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*How to consider and advise clients of potential PI claims in housing*

Samantha Lewis, Housing and Injury Solicitor, Anthony Gold Solicitors LLP  
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*Acting in client's best interests:*

- considering potential additional claims*
- managing client expectations*
- advising of potential additional claims*
- signposting to organisations who could assist with additional claims*

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*Funding is done by CFA  
so a solicitor needs to  
consider:*

- 1. Risk*
- 2. Proportionality*
- 3. After the Event  
Insurance*

*Cases take on average 3  
years to settle*

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*Limitation:*

- 3 years from end of breach i.e.  
repairs*
- 3 years from date of injury*
- 3 years from turning 18*

*BUT – medical expert evidence takes  
time therefore the sooner the better*

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*Basics of a PI Claim:*

- 1. Liability*
- 2. Causation*
- 3. Quantum*

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*But first ...*  
**MEDICAL RECORDS**

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*Benefits of getting medical records early*

- support evidence of notice
- understand potential Equality Act and injury claims
- support particulars of inconvenience

**Get them in promptly rather than long calls discussing health conditions with your client**

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How to request

- subject access request by you or your client at the same time as requesting other preliminary records
- no cost under DPA 2018
- within 1 calendar month
- GP records will be the most contemporaneous records and likely the only medical records you will need to request

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How to read

- mostly sent by email as a PDF with bookmarks
- “Ctrl” and “f” key words ‘housing’, ‘mould’, ‘asthma’, ‘council’, ‘landlord’
- Chronological order:
  - issues; active, significant past and minor past
  - notes of GP attendances
  - medications, allergies, results, referrals
  - attachments

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Then take instructions

- Pull out pages/entries relevant to housing claim
- brief chronology of injuries and issues – do they mirror housing claim chronology?
- discuss with your client

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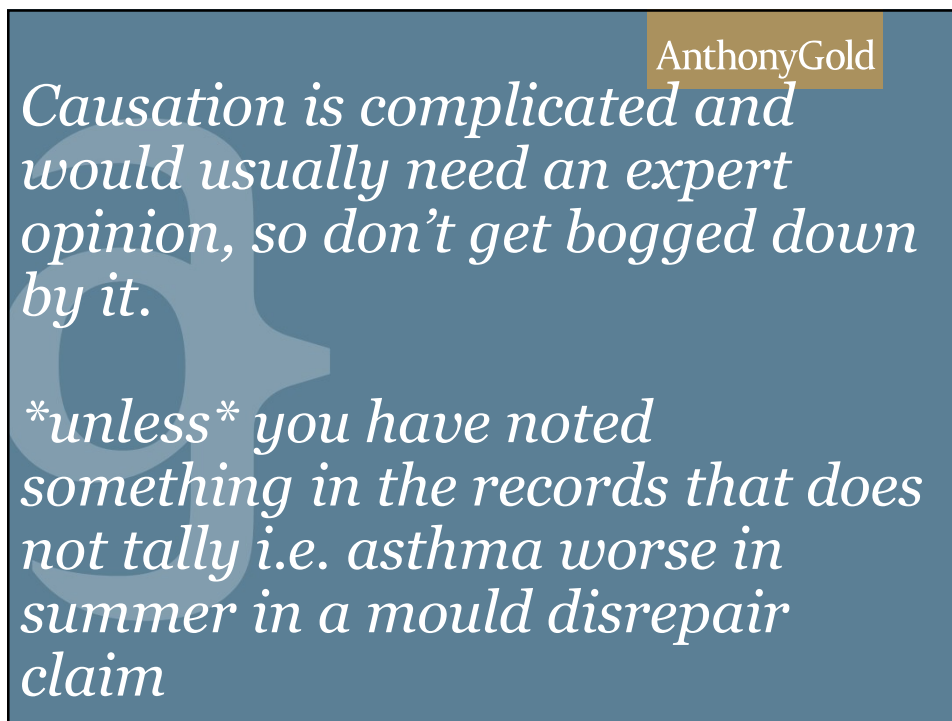
*Liability should be easy for you (maybe not for a PI practitioner)*

- are you confident on liability on your housing claim? i.e. you have a supportive report*
- if yes there may well be a PI claim*
- if no it's unlikely there's a PI claim*

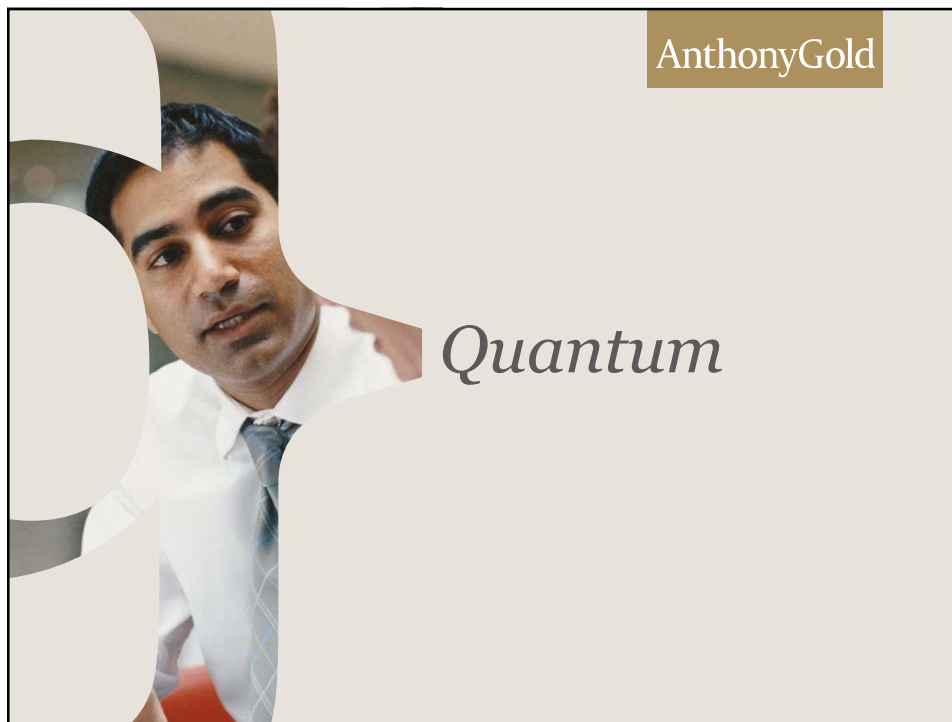
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*Quantum is the tricky part for you*

- always consider potential household claims*
- remember PI is funded by CFA*
- it can be worth it, recent settlement*

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## Asthma – JC Guidelines 'how does it impact daily life?'

(a)	Severe and permanent disabling asthma, causing prolonged and regular coughing, disturbance of sleep, severe impairment of physical activity and enjoyment of life, and where employment prospects, if any, are grossly restricted.	£52,550 to £80,240
(b)	Chronic asthma causing breathing difficulties, the need to use an inhaler from time to time, and restriction of employment prospects, with uncertain prognosis.	£32,090 to £52,490
(c)	Bronchitis and wheezing, affecting working or social life, with the likelihood of substantial recovery within a few years of the exposure to the cause.	£23,430 to £32,090
(d)	Relatively mild asthma-like symptoms often resulting, for instance, from exposure to harmful irritating vapour.	£12,990 to £23,430
(e)	Mild asthma, bronchitis, colds, and chest problems (usually resulting from unfit housing or similar exposure, particularly in cases of young children) treated by a general practitioner and resolving within a few months.	Up to £6,280

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## Psych pt 1 – JC Guidelines usually low value and needs to be a recognisable injury

This chapter covers those cases where there is a recognisable psychiatric injury. In part (A) of this chapter some of the brackets contain an element of compensation for post-traumatic stress disorder. This is of course not a universal feature of cases of psychiatric injury and hence a number of the awards upon which the brackets are based did not reflect it. Where it does figure any award will tend towards the upper end of the bracket. Cases where post-traumatic stress disorder is the sole psychiatric condition are dealt with in part (B) of this chapter. Part (C) deals with cases of sexual and/or physical abuse. In those cases, in addition to psychological injury and the physical injuries inflicted, awards often include an element for injury to feelings caused by the abuse itself and by any denial of the offences and the need for the injured person to relieve the abuse in court or other proceedings.

### (A) Psychiatric Damage Generally

[7.1]

The factors to be taken into account in valuing claims of this nature are as follows:

- (i) the injured person's ability to cope with life, education, and work;
- (ii) the effect on the injured person's relationships with family, friends, and those with whom he or she comes into contact;
- (iii) the extent to which treatment would be successful;
- (iv) future vulnerability;
- (v) prognosis;
- (vi) whether medical help has been sought.

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## Psych pt 2 – JC Guidelines

### Severe is extremely unlikely to be linked to housing as cause

(c)	<b>Moderate</b>	<b>£7,150 to £23,270</b>
	While there may have been the sort of problems associated with factors (i) to (iv) above there will have been marked improvement by trial and the prognosis will be good. Cases of work-related stress may fall within this category if symptoms are not prolonged.	
(d)	<b>Less Severe</b>	<b>£1,880 to £7,150</b>
	The level of the award will take into consideration the length of the period of disability and the extent to which daily activities and sleep were affected. Cases falling short of a specific phobia or disorder such as travel anxiety when associated with minor physical symptoms may be found in Chapter 14: Minor Injuries.	

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## PTSD – JC Guidelines

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Cases within this category are exclusively those where there is a specific diagnosis of a reactive psychiatric disorder following an event which creates psychological trauma in response to actual or threatened death, serious injury, or sexual violation. The guidelines below have been compiled by reference to cases which variously reflect the criteria established in the 4th and then 5th editions of 'Diagnostic and Statistical Manual of Mental Disorders' (DSM-IV-TR and DSM-5). The symptoms may include nightmares, flashbacks, sleep disturbance, avoidance, mood disorders, suicidal ideation, and hyper-arousal. Symptoms of hyper-arousal can affect basic functions such as breathing, pulse rate, and bowel and/or bladder control.

(a) **Severe** **£73,050 to £122,850**

Such cases will involve permanent effects which prevent the injured person from working at all or at least from functioning at anything approaching the pre-trauma level. All aspects of the life of the injured person will be badly affected.

(b) **Moderately Severe** **£28,250 to £73,050**

This category is distinct from (a) above because of the better prognosis which will be for some recovery with professional help. However, the effects are still likely to cause significant disability for the foreseeable future. While there are awards which support both extremes of this bracket, the majority are between **£35,100** and **£45,300**.

(c) **Moderate** **£9,980 to £28,250**

In these cases the injured person will have largely recovered, and any continuing effects will not be grossly disabling.

(d) **Less Severe** **£4,820 to £9,980**

In these cases a virtually full recovery will have been made within one to two years and only minor symptoms will persist over any longer period.

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## *Minor Injuries – JC Guidelines*

Minor injuries are injuries which are of short duration, where there is a complete recovery within three months, and are not otherwise referred to in other chapters. Cases where there is significant pain or multiple injuries albeit full recovery within three months may fall outside this chapter. Likewise, cases involving, for example, travel anxiety (associated with minor physical injuries) or minor scarring where symptoms last for more than three months may appropriately be included in this chapter. The awards within each bracket will be dependent on the severity and duration of symptoms. The extent to which the level of symptoms remains relatively constant will also be a relevant factor. Claims solely in respect of shock or travel anxiety in the absence of physical or recognised psychiatric injury will not attract an award of compensation.

(a)	Injuries where there is a complete recovery within seven days.	A few hundred pounds to £840
(b)	Injuries where there is a complete recovery within 28 days.	£840 to £1,680
(c)	Injuries where there is a complete recovery within three months.	£1,680 to £2,990

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## *Should housing and PI claims ever be run together?*

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**ONLY** in acute incidents

- broken fingers from faulty sash window
- acute injury that has medical record evidence
- no need for expert evidence
- no risk of more complex/serious injury developing
- consider proportionality of 3 and 6 year limitation

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### Potential PI claim Flowchart

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Is my client injured?

↓ Yes → No = no claim

Do they have good liability evidence for their housing claim?

↓ Yes → No = unlikely to have a claim, if in doubt ask

Do their records and account support the injury has been caused and/or exacerbated by their housing situation?

↓ Yes → No = unlikely to have a claim, if in doubt ask

Is the quantum of their individual claim or household claim reasonably estimated at over £25,000.00?

↓ Yes → Consider a direct referral  
 ↓ No → Advise client they may have a claim, but it may be low value

If you're unsure ask a contact or suggest your client seek advice

HLPA

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AnthonyGold

Samantha Lewis, Housing and Injury Solicitor, Anthony Gold Solicitors  
LLP

<https://anthonygold.co.uk/people/samantha-lewis>

[sjl@anthonygold.co.uk](mailto:sjl@anthonygold.co.uk)

Twitter/X: @lewis\_sjl

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