



Non-compensation Case Studies

Patient A sustained a severe brain injury following a stroke which affected his speech and ability to communicate. The patient needed help with managing his financial affairs, however, there were concerns that he did not have mental capacity to enter into a power of attorney. In order to start the process, Stewarts obtained a mental capacity assessment from his treating consultant which confirmed that he had the requisite capacity.

Due to the issues with his speech, we enlisted the help of a speech and language therapist, had numerous meetings with the patient, and used visual aids to assist with his communication to ensure that we completed the paperwork in line with his wishes. We subsequently helped the patient find specialist pro bono advice in relation to bankruptcy proceedings.

Patient B sustained a brain injury as a result of a stroke, and at the time was in the process of winding up his company. He was also in substantial debt with no other source of income. We liaised with his creditors and secured a write off of debts totalling £6,100. The patient and his partner were also in mortgage arrears. Initially the mortgage provider agreed to a hold period; however they later sought to repossess the property. The patient was the sole owner however he lacked the mental capacity to sell the property.

We assisted the patient's wife to apply to the Court of Protection to be appointed as his Trustee and subsequently the court provided an order for the sale of the property and authority to purchase another property.

Patient C sustained an incomplete spinal cord injury following an assault. Prior to her injury, the patient worked as an estate agent. Whilst she was in hospital, the patient's employer undertook an assessment of her ability to carry out her role and concluded that she would be unable to return to work. They therefore offered a settlement of one year's salary with no commission.

The patient made a remarkable recovery from her injuries and was keen to return to work. We obtained medical evidence from the patient's treating consultant as to her ability to return to work and perform the role and presented this to her employers. As a result of this, the patient was able to return to work.

Patient D had been diagnosed with primary progressive multiple sclerosis. In 2004, he took out a 12 year insurance policy which provided cover in the event that he was diagnosed with a critical illness. In the same year the patient began to develop issues with his mobility and his condition deteriorated, however he was not diagnosed until 2016. The insurance company refused to consider his claim because the policy expired in 2015.

Stewarts reviewed previous ombudsman decisions and found a precedent which confirmed that a claim would

be successful provided there was evidence that the critical illness existed during the life of the policy - it did not matter that there was no firm diagnosis. We therefore insisted that the insurer accept his claim and collated the relevant medical evidence. After just four months of our involvement, the patient received the entire award of £106,000 under the policy plus interest and a refund for the premiums that he did not have to pay.

Patient E sustained a traumatic brain injury. As the patient lacked mental capacity we assisted his wife with an application to the Court of Protection to be appointed as his deputy in respect of property and financial affairs.

The couple had a number of debts, amounting to approximately £100,000. Stewarts succeeded in persuading their creditors to write off over £20,000 and to freeze their accounts to prevent further charges from accruing.

We advised on the patient's entitlement to welfare benefits and assisted in successfully applying for Personal Independence Payment (PIP). Stewarts also liaised with the patient's insurer and successfully obtained a payment of approximately £45,000 under a critical illness policy.



Kara Smith
Head of Pro Bono
ksmith@stewartslaw.com
+44 (0) 20 7822 8049

Kara is responsible for the provision of a free, wide-ranging legal advice service for those affected by serious injury. Kara's expertise lies in catastrophic personal injury claims, predominately brain and spinal injuries. After specialising in that area for four years, Kara now uses that knowledge and experience to advise patients on an array of legal issues that arise following a serious injury.

Kara joined Stewarts in 2005 as a paralegal and worked as a solicitor in the Personal Injury department following qualification. Kara became Head of the pro bono department in 2012.