



Jacqueline Webb & Co

Rehabilitation Cost Consultants



INDEX

| | |
|--|----|
| INDEX..... | 1 |
| INTRODUCTION | 2 |
| Which expert?..... | 3 |
| What's in the report? | 4 |
| What about the Practicalities? | 7 |
| How much do care experts cost? | 8 |
| Commissioning your report..... | 11 |
| Assessing your client's care needs | 12 |
| You've got the Care Report. | 14 |
| What next? | 14 |

INTRODUCTION

Whatever the final outcome, severe personal injuries exact a toll on all concerned.

Who has the expertise to apply quantum to a possibly uncertain prognosis?

Not the insurers.

Not the lawyers.

This is a task for a carefully selected Care Expert.

The right expert can identify the financial consequences of an accident – the cost of re-launching an individual to optimum independence after a life-changing event – so, before making the appointment, you need to ask the right questions.

As the UK's foremost independent rehabilitation cost consultants, we have provided expert evidence on behalf of over 11,000 claimants to date.

This small booklet is based on some of that experience.

We hope it will be of value, to you and your clients.

WHICH EXPERT?

1. Qualifications and experience?

Most Care Experts are appropriately experienced health professionals, principally nurses and occupational therapists, who implement care packages for disabled people on a day-to-day basis.

A candidate's CV should demonstrate relevant 'hands-on' experience of the condition or injury suffered by the claimant. For instance, if the claimant has head injuries recent experience of acquired brain damage is necessary. Experience assessing care needs is also essential.

However, there are occasions when members of other disciplines – social workers, for instance, or social scientists and researchers – are best qualified to provide information for a report.

Their CV should show they have proven ability to make recommendations on some or all of the topics listed in Question 5.

2. Experience of the personal injury litigation process?

There has to be a first time for everything – but is a complex case the best time to commission someone's first report?

If the expert has prepared few reports, find out how he or she will ensure that the work requested reaches the standards demanded in litigation. You could ask for a sample report on a fictitious claimant – and insist that the expert will be supervised by an experienced colleague.

And what about court? Because the majority of cases settle some experienced experts have never given evidence in the witness box – or even undergone training in courtroom skills. Check that your expert has the court experience that you demand of your case.

3. Does independent advice demand a 50/50 split of claimant/defence referrals?

No.

More claimant than defence reports are commissioned.

Claimant lawyers usually initiate the process of assessing quantum.

When defendants are satisfied that the recommendation of the claimant's expert is not misguided or exaggerated, 50% of them feel no need to instruct their own care expert.

WHAT'S IN THE REPORT?

4. Is it the same for all parties?

Yes. The report is for the benefit of the court, not the litigants. Its recommendations should be based on independent professional judgement regardless of who commissions it.

If you doubt the expert's independence, ask to see two anonymised reports on claimants with similar disabilities – one written for the claimant, one for the defendant.

5. What topics should the report cover?

Care reports vary in content and detail. They may, or may not, contain the following:

- An evaluation of past gratuitous care.
- The cost of future care needs.
- The likely costs of case management.
- A commentary on the efficacy and value of specialist equipment purchased to date.
- The costs of future specialist equipment needs, as a claimant ages and/or suffers health deterioration.
- Extra transport costs.
- Extra miscellaneous costs e.g. special diet, extra heating etc.
- The need for speech and language therapy/occupational therapy or physiotherapy. Precise costings should only be provided if the report is prepared by an expert from the discipline concerned.
- Comments on the claimant's housing needs.
- An assessment of the claimant's future employment prospects.

You may need to instruct more than one expert, in order to gain all the necessary information.

6. How can two experts reach very different conclusions about care costs?

Modest differences may result from:

- Differing opinions about the hourly rates of pay for carers.
- Differing conclusions about the time needed to supply the care.
- An improvement or deterioration of the claimant's social situation or medical condition, in the period between the two assessments.

Major differences may result from:

- The experts working to differing remits. As Question 5 shows, report topics can vary considerably.
- The experts working to differing benchmarks. For instance '*assessing reasonable costs of services, to return the claimant to his previous lifestyle*' addresses quality of life issues, while '*supplying care that will ensure the safety of the claimant*' does not.

Since benchmarks at or near the '*ensuring safety*' usually have a higher ratio of defendant instruction, ask which one the expert intends to follow and use professional judgement to decide if the response to your question is acceptable.

WHAT ABOUT THE PRACTICALITIES?

7. How do you ensure the report is ready on time?

Agree the deadline with your expert before you commission it.

8. How do you know that your expert will be available to attend trial?

As soon as you know the trial dates, confirm the expert's availability. If necessary, issue a witness summons to ensure priority if a clash of dates occurs.

9. At what stage should you instruct a care expert?

As early as possible – especially in severe and complex cases.

The higher an expert's reputation, the longer their waiting list is likely to be.

If you leave it till the last minute, you'll not only reduce your choice of experts, you may make your report more expensive.

HOW MUCH DO CARE EXPERTS COST?

10. And why do their costs vary so widely?

It all depends on:

- The track record and profile of the expert, i.e. market forces.
- The content and degree of detail required in the report. (See Question 5)
- The quality features included in the hourly rate e.g. quality control by peers, courtroom skills training etc.
- The urgency of the deadline for the report.
- The need for rare and sought-after specialist expertise, e.g. in arranging care packages for claimants with acquired brain damage, tetraplegia or terminal cancer.

As in most things, you tend to get what you pay for.

11. How do you work out the cost?

First, check the following:

- The likely cost of the initial report.
- The cost of updates, addendums and any additional information supplied.*
- Charges for case conference.
- Charges for meetings of experts.

- Charges for court attendance.**

* There should be no charge for amendments due to expert's errors.

**Some experts charge cancellation fees; others, preparation time for court.

The moral is simple. If in doubt, ask for a complete breakdown of charges and terms.

12. What information does the expert need, before providing a quote?

- A clear explanation of the topics to be addressed. Question 5 lists some of the more obvious ones. Avoid generalisations, such as '*care report*' or '*occupational therapy needs report*'.
- The claimant's name – allowing the expert to check that instructions have not already been received from the other side.
- The claimant's address – allowing the expert to gauge travel times.
- The diagnosis.
- Obvious functional problems e.g. wheelchair user, no use of dominant hand etc.
- The claimant's age.

- The date of injury – allowing the expert to gauge the amount of past care information that must be assessed.
- The deadline – especially if you're in a hurry.
- Medical reports showing condition and prognosis are useful, but not essential if the information listed above is provided.
- Any complicating factors that may increase the time it takes to prepare a report or assess the claimant's needs. See Question 13.

13. What complicating factors should you mention at the quote stage?

Anything likely to complicate the assessment and/or report:

- Language problems.
- A pre-existing medical condition or illness/injury suffered since accident.
- Any obscure medical condition needing research.
- Obesity problems or exceptional height of claimant.
- Poor housing, exceptional family stresses or a complex socio-economic situation.
- Change in marital status since accident.
- Injured or sick family members/carers.
- Numerous interventions or operations since the accident.

- Pregnancy, baby or childcare difficulties.
- If care or equipment will be sourced overseas it takes longer to research the cost.
- Unusual cultural or religious beliefs may limit the claimant's care options.
- A detailed employment assessment can be time-consuming.
- Multiple-site visits e.g. a child's home and school increase assessment time – and so do multiple interviews at one site e.g. speaking to claimant and carers separately.

COMMISSIONING YOUR REPORT

14. You have chosen your expert. What next?

You will need to prepare a letter of instructions to proceed, listing:

- The information you need, as already mentioned in Question 5.
- The current address of the claimant.
- The name(s) and telephone number(s) that the expert should contact to arrange the assessment visit.
- Any behavioural problems that might put the expert at risk.

15. What documentation should accompany the letter of instruction?

- All relevant medical reports of diagnosis, present condition and prognosis. Though the care expert could provide a report without these, s/he might have to modify it after viewing medical psychiatric or neuropsychological advice.
- Specialist reports pertinent to specific condition, e.g. neuropsychiatric in the case of acquired brain damage.
- Claimant's and/or carer's statements.
- Educational statements, if still in full-time education.

16. And what documentation need not accompany letter?

- Liability reports and statements – *unless* you want the expert to deal with these issues.
- Medical records – *unless* you have specific reasons for the expert to study them.

ASSESSING YOUR CLIENT'S CARE NEEDS

17. Who will the expert need to speak to?

It depends on the people concerned. A rational adult claimant can usually provide all the information required.

However, a parent or carer should be present if the claimant is a child or lacks insight into his/her situation.

The experts may want to speak to a child's teacher(s) as well as his/her parents.

18. Where will all this take place?

At home, ideally, to show the impact of the injury or medical condition on the claimant's pre-existing lifestyle.

The assessment will last two to five hours, depending on the complexity of the case, the claimant's ability to communicate and the topics to be addressed.

However two-site assessments are often necessary, e.g.:

- Hospital and Family Home.
- Home and School.
- Nursing Home and proposed property.

Sometimes, your expert can provide a report without visiting the claimant's home – especially:

- If the cost of the visit is disproportionate to the case, a phone call may provide the information required.
- If a well-judged critique of an existing care report will be sufficient.
- If general, rather than individualised, information will suffice, e.g. typical care needs after a hip replacement.

19. How should the expert react to apparent inconsistencies in the claimant's words or actions?

By detailing them in the subsequent report.

**YOU'VE GOT THE CARE REPORT.
WHAT NEXT?**

20. What about a pre-court case conference....

Highly desirable, especially in a complex case, as this helps your team of experts to resolve any differences in opinion and raise points of concern.

21. ...or a meeting of opposing experts?

It is now common practice for experts to be instructed to meet one another, before preparing a joint statement outlining areas of differences and agreement.

Your expert should only modify his/her recommendation if the opposing expert introduces new information.

For maximum benefit, ensure beforehand that the experts have the same medical evidence.

Instruct your expert how to deal with mismatched report content, e.g. if one side addresses transport issues, but the other ignores them.

22. And what about court?

Provide the expert with trial dates as soon as they're available.

Provide clear instructions on the address of the court building, the number of the courtroom, the time of arrival and the name of a contact person to meet.

Inform the expert immediately, if the case is settled or adjourned.

Jacqueline Webb & Co

The UK's leading independent rehabilitation cost consultancy

Jacqueline Webb qualified as an occupational therapist in 1974. In her work with the NHS and social services, she specialised in mental health problems and physical disability.

In 1985, she completed her first rehabilitation cost report and founded the company that has since provided expert evidence on the care needs of more than 11,000 claimants.

Director of Services, Elizabeth Waterman, qualified as an occupational therapist in 1978 and worked in mental health, general medicine and paediatrics. She joined the company in 1989 and has assessed numerous claimants with catastrophic injuries having given evidence in a number of high profile cases. She lectures widely on rehabilitation issues.

A highly qualified team, working in modern offices, is supported by a network of consultants throughout the UK, Eire and, indeed, the rest of the world.

Though Jacqueline Webb & Co produce reports for both personal injury lawyers and insurers, the company is completely independent of all vested interests.

Our remit is simple: to provide the intellectual and practical resources essential to the present and future wellbeing of personal injury victims.



INVESTOR IN PEOPLE



WORK-LIFE
BALANCE

Recognised as meeting the Investors in People
Model for Work-life Balance



Jacqueline Webb & Co Ltd • 17 Barnack Business Centre • Blakey Road • Salisbury • Wiltshire • SP1 2LP
DX: 89653 Salisbury • Tel: 01722 329156 • Fax: 01722 412263 • Out of hours service: 07989 449338

Email: allocations@jwebb.co.uk • www.jwebb.co.uk

© Jacqueline Webb & Co 2008 | Company Number: 6458172 | VAT Registration No: 900 9301 63



INVESTOR IN PEOPLE



WORK-LIFE
BALANCE

Recognised as meeting the Investors in People
Model for Work-life Balance



Jacqueline Webb & Co Ltd • 17 Barnack Business Centre • Blakey Road • Salisbury • Wiltshire • SP1 2LP
DX: 89653 Salisbury • Tel: 01722 329156 • Fax: 01722 412263 • Out of hours service: 07989 449338
Email: allocations@jwebb.co.uk • www.jwebb.co.uk

© Jacqueline Webb & Co 2008 | Company Number: 6458172 | VAT Registration No: 900 9301 63



Jacqueline Webb & Co

Rehabilitation Cost Consultants

17 Barnack Business Centre
Blakey Road
Salisbury
SP1 2LP

tel 01722 329 156

fax 01722 412 263

DX 89653 Salisbury

scottish office

Carisbrooke
West Argyle Street
Helensburgh
Dunbartonshire
G84 8DD

tel 01436 674 574

fax 01436 677 967

email allocations@jwebb.co.uk

web www.jwebb.co.uk