelling to meet you or others involved as and when required.

When will I meet them?

Case managers from the outset (of the claim) and periodically/as required where there are funds paid to cover their input. Insurers – never unless you wanted to at the conclusion of the claim after a joint settlement meeting, mediation, or Trial. Benefits and financial advisors – early on if appropriate and then in receipt of interim and or final damages. Solicitors and barristers – throughout and as required. Lay witnesses possibly every day if they are family, possibly never or only at Trial if they are unknown to you. Expert witnesses (and don't forget the Defendant may engage their own of the same discipline) – it is often not necessary to meet experts on liability issues; but it is essential to meet experts from each discipline on quantum issues as the case progresses and for the purposes of preparing their reports (and potentially subsequently in conferences and at Trial). Judges – only at Trial, and no meeting of Masters or Costs Judges.

How can I find out more about the people doing these roles?

You will be given CV and introductory information including Ts And Cs as appropriate and when each role is being engaged. You are free of course to ask whatever questions you might feel appropriate of each 'role' introduced to you. It is always sensible to engage with and understand what each role is and what you may want to know about the individual undertaking that role.

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

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'We help achieve financial security and enable independence after spinal cord injury'