Law Society of Scotland

Consultation Response

Discussion Paper on Damages for Personal Injury

30 June 2022

Introduction

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We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Civil Justice Committee welcomes the opportunity to consider and respond to the Scottish Law Commission's Discussion Paper on Damages for Personal Injury.

We have the following comments to put forward for consideration:

Consultation questions

1. Do consultees have any comments on economic impact? (Paragraph 1.18)

Comments on Question 1

No comments to make.

2. (a) Do you consider that the definition of "relative" in section 13(1) of the 1982 Act should be amended to include children/parents, grandchildren/grandparents, and siblings who are accepted as part of the family?

(b) Do you consider that there is any other category of "relative" which should be included? (Paragraph 2.20)

Comments on Question 2

a) The unanimous view is for the section 13(1) definition to be extended so as to be in the same terms as the definition under the 2011 Act.

b) No

3. Should the definition in s 13(1)(b) be amended to include ex-partners? (Paragraph 2.32)

Comments on Question 3

The definition of relative under section 13 already includes divorced spouses under s13(1)(a) and former civil partners under s13(1)(aa). It should not be extended further i.e. it should not include an ex-partner where there was no marriage or civil partnership.

4. (a) Do you consider that section 8 of the 1982 Act should be extended to claims in respect of necessary services provided gratuitously to an injured person by individuals who are not family members?

(b) If so, should an individual who is not a family member be regarded as providing services gratuitously if he or she provides them without having any contractual right to payment in respect of their provision, and otherwise than in the course of a business, profession or vocation; or according to some other formula and, if so, what? (Paragraph 2.44)

Comments on Question 4

a) Yes, if care was provided then it should not matter who provided it. Non-relatives should be able to benefit from a section 8 claim. This would include provision of care by friends and neighbours.

b) The proposed criteria appear to be a sensible categorisation of who is entitled to claim. Professionally paid care can of course be claimed as a separate head of claim.

5. (a) Do you consider that section 8 of the 1982 Act should be extended to claims in respect of necessary services provided gratuitously to an injured person by bodies or organisations such as charities?

(b) If so, should legislation prescribe how damages should be assessed or should it be a matter left to the discretion of the courts?

(c) If you consider that legislation should so prescribe, what factors do you consider that the court attention should be directed to? For example, should the court be directed to consider "such sum as represents reasonable remuneration for those services and repayment of reasonable expenses incurred in connection therewith" an appropriate means of assessment or should a concept of reasonable notional costs be adopted? Or some other way of assessment? (Paragraph 2.44)

Comments on Question 5

a) No, we do not agree to extending the definition of gratuitous services provided by individuals to include organisations such as charities. Provision of assistance by

charities and the like is not the same thing as a neighbour, friend or family member going out of their way to help.

b) n/a

c) n/a

6. Should damages be recoverable in respect of gratuitous provision of services to an injured person where the person providing them is the defender? (Paragraph 2.50)

Comments on Question 6

Opinion was divided on this issue.

On the one hand, the Defender may be the only person available to provide gratuitous care to the accident victim. The situation often arises where the Defender is the driver in a road traffic accident and causes injuries to a relative. The only alternative would be to pay for professional assistance which would invariably be more costly and may not result in the ad-hoc care provision that is most often required on a daily basis.

However, that goes against the principle that the Defender should not benefit from their own wrong-doing. Those representing Defenders do not agree with sidestepping the fundamental principle that a negligent wrongdoer ought not to benefit financially from their own negligence, per *Kozikowska v Kozikowski (No. 1),* 1996 S.L.T. 386, following the House of Lords decision in *Hunt v Severs,* [1994] 2 A.C. 350. While appreciating that there are cases where a negligent party may be the only person who can provide services, more serious claims in which significant assistance is required will inevitably result in care costs being sought, ensuring justice is done. In more modest claims, Defenders' agents do not consider this justifies departing from the principle mentioned above.

One suggestion made by a Pursuer's agent was that any services provided to a Pursuer by a Defender should be recoverable in damages and valued in the same way as any other relative's services claim provided that the liability giving rise to the damages claim does not result from any deliberate conduct on the part of the Defender.

Another suggestion was that the Pursuer be allowed to make the services claim based on the value of services provided by the negligent party but the obligation to account to them is dispensed with.

But, as stated above, Defenders' agents are fundamentally opposed to any change that would permit a wrongdoer from benefitting from their own negligence.

7. (a) Do you consider that section 9 of the 1982 Act should be extended so as to entitle the injured person to obtain damages for personal services which had been provided gratuitously by the injured person to a third party who is not his or her relative?

(b) If so, should the injured person be under an obligation to account to such a third party for those damages? (Paragraph 2.61)

Comments on Question 7

a) Yes, for the same explanation in terms of section 8 of the Act.

b) Yes.

8. (a) Do you consider that there are any problems with the deductibility of social security benefits from awards of damages?

(b) If so, could you outline those problems? Do you have any solutions to suggest? (Paragraph 3.21)

Comments on Question 8

a) Yes.

b) The CRU certificate obtained from the Department for Work and Pensions simply lists benefits which they say have been paid as a result of an accident. It is often wrong and requires to be reviewed. Having the CRU reviewed is a lengthy process and deprives an accident victim of part of their settlement for, on occasions, months. The certificate should include details of 1. When the application for benefits was made 2. By whom it was made and 3. Whether benefit entitlement in terms of rates and types of benefit changed as a consequence of the accident. This is likely to result in more accurate certificates being issued or at least permit insurers and a Pursuer's agent to readily identify whether a CRU certificate is accurate and which benefits should be offset against which head of claim.

9. Do you consider that benevolent payments, or payments from insurance policies which the injured person has wholly arranged and contributed to, should continue not to be deductible from an award of damages? (Paragraph 3.35)

Comments on Question 9

Yes, the status quo should remain.

10. (a) In the context of payments to injured employees arising from permanent health insurance and other similar schemes, do you consider that clarification or reform of section 10 of the Administration of Justice Act 1982 is required?

(b) If so, could you outline the essential elements of any clarification or reform which you suggest?

(c) In particular, would you favour an approach in which the law was clarified to make it clear that where an employee contributes financially, as a minimum through paying tax and NIC on membership of the scheme as a benefit, then any payments made under that policy should not be deducted? (Paragraph 3.58)

Comments on Question 10

a) Yes.

b) and c) If payments have been made by the employee towards a scheme that will generate a payment in the event of an accident, that payment should not be deductible from the damages payable in any negligence claim. It should simply be treated as a separate insurance policy which has no relevance to the compensation claim. If the employee has not contributed to the scheme then payments made to the employee from the scheme should be deductible from wage loss. In this situation it matters not whether their compensation is paid by employer's liability insurance, or a separate policy taken out by the employer to generate a pay out if their employee is injured. One member of the committee expressed his concerns as to how any proposed deduction was to be capitalised against wage loss, particularly where most policies have a clause for a possible recall of any award in the event of a change in medical circumstances.

11. Do you agree with the proposition that section 2(4) of the 1948 Act should remain in force? (Paragraph 3.67)

Comments on Question 11

Yes.

12. Do you consider that any further reform of the existing regime in relation to the costs of an injured person's medical treatment is necessary? (Paragraph 3.72)

Comments on Question 12

No.

13. Do you agree that the default position should be that the responsible person rather than the state should pay for the cost of care and accommodation provided to an injured person? (Paragraph 3.93)

Comments on Question 13

Yes.

14. Do you agree that an injured person should be entitled to opt for private care and accommodation rather than rely on local authority provision? (Paragraph 3.93)

Comments on Question 14

Yes.

15. Do you have any other comments? (Paragraph 3.93)

Comments on Question 15

No.

16. Do you favour all, some or none of the following options?

(a) the award of damages to an injured person who opts for local authority provision should include the cost of making any payments levied by the local authority for that provision;

(b) where an injured person receives but does not pay for local authority care and accommodation, an award of damages should be made to the local authority to cover the cost of providing it;

(c) where an injured person opts for private care and accommodation, and the award of damages covers the cost of obtaining it, provision should be made to avoid double recovery by, for example, having some procedure equivalent to that in the English Court of Protection. (Paragraph 3.101)

Comments on Question 16

a) No, the status quo should remain.

b) The norm would be to cost care on a private basis. If, after settlement, the injured person chooses to have care provided by the local authority it would be appropriate for the local authority to invoice the injured person for that care on a means-tested basis.

c) No, this is unnecessary in Scotland. There is no issue of double recovery.

17. Have you any other suggestions for reform in this area? (Paragraph 3.101)

Comments on Question 17

No.

18. (a) Do you agree that, with the exception of asbestos-related disease, there is no general need for reform of the law of provisional damages?

(b) If you disagree, can you describe what needs reformed and, if so, what reforms you would propose? (Paragraph 4.11)

Comments on Question 18

a) Yes.

b) Not applicable.

19. Do you consider that there is a problem with the way provisional damages operate in cases involving asbestos-related disease claims? (Paragraph 4.41)

Comments on Question 19

Yes. Example – the need to make a pleural plaques claim does not become apparent within 3 years and prevents an asbestos claim being made. Failure to pursue a pleural plaques claim should not constitute time bar in pursuing an asbestos claim.

The problem does not arise with the operation of provisional damages *per se*. The problem which the cases of *Quinn* and *Kelman* starkly identify is that Scots law on limitation is now so inchoate as to defy analysis.

The cases of *Quinn* and *Kelman* each seem to belong to separate legal systems. On very similar facts they disagree fundamentally on the issues of s.17 constructive knowledge and on s19A discretion.

The roots of this disagreement go far beyond asbestos cases, although these two high value cases dramatically expose the fault lines.

As far back as 2006 the Law Commission in their Discussion Paper commented adversely on the tension between what is "reasonable" and what is "reasonably practicable". The Law Commission at that time proposed legislation which meant that the former behaviour would not start time running if the Pursuer was excusably unaware of material facts. A draft Bill was proposed. If such legislation had been in place it is suggested that *Quinn* would have been decided differently on s.17. But perhaps even more concerning is the decision in *Quinn* on s.19A.

It is worthwhile parsing the history of this:-

1. In 1990's pleural plaques were diagnosed. At that time modest final damages were agreed, and in any event did not set time running for a separate disease such as asbestosis or mesothelioma. (*Shuttleton*) *Quinn* is not time-barred.

2. Case of *Rothwell.* 2008 House of Lords decide no actionable injury. *Quinn* is not time-barred.

3. Damages (Asbestos Related Conditions) Scotland Act 2009. Pleural plaques actionable injury, but time does not run *pace Shuttleton. Quinn* is not time-barred.

4. Case of *Aitchison* Inner House 2010 One action only; *Shuttleton* and *Carnegie* overruled. The effect of 4. is to set time running *retrospectively* for all previous diagnoses of pleural plaques. Liability in *Quinn* was admitted. It would be difficult to imagine a clearer set of circumstances for s.19A, but the judge instead applies the Australian case of *Brisbane,* which almost inevitably forces her down the route to dismissal.

The Law Commission previously suggested that there should be a checklist of factors to which judges should be directed. Instead, *pace Brisbane,* there is an automatic presumption of evidential prejudice caused by passage of time. *Brisbane* has had a baleful influence in Scotland.

(See the academic criticisms in Johnston "*Prescription and Limitation"* 2nd edition at p.292, and Russell "*Prescription and Limitation of Actions"* 7th edition at p 169 "the critical issue would appear to be evidential prejudice")

Brisbane has noticeably gained no traction in England, where the s.33 test is actual evidential prejudice.

Simply in passing, the one piece of solid ground where agents thought they could stand was that there would be no s.19A equitable discretion exercised if there was a negligence remedy against agents.

Even this was removed in the case of *A v Glasgow City Council* (bin lorry claim) where agents failed to raise an action within the triennium, but the case was allowed to proceed under s.19A. The current law on s.19A now fails the basic jurisprudential test of predictability, leaving advisors in an impossible position. It should be reformed.

20. If so, do you favour:

(a) providing that a diagnosis of pleural plaques would not, on the basis of time bar, preclude further action at any future time;

(b) providing that a claim for asbestos-related pleural plaques (or pleural thickening or asbestosis) itself would become time-barred 3 years after diagnosis but that claims for any subsequent related disease such as mesothelioma would not be so time-barred:

(c) creating a provision parallel to the Limitation (Childhood Abuse) (Scotland) Act 2017; or

(d) another solution, and if so, what? (Paragraph 4.41)

Comments on Question 20

Again there is divided opinion on the extent of change needed. Everyone is in agreement that the current position requiring a Pursuer to raise an action for asymptomatic pleural plaques to preserve the position regarding limitation is unsatisfactory.

Pursuers' agents argue that solutions a) and c) will provide a quick fix for asbestos cases where a fair trial is possible. Diffuse pleural thickening should also be added. The real solution lies in reviving the proposals provided by the previous Law Commissions but keeping the basic triennium. The s.19A acid test should be actual evidential prejudice and right to a fair trial for all parties.

Defenders' agents see no reason why the solution proposed in paragraph 20(a), which would essentially take us back to the position in *Shuttleton*, would be inadequate. They do not consider the circumstances are akin to the unique circumstances of historic child abuse cases which would justify another exception to limitation and certainly do not see any basis for revisiting the meaning and impact of Section 19A in respect of a singular type of claim. If this was to be revisited, Defenders' agents consider it ought to be done in the context of a review of the application of the Section and the 1973 Act as a whole. The solution proposed at paragraph 20(a) in their view resolves the issue identified.

21. Please give reasons for your choice in question 20. (Paragraph 4.41)

Comments on Question 21

Reasoning given at Comments on Question 20.

22. Additionally, do you consider that the establishment of liability should be capable of being deferred, by agreement between the parties, to a later point should a subsequent more serious condition emerge? (Paragraph 4.41)

Comments on Question 22

This leaves cases on the books for both Pursuers and Defenders. Accordingly we do not consider this to be an appropriate solution.

23. Are there any problems at present with the operation of section 13? If so, please describe them and give examples where possible. (Paragraph 5.10)

Comments on Question 23

The problem with Section 13 is that its engagement is not compulsory. This may be partly due to agents for the Child Pursuer forming a view themselves on how best to protect the child's award and may be partly due to ignorance (or ambivalence) as to the terms of Section 13. Judges and Sheriffs very rarely raise Section 13 in a child's damages claim. In relation to pre-litigation settlements the only protection afforded to a child is when insurers insist on a Parental Discharge and Indemnity form being signed by the recipient of the child's award, acknowledging that the payment is being made in full and final settlement of the claim and an undertaking is given by the parent that they will apply the funds for the sole benefit of the child. The form includes an agreement to indemnify the insurers if the undertaking is breached and the child tries to make any claim against the insurer for paying the settlement to the parent. Whilst such Parental Discharge and Indemnity forms are a sufficient safeguard for lower value claims (which we would define as £10,000 or less) they are inadequate for any higher award.

24. If there are problems, how do you consider these might be resolved? Specifically, do you think the court should have regard to the same matters that it has to consider when determining an application under section 11(1) of the 1995 Act, or are there other or additional matters that the court should consider? (Paragraph 5.10)

Comments on Question 24

Many higher value settlements are placed in a Personal Injury Trust ("PIT"). This is however left to the Pursuer's agent or counsel to consider whether it is appropriate. If a PIT is set up with a professional trustee in place (with or without a parent) with the right to take the final decision and override the wishes of the parent or at least where there are measures in place for a contentious issue to be determined by say the Accountant of Court, it is considered this provides adequate safeguards for such awards. The real problem arises in a) the lower value claims where no Parental Discharge and Indemnity form is signed by a parent; and b) the higher value cases where no PIT or other trust with a professional trustee is set up.

There should be a compulsory procedure, promulgated in the rules of court, requiring the Pursuer's agent to complete a form for submission to the court outlining details of the proposed settlement for the child, how the funds are to be invested and protected until the child's 16th birthday and specifically outlining how any capital expenditure decisions will be taken. Details of any individual or organisation who will have control of the funds should be included. When lodged with the court and assuming the opponent does not wish to make representations, the court would either administratively pronounce an interlocutor approving the proposals or fix a hearing. This would apply to all children's claims whether the settlement arises as a result of litigation or negotiation. Those claims where settlement is for £10,000 or less and a Parental Discharge and Indemnity form is signed by the child's parent or where a trust is set up with a professional trustee (solicitor or regulated financial adviser) who has a controlling interest should be exempt from this procedure.

25. Do you consider that it should be mandatory for the parents or a guardian to report to the Accountant of Court, especially where a child will be largely dependent upon an award of damages for the rest of their life? Or do you consider that the imposition of such a reporting requirement is a matter best left to the discretion of the court? (Paragraph 5.22)

Comments on Question 25

This should be left to the discretion of the court who will have regard to the proposals set out in our Comments on Question 24. If the proposals are deemed inadequate the court can exercise its wide discretionary powers in making it a requirement that reports are submitted on an annual basis to the Accountant of Court. It is envisaged that such a condition will be rarely imposed as it will rarely be the only proportionate and necessary safeguard.

26. (a) Do you consider that a court should have a duty, when about to grant decree in a claim for damages for a child, to make inquiries about the future administration of any funds and property to be held for the child, and, if the court considers it necessary, to remit the case to the Accountant of Court for a report in terms of section 13?

(b) If so, should such a duty be expressed in a Practice Note/Direction; in a Rule of Court; or in some other way? (Paragraph 5.22)

Comments on Question 26

a) Please see our Comments on Question 24. Yes, the court should have the power to obtain a report from the Accountant of Court but there should be no cost implications for the Pursuer in circumstances where the court decides to do so.

b) It is not a duty on the part of the court to obtain a report from the Accountant of Court, it should be a discretionary power and should be exercised only in a situation where the court has concerns about the potential maladministration of the settlement.

27. Where the court orders an award of damages to be paid directly to the child, do you consider that the wide discretion afforded to the court remains appropriate, or ought this discretion be curtailed by requiring the court to consider factors such as the amount of the award and the capacity of the child? (Paragraph 5.27)

Comments on Question 27

The same procedure as outlined in our Comments on Question 24 should be adopted in relation to a situation where the award is potentially going to be paid direct to the child. As no Parental Discharge and Indemnity form is to be signed in this situation it is appropriate that the proposal to pay the money direct to the child should be considered by the court in all cases regardless of value.

28. If you consider that the court ought to be required to take account of specific factors, are there any other factors, other than the amount of the award and the capacity of the child, that the court ought to have regard to? (Paragraph 5.27)

Comments on Question 28

Based on the procedure outlined in our Comments on Question 24 there should be no constraints on the court limiting the factors it takes into account when exercising its wide

discretion on whether to approve the Pursuer's proposals or to fix a hearing/impose conditions on how the settlement should be administered.

29. (a) Do you consider that section 13 allows the court to direct payment of damages into a trust?

(b) If so, do you consider that such payments may be made into a bare trust or a substantive trust or both?

(c) Do you have any examples? Can you give details?

(d) Do you consider that section 13 should permit transfer to persons other than those listed in section 13(2)(a) and (b)? If so, to whom?

(e) To what extent do you consider that a court is able to define the purpose of such a trust, and the powers of the trustees, in particular in the context of directions or restrictions concerning the beneficiaries or the residue of the trust estate?

(f) Do you consider that there is a need for reform? If so, what needs to be reformed, and do you have any solutions to suggest? (Paragraph 5.27)

Comments on Question 29

a) Yes, in relation to a Bare Trust, possibly in relation to a Substantive Trust, albeit there could be a strong Human Rights challenge. We would urge the Commission not to go down the route of seeking to empower the court to impose a requirement to set up a Substantive Trust or Personal Injury Trust. This should be kept simple – if there needs to be a hearing to determine conditions for how the child's award is to be dealt with the court should adopt a case management/interventionist role to encourage parties to agree a course of action e.g. voluntarily setting up a Personal Injury Trust or Bare Trust. Where that cannot be agreed the court should order either that the funds are paid into a Bare Trust or consigned. The award would be consigned into the hands of the Sheriff Clerk or transferred to the Accountant of Court.

b) There does not seem to be a clear answer to whether the court's powers would extend to both a Bare Trust and a Substantive Trust – the untested law is currently unclear on the issue. Applying the principles which are most consistent with minimal interference of a person's proprietary rights, proportionality and the Human Rights considerations, it seems most likely that challenge could be made to an order for a Personal Injury Trust or Substantive Trust.

c) We do not have any examples.

d) No, indeed we would argue for removal of Judicial Factor as an option given the costs and bureaucracy involved with such an appointment.

e) The trustees' powers should be similar to those which apply when a Financial Guardian is appointed. A default list of powers can easily be devised to be used where a Trust is to be set up and amended to suit the particular case if appropriate.

f) Yes, as outlined above.

30. Do you agree that the power to make an order that money be paid to the sheriff clerk should be retained meantime? (Paragraph 5.29)

Comments on Question 30

Yes. If a compulsory procedure is introduced as per our Comments on Question 24 it may well be that the most appropriate condition that a court can impose is to have the settlement consigned into the hands of the Sheriff Clerk.

31. Do you consider that any other reform is necessary in this context? If so, what? (Paragraph 5.29)

Comments on Question 31

No, not beyond what is outlined above.

32. Do you consider that there is adequate provision to enable application to be made in court proceedings for an appropriate order relating to the management of sums already paid in respect of damages awarded to a child? If not, please give reasons or examples. (Paragraph 5.34)

Comments on Question 32

Yes, for the reasons outlined in the Discussion Paper.

33. What do you think might explain the low usage of the provisions that involve the Accountant of Court? (Paragraph 5.46)

Comments on Question 33

Agents do not consider it necessary as they have formed a view as to how best to deal with a child's award.

Concerns that the Accountant of Court is overly bureaucratic and costly.

Ignorance of the provisions involving the Accountant of Court.

34. What might increase use of these provisions? (Paragraph 5.46)

Comments on Question 34

Mandatory forms as outlined in our Comments on Question 24 as this will lead to a greater understanding of the options open to the court.

However, as and when the legislative reform is finalised, extensive publication of the new legislation/rules/guidance with seminars to explain what is involved is a fundamental requirement.

35. Do you consider that there is a need for independent oversight when it is proposed to set up a trust for damages for personal injury awarded to a child? (Paragraph 5.62)

Comments on Question 35

An independent, professionally regulated person should be appointed as a trustee and should have a controlling interest or alternatively there should be a mechanism written into the Trust Deed to independently resolve disputes with other trustees. This is something that could be canvassed in the form to be submitted to the court as outlined in our Comments on Question 24.

36. Should such oversight be necessary in all cases, or only in certain specific circumstances? If the latter, what type of circumstances? (Paragraph 5.62)

Comments on Question 36

Only those cases where the Trust does not have an independent, professionally regulated person appointed as a trustee as outlined in our Comments on Question 35.

37. If oversight is necessary, should it be achieved by:

(a) providing that a draft of the proposed trust deed be sent to the Accountant of Court for consideration and approval of its terms, including the suitability of the choice of trustees; and

(b) such oversight by the Accountant of Court also being triggered by any significant change in circumstances such as where there is a substantial increase in the assets held in trust following a final settlement, or where there is a change of trustees; or

(c) another process? If so, what? (Paragraph 5.62)

Comments on Question 37

If oversight is necessary it should only arise where there is no independent professionally regulated person appointed as a trustee with a controlling interest. In that situation paragraphs (a) and (b) should apply.

38. Are PITs the only type of trusts used for managing awards of damages to children or are there others? If you have experience of other types of trust being used could you give examples? (Paragraph 5.62)

Comments on Question 38

Bare Trusts are commonly used when it is felt that the invariably higher costs of a PIT are best avoided. Bare Trusts are more common in lower value cases where the pot of money is usually less than that in a PIT. However, they can be used because they are often simpler to set up and less onerous than a PIT.

39. Are there any other issues that arise in relation to the Accountant of Court or to the courts' management or to the courts' management and safeguarding of awards of damages to children? If so, please describe those issues and how they may be resolved. (Paragraph 5.76)

Comments on Question 39

None.

General Comments

We wish to avoid a system based on the bureaucratic and costly English Court of Protections. We consider it to be a fundamental requirement to keep any new proposals simple and cost neutral to the Pursuer. If the Accountant of Court or Sheriff Clerk are to be used in the administration of funds this should only come about if the court makes such an order on consideration of the Pursuer's proposals as to how the settlement should be administered.

The Commission will no doubt bear in mind the existing requirements under Section 6 and in particular SS 6(6) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 which imposes a requirement for the court to be satisfied that paying a claimant's damages as a lump sum as opposed to periodical payments is in the claimant's best interests where future damages are more than £1million. This applies to all claims handled under a Success Fee agreement.

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