

Independent Financial Advice



**Specialist Financial Advice for
Personal Injury
and
Medical Negligence Claimants**



Who are **Simpson Millar LLP**?

Simpson Millar LLP has a long history of over 150 years of providing legal advice to individuals and their families.

A key area of expertise within the practice is personal injury and clinical negligence law. In 1995 the partners took the decision to set up a financial services department to enable recipients of legal settlements and other clients of the firm to receive independent financial advice.

We now offer this service to clients of other law firms that don't have in house financial advisers and are happy to assist with cases pre and post settlement. We find that solicitors feel comfortable that their clients will be given appropriate financial advice for their settlement and that the option of holding damages in a Personal Injury Trust is clearly explained (this is perhaps helpful from a compliance perspective).

Having met many claimants and their families, we pride ourselves on offering a sensitive approach, always remembering that the claimants may have experienced some very difficult years.

Over the last 14 years the Independent Financial Advisers at Simpson Millar LLP have been instructed to provide advice to recipients of legal settlements, many of these cases were settlements for children and protected individuals, where the involvement of the Court or the Court of Protection was required.



Investing for children

Normally, and for the benefit of the child, the court will hold on to the awards of damages until the child reaches 18 and the settlement will be held in a high interest cash account. Depending on the age of the child some of the settlement might be invested into the Court's Collective Investment Fund (CIF) which invests in UK and International Equities.

Special Account – Recent Changes

The Special Account is a type of bank account which is similar to a bank or building society account. It is only available to those people who are entitled to hold monies in the Court Funds Office. These are people who are deemed to lack mental capacity (as set out in the Mental Capacity Act 2005) and children.

When considering an alternative investment strategy, a key consideration is the interest rate payable on a Special Account compared with rates available in the market place. Interest rates on the Special Account are set by the Lord Chancellor.

The Special Account interest rate was reduced to 0.5% from 1st July 2009. In January 2009, the rate stood at 6%.

Alternative Investment Strategy

Another option is to apply for the settlement to be held in a Personal Injury Trust with an alternative investment strategy. Before a Court can order that a Personal Injury Trust be put in place, an investment report must be submitted in which recommendations are tailored to meet individual requirements and objectives. If the Judge feels that holding the funds in this way will benefit the child, he will issue a Court Order to proceed.

The parents can choose the Trustees who would normally be either one or both of the parents, along with a "professional trustee." The professional trustee (normally a solicitor or an accountant) takes responsibility for the administration and smooth running of the trust. This effectively delegates the technical issues and responsibilities such as investment and taxation to the professionals, leaving the parents to focus purely on caring for their children.

The Personal Injury Trust can remain in place after the child reaches age 18 and the settlement will therefore continue to be ring fenced within the trust.

Investing for Patients

A Deputy is appointed to act on behalf of someone who lacks mental capacity – this is normally a Solicitor or family member.

Once a Deputy has been appointed it is up to the Office of the Public Guardian (OPG) to monitor and supervise the Deputy. The OPG was previously known as the Public Guardianship Office (PGO), but received its new name and powers after the Mental Capacity Act 2005 came into force on 1st October 2007.

Deputies (previously known as Receivers) are now permitted to manage client's financial affairs on a day to day basis without referring to the OPG.

Simpson Millar LLP offers advice to the representatives of protected individuals whether it be the appointed Deputy or Trustees of a Personal Injury Trust.

We aim to construct diverse portfolios, focusing on asset allocation and giving the representatives the opportunity to utilise available tax allowances, as well as providing an on-going service where investments are reviewed on a regular basis.



For more information on the financial services available from Simpson Millar LLP contact **James Mann** on **0 345 357 9000** or email james.mann@simpsonmillar.co.uk

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Simpson Millar LLP is a limited liability partnership registered in England and Wales: No OC313936.

Registered office: 21-27 St Paul's Street, Leeds, LS1 2JG.

A list of members is available from our registered office.

Members of the Law Society's Personal Injury and Clinical Negligence Panels

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INVESTOR IN PEOPLE

