

## The Business of Rehabilitation

The management and development of a rehabilitation case management company is a challenging one. Everyone knows that early intervention and effective rehabilitation provides substantial benefits for the client, the solicitor and the insurer. From a business perspective it offers the funder the opportunity to substantially reduce the life cycle of cases, provide a platform for a negotiated settlement and offer significant financial benefits which accrue from reduced lifecycles, general damages and future loss of earnings. Despite this the number of cases which actually make their way into rehabilitation is still relatively low.

Insurers and solicitors profess to be corporately committed to rehabilitation and even sell this as a service to their own customers, but with one or two exceptions they do not then seem to be able to convert this commitment to their handlers. Why should that be? There may still be some cultural resistance to helping the claimant in a traditionally adversarial process. I am also sure that despite good intentions there is difficulty in embedding the consideration of rehabilitation into a claims process that is already task heavy at the initial stages of a claim. Nevertheless it is somewhat surprising that despite the requirements imposed by the pre-action protocols (compulsory in England and voluntary in Scotland) which are adhered to without question for other activities such as liability investigation, rehabilitation still seems to be seen as an optional extra.

I am intrigued, as a previously experienced liability claims practitioner, at the continued concentration of resource and expenditure on investigations into liability on employer's liability, passengers and pedestrian claims when the bulk of these cases are likely to be paid. Perhaps the millions spent on investigating liability in these low repudiation rate classes would be better spent invested in other resources! This is however merely musing on my part and I recognise that this is not likely to change in the short term.

I believe the real obstacle to early intervention and full engagement in rehabilitation is down to cost risk and liability. Insurers do not want to fully engage with rehabilitation until liability has been established and claimants and their solicitors cannot readily engage in rehabilitation and thereby accept the associated cost risks until liability is determined. It is a conundrum.

All of this means that it is difficult to build a sustainable business long term and one which can grow substantially beyond what is often criticised as being "a cottage industry". If rehabilitation case management companies are to overcome these business obstacles then we will have to come up with the solution ourselves.

I believe the way forward is for case management companies to offer "funded" rehabilitation for claimants in certain types of cases and to offer insurers a risk share approach for early intervention before liability is established. This will provide the catalyst for starting rehabilitation much earlier thus unlocking the benefits.

If experienced personal injury solicitors are willing to assess a client's case and act on a "conditional fee" basis then why shouldn't we follow suit and take the same risk? At the level of injury case that we are involved with (and note the comments I have made earlier about EL/passengers/pedestrians) the risk is quite predictable and manageable. If the current process impedes the early and effective implementation of rehabilitation and this solution overcomes this obstacle then the business case is made.

Similarly we should offer EL insurers a 'Risk Share' approach with a reduced fee to carry out an INA on all their cases before liability is established on the basis that if liability is accepted they then pay the balance. If not there is nothing else to pay. Again the risk is predictable and manageable and makes business sense for all parties.



Nothing stays the same and the current practices need to change. The need and demand for rehabilitation services to improve the lives of injured people is here to stay.

We have built an established and enterprising operation and are here for the long term. Continuing to receive cases at the whim of a few dedicated champions is not an option. Unlocking rehabilitation for as many people as possible is our goal and if we can do so then the business of rehabilitation will thrive and everyone will benefit.

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