



## CARE & ASSISTANCE CLAIMS

### WORKSHOP NOTES

**James Townsend, Oliver Moore & Matthew Porter-Bryant, Guildhall Chambers**

The Claimant is a 40 year old man, who sustained severe spinal injuries in an RTA 6 years ago: he was in hospital, following the accident, for six months. At the time of the accident he was active, and in work part time (22 ½ hours per week). He was married, and had become a father five months before the accident. He says that he was only working part time in order to help his wife (who has learning difficulties) to bring up their daughter; his mother, who lived nearby, was also helping to look after the baby. He was living in rented accommodation.

The Claimant says that he had intended to go back to work full time when the child was about 6 months old, and is sure that his wife would have been able to cope.

As a result of the accident, the Claimant now has severely restricted mobility. His marriage broke up, and he has now moved in to live with his mother, who is effectively his full-time carer. His daughter lives with him, he having obtained a residence order; his wife has little contact.

He can get round the house only by using a Zimmer frame; he cannot get dressed by himself (because he cannot bend down to deal with below his waist) and he cannot wipe himself after using the toilet. He cannot manage stairs. He can cook a very simple meal/drinks with a microwave, but then has difficulty carrying the items back to where he will eat.

He can (with difficulty) sit himself up in bed and then transfer to the Zimmer frame, but he falls quite frequently; when he does so he can get himself up, provided that there is something (e.g. the Zimmer frame) to hold onto.

Out of doors he uses an electric scooter, and would be suitable for a motability adapted car.

He goes with his daughter to and from school (1/2 mile) using the scooter, although this is difficult if the weather is bad, when his mother takes her. Likewise, he can take his daughter to the local park, but he worries that as she gets older she might want to run around, or get hurt on play equipment, and he could not then help her.

The prognosis is that by age 55 his condition will be worse. He will no longer be able to use the Zimmer frame, and will be wheelchair bound. He will fall more frequently if he attempts to move out of a chair/his bed, and will not be able to get up unaided. He will need a hoist for transfers, and probably help with turning at night to avoid pressure sores. He may develop some incontinence, but this is impossible to predict.

His mother has coped looking after him to date, but has developed arthritis with a poor prognosis: her GP has said that the physical strain of looking after the Claimant is accelerating the arthritis. She says



that she would like to continue to look after him while her health allows: if the Claimant moved nearby, she would continue to offer help to him and her granddaughter. The Claimant says that he doesn't know how long she can do this.

The care experts and accommodation experts agree that the Claimant will need to move to a single storey property of his own adapted for wheelchair use. It is also agreed that a live-in carer should be employed. The Claimant's expert says that an additional day-time carer is needed at present for 12 hours per week to cover, e.g., bathing transfers; the Defendant's expert says that this is not necessary, because the Claimant's mother has shown that she can cope on her own. The Claimant's expert also allows for 40 hours child care per week because, in the absence of the Claimant's mother living at home, and given the Claimant's disabilities, an able-bodied carer should be provided: the Defendant's expert does not comment on this aspect of the claim.

From age 55 the Claimant's care expert says that 2 persons will be required 24 hours per day to deal with transfers (the live in carer plus a day time and then night time carer), because the Claimant could fall at any time, to deal with turning in bed and any incontinence. The Defendant's expert disagrees, saying that from age 55 additional day time help with transfers would be sufficient.

In addition, the Claimant's care expert says that the Claimant's mother's services for 14 hours per week are required, because she has provided particular emotional support to the Claimant in his marriage break-up, and support for the child.

The Claimant's accommodation expert allows for 4 bedrooms: Claimant, daughter, carer and a guest room; the Defendant's expert makes no allowance for the latter, saying that it is not strictly necessary.

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