

My Interpretation of the Roles of Claimant and Defence Solicitor in Child Catastrophic Injury Litigation

Understanding the dynamics and differences in approach

Litigation involving a child's catastrophic injury is a highly sensitive and complex area of personal injury law. In these cases, the claimant (typically the injured child represented by a parent or guardian) seeks compensation for severe and life-altering injuries, while the defence solicitor represents the party alleged to be responsible for the harm. The roles of these individuals are crucial in navigating the legal process, especially when liability is either agreed or disputed.

Role of the Claimant

In cases involving a child's catastrophic injury, the claimant is represented by a parent, guardian, or legal advocate while seeking damages for the child. Their role includes:

- Providing comprehensive details about the incident leading to the injury, the medical diagnosis, and the long-term impact on the child's physical and emotional well-being.
- Collaborating with their solicitor to gather evidence, such as expert medical reports, educational assessments, therapy evaluations, and witness statements.
- Attending medical examinations on behalf of the child, as necessary, to substantiate their claims regarding the severity and permanency of the injury.
- Ensuring all documentation related to the child's projected future needs, such as specialised care, adaptive equipment, or educational support, is provided to the solicitor.

The claimant's solicitor acts on behalf of the child and their family to present a compelling case for compensation, which may include covering medical expenses, loss of future earning capacity, and necessary lifelong care.

Role of the Defence Solicitor

In defending a claim related to a child's catastrophic injury, the defence solicitor represents the accused party—be it an individual, organisation, or insurance company. Their role includes:

- Assessing the evidence provided by the claimant, especially medical records and expert opinions, to identify areas of contention or weakness.
- Advising their client on legal rights and obligations, including the likelihood of successfully defending the claim or negotiating a settlement.
- Negotiating settlements, particularly to ensure the compensation aligns with the demonstrated needs of the child while being fair to the client.
- Preparing for court proceedings if required, which includes cross-examining witnesses, challenging expert reports, and presenting arguments to mitigate liability or compensation.

The defence solicitor's goal in such cases often involves balancing the client's interests with the acknowledgment of the child's significant needs.

Differences in Approach When Liability is Agreed

When liability is agreed in cases of child catastrophic injuries, the focus shifts to determining the quantum of damages—that is, the compensation needed to address the child's lifelong needs. In this scenario:

- **Claimant's Solicitor:** Works extensively to demonstrate the full extent of the injury's impact on the child, including future medical expenses, care requirements, educational adjustments, and adaptive housing needs. They aim to maximise compensation by relying on detailed expert evidence and projections for the child's lifetime.
- **Defence Solicitor:** Concentrates on ensuring the compensation claims are reasonable and not overstated. They may challenge excessive projections and propose alternative calculations based on precedents or expert opinions to ensure fairness.

Differences in Approach When Liability is Disputed

When liability is disputed, cases involving a child's catastrophic injury become particularly challenging and may lead to prolonged legal battles:

- **Claimant's Solicitor:** Focuses on proving liability by presenting compelling evidence of the defendant's negligence or fault. This often involves expert testimonies, incident reconstructions, and detailed reports correlating the defendant's actions or omissions with the child's injuries.
- **Defence Solicitor:** Works to contest the claim by challenging the evidence, offering alternative explanations, or demonstrating contributory factors such as pre-existing conditions or other parties' involvement in the incident. Their strategy aims to reduce or eliminate their client's liability.

In such cases, settlement negotiations are less likely, and the matter may proceed to trial for resolution.

Conclusion

Litigation concerning a child's catastrophic injury requires meticulous and sensitive handling by both the claimant and defence solicitor. Their roles are pivotal in addressing the complexities surrounding liability and compensation, with the child's welfare and future often being central to the proceedings. Whether liability is agreed or contested significantly shapes their strategies and approach to ensuring justice is served.

Bob Butler is equally experienced and comfortable working under Joint and single instructions.