



# ASSOCIATION OF PERSONAL INJURY LAWYERS

## Standard of competence for Senior Litigators

### SUMMARY

A Senior Litigator acts for the victims of accidents, disease and injury and seeks to establish, assert and enforce their rights through negotiation, mediation or litigation.

A Senior Litigator is competent to identify liability, assess and manage risk, to be self-authorising at all key stages of litigation, and to lead and supervise the work of other PI lawyers.

A Senior Litigator meets the following standards of effective performance:

#### **1. Taking initial instructions**

The Senior Litigator establishes the identity of the client and that the nature of the claim is within the capability of the firm, checks the limitation date, collects the information necessary to establish liability and quantum of damages and to develop an initial case plan, establishes the client's entitlement to any state benefit, establishes any need for rehabilitation, and ensures that the client has a clear understanding of the next steps to be taken.

#### **2. Dealing with funding and regulatory matters**

The Senior Litigator conducts a risk assessment, makes funding arrangements, complies with professional regulatory requirements and issues the client engagement letter.

#### **3. Advising the client, managing their expectations, mediation and alternative dispute resolution**

The Senior Litigator advises the client on the case, its conduct and possible outcomes, and manages the expectations of the client.

#### **4. Planning the case, gathering evidence, making the claim and costs budgeting**

The Senior Litigator prepares a case plan including a costs budget, gathers evidence, addresses any need for rehabilitation, prepares schedules of special damages and future loss, drafts and issues the letter of claim.

#### **5. Dealing with the defendant and other parties**

The Senior Litigator progresses the case within the Pre-Action Protocol, seeks to negotiate a settlement and advises on any offer received, or any offer which might be made, under Part 36 of the Civil Procedure Rules.

## **6. Issuing proceedings, the allocation stage and case management conferences**

The Senior Litigator decides when proceedings should be issued to protect the client's interests, issues proceedings, seeks directions and deals with any case management conference.

## **7. Managing disclosure**

The Senior Litigator ensures that disclosure made to the other side is of that which is required, whilst not providing material that may properly be withheld; and identifies and seeks missing documents which should have been provided by the other side.

## **8. Drafting documents**

The Senior Litigator drafts, in a timely manner and in clear English, witness statements, schedules, pleadings and other documents which are comprehensive but succinct and which fulfil all legal and court requirements.

## **9. Instructing counsel and experts**

The Senior Litigator selects and instructs counsel and experts who are appropriate in relation to the issues in the case and the evidence to be proved.

## **10. Preparing for and managing the trial**

The Senior Litigator reviews issues, evidence and offers made, considers whether a claimant offer should be made (consulting with counsel and funders as appropriate), confirms that all directions have been complied with, ensures that documents have been lodged or exchanged as required, and that counsel, witnesses and the client are fully briefed and available at all times at which their attendance may be required.

## **11. Managing post-trial and file closure procedures**

The Senior Litigator advises the client of the implications of the judgement, takes any necessary steps to enforce recovery, ensures that legal fees are dealt with so as to ensure the client is fully indemnified, and archives the file.

The full Senior Litigator Standard has eleven units, reflecting the heads set out above. Each unit has within it a number of elements, each setting out functions which must be undertaken effectively, to demonstrate competence. It sets out the knowledge, understanding and know-how which underpin that competence, and the behaviours which support effective performance in the role of Senior Litigator.