



Guildhall Chambers Personal Injuries Defendant Seminar
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INTERIM PAYMENTS AND ACCOMMODATION CLAIMS
FACTS

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Scenario 1

A is 45. In 2007 he lost his left leg and badly injured his pelvis and lower spine in a road accident for which D is 100% liable. A is wheelchair dependent. He has retired on ill health grounds from a good job in health service management where he used to earn £50k net and now has an ill health-enhanced early retirement pension of £25k net. A issued proceedings at the end of limitation, but rehabilitation is not complete and he proposes a delay of at least 12 months before final assessment. D has made a Part 36 offer of £1.3 million on a lump sum basis. His wife, a nurse, has given up work to look after him, and his needs for paid care are limited to some domestic help and gardening, cost about £6,000 per year. Rehabilitation assessment under the Code has resulted in provision of manual and electric wheelchairs and an adapted vehicle but A has so far received only a basic NHS prosthesis and decisions on long term prosthetics are one reason for the delay. A has found a large bungalow in an excellent position which could easily be adapted to wheelchair use. He will need to spend £175,000 over the sale price of his present home to move and £50,000 on adaptations and he applies for a first interim payment of £250,000. D opposes the application, offering £25,000 and relying on *Eeles* – spending so much on housing need will restrict the trial judge's scope to award periodical payments for the large future costs of care, mobility and prosthetics. D says the bungalow is an extravagant and unreasonably expensive property, a cost which (a) is not fully recoverable because of unreasonableness and (b) even if reasonable will not be fully recouped in a *Roberts v Johnstone* calculation taking account of A's age, so that the purchase would tie the hands of the trial judge considering a PPO for future financial claims.



Scenario 2

B is a 19 year old who suffered a severe head injury and multiple fractures in a motorcycle accident. Liability has been agreed at 50%. He has significant cognitive impairment and is a protected party – his girlfriend has stood by him and is his litigation friend. The physical injuries have largely recovered and he is fully mobile. He can safely be left unattended for short periods but needs both considerable support in daily living and night time cover. He is not likely to be employable except in a structured and supported environment. At the time of the accident he was unemployed having left school with negligible qualifications and no plans for work except for a love of motor cars and motorcycles. He lives at his 83 year old mother's council rented home. His girlfriend, who works as a hairdresser, intermittently stays at the house but she does not get on with B's mother and there are frequent rows, mainly about the care of B because girlfriend thinks mother is over-protective. A local authority assessment has identified a need for care and the local authority is in principle willing to build an extension or support a move to a larger council house. The application is for an interim payment of £400,000. If this is granted a detached house will be purchased where B and girlfriend will live, with room for an overnight carer if necessary. B argues that he is sure to be awarded well in excess of £800,000 on a full liability basis. He has not applied for a PPO Girlfriend gives evidence that they are both anxious to move into an independent home away from mother, but there is no hint that girlfriend will stop work. B says that, if the amount of the application is for a reasonable proportion of the damages, that it is no business of the court what he plans to do with the money. Neither is the court concerned to decide whether the proposed purchase is sensible because that is a decision for the Court of Protection.