

Investing in recovery

Elizabeth Waterman explains why rehabilitation is an investment in recovery rather than something which holds up a claim for compensation.

Thousands of people are injured every year and, in most cases, someone pays them compensation. This system does not, however, promote rehabilitation and sometimes detracts from the rehabilitation process.

What does rehabilitation mean?

Rehabilitation can be defined as enabling a person suffering physical or mental injury, to adapt to work, society and even to life itself.

In principle, at least, claimant and defendant lawyers are in broad agreement that injured people should receive rehabilitation as soon as possible after injury.

We welcomed the launch of the Rehabilitation Code, as agreed by the Association of Personal Injury Lawyers (APIL) and the International Underwriting Association. As rehabilitation cost consultants, we have many years' experience of working with permanently disabled claimants whose prospects of returning to an optimal level independence have diminished while waiting to settle their claim.

Hope of effective rehabilitation has often receded when we make our quantum assessments and by the time the case settles it can be too late. Claimants' compensation claims have already taken over their lives and it is too late to nurture a positive attitude towards rehabilitation. Many claimants need more care and assistance with everyday activities than would have been necessary had rehabilitation been supplied at the most appropriate time.

Where are we now, some three-and-a-half years since the launch of the code?

Few claimants continue to receive early active rehabilitation. When I meet groups of claimant lawyers, few are familiar with the code and even fewer have actively sought rehabilitation for their clients.

In a similar size group of defence lawyers, there is generally more awareness of the code but also a real sense of frustration that the claimant lawyer rarely agrees to an early intervention assessment by their nominated provider.

This impasse is bad news for the claimant because, as weeks pass, valuable recovery time is lost and, because the final outcome affects the final payout, it is also bad news for the insurer.

What most upsets the therapist in me is that often the advice or equipment that is needed is simple, inexpensive and could transform the claimant's life and allow them to put dependence and a sense of loss to one side and regain enjoyment of life. The following case studies illustrate this.

A couple in their sixties were injured in a car crash. They were both dog training enthusiasts and enjoyed attending canine shows. Both suffered multiple fractures, as well as internal and soft tissue injuries.

Suddenly the wife was barely able to walk the dogs and her husband was unable to walk at all. Getting around their bungalow was difficult as it was unsuitable for anyone who had a severe disability.

An occupational therapist assessed their immediate needs and, with the agreement of the claimants and their lawyers, drew up and implemented an intervention programme. This included liaison with the NHS physiotherapy team and Mobility Centre. The therapist helped the couple make adaptations to their home.

Now, the husband is driving again, has a wheelchair which fits into the boot of the car and they are looking forward to visiting Crufts again. Their lifestyle has therefore been preserved and they are looking forward to life, rather than dwelling on their loss of independence.

A previously fit 50-year-old reflexologist spent a year on crutches before being referred for an early intervention assessment. Her husband suffered from severe arthritis and the claimant had become depressed which resulted in their 21-year-old daughter returning home to look after them.

The occupational therapist recommended a number of simple, yet effective, measures and, despite the

delay, the claimant is now able to pursue her career.

Recommendations included private physiotherapy and hydrotherapy sessions, five hours' domestic help and a driving assessment at a Mobility Centre, followed by lessons. Essential adaptations were made to her car. A stair lift, shower over the bath and padded work chair, to use during treatment, were also recommended. Again, intervention has led to family relationships being resumed and has allowed the claimant to return to the job she loved, rather than continuing the downward spiral of depression and dependence.

With the benefits of early rehabilitation so clear, it is a pity more people do not adopt the spirit of the Rehabilitation Code, which was written by claimant lawyers who thought through potential disadvantages to their clients' cases and defence lawyers who considered it from their own perspective.

Certainly both sides need to monitor the credibility, independence and quality of providers of early intervention services and ask the service suppliers questions to allay their suspicions before issuing instructions.

However, more widespread acceptance of the code could benefit both parties and will benefit most individual claimants.

Rehabilitation should not be seen as an additional cost or something that impedes the progress of a claimant's compensation claim but rather as an investment in recovery.

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