A guide to property purchase & adaptation following a serious injury
Contents

03. Welcome
04. Legal FAQs: Buying a house as part of your child’s compensation claim
08. Examples of common disability adaptations in the home
10. Checklist: How to choose the right specialist architect for disability adaptations
12. An interview with Martin Bell, specialist disability architect
15. Case study: What happens when you have to remodel your home?
16. Top tips for new carers, from carers
18. Useful resources and further information
Welcome

PotterReesDolan Solicitors is proud to have supported for almost 20 years individuals with serious injuries and disabilities and their families and loved ones. As a result of our experiences, we have a real insight into how compensation claims work and how they can make a huge difference to our clients’ lives.

Perhaps understandably, many people see only the large headline figures of compensation awarded to individuals without realising what the money is to be used for or how hard everyone involved had to fight to get it. Some people have even suggested that compensation is a ‘lottery win’. We know that this is not the case.

We are dedicated to helping our clients recover the quality of life they deserve. But we are also equally dedicated to raising awareness of how it feels to go through this experience – the demands on those involved, the reasons individuals deserve every penny of the compensation they are awarded, and the challenges they face in every area of their personal lives.

In this guide, we wanted to focus specifically on the experience of buying and making adaptations to your home following a serious injury - a huge, stressful and often unseen undertaking - and to offer practical information and advice for those of you who are in a similar situation.

We have expert insight from specialist disability architects, advice for new carers, examples of adaptations you may want to consider, case studies, and much more.

I hope it’s useful for you.

Hugh Potter, Managing Director
If you are starting, or thinking of starting, a compensation claim for a serious injury, including physical disabilities, and know that you will require adaptations to a property or totally new accommodation, it's helpful to understand what awaits you in the legal process.

Our clinical negligence partner, Helen Dolan, who recovered over £26 million for clients with brain injuries in 2016, is committed to ensuring claimants are fully in the know and therefore well prepared to cope with the stresses and strains which we all feel when buying a house.

In this chapter she answers some of the most frequently asked questions she encounters relating to purchasing or adapting a property during a claim for a child.

**Who will own the property?**

Where a Financial Deputy (or trustee) has been appointed on behalf of a child, usually the property is owned by the child but purchased by the Deputy in the child’s name. That requires careful discussion with the parents. There can be exceptions, for example, where parents contribute a lump sum towards the property and want to co-own it, but usually a new property purchased during the child’s claim belongs to the child.

If parents do contribute to the cost of the house and co-own it, then the Deputy or Trustees will draw up a Trust deed which sets out the shares that the child has and that each parent has. The Court of Protection will not allow parents to mortgage their share of the property so they must be able to pay for it from their own resources.

**When is the house bought? During or after the claim ends?**

A house can be bought after the claim either settles or goes to a hearing, but often, it's done during the litigation. A very substantial interim payment is secured, often requiring a visit to Court, and a property is identified, adapted and eventually moved into. This can require the help of an accommodation finder, a case manager, an accommodation expert and an architect. The solicitor and barrister in the case will also want to view the short listed property.

It is a ‘forever move’ in most cases, so it is essential that it is done properly. With the right advice, the new home should meet the child’s needs now and as they change in the future, and, of course, provide enough accommodation for any care team.

Before the property is finally purchased, an application by the Deputy to the Court of Protection may be required and the property is formally purchased in the name of the child. This is a separate application to the one to Court for the interim payment. The Court of Protection will require a caution to be entered on to the Land Registry record so that the house cannot be sold without permission from the Court.
What are the timescales involved?

Any move is stressful for a family, but the time frame just for identifying a property in itself can be quite lengthy, particularly if the purchase price for the property is opposed by the opponent in the case. Any dispute will be resolved by a Judge if the parties cannot make any headway between themselves.

A shortlist is often drawn up and a feasibility study carried out on each by the accommodation expert in the case.

The family’s views in relation to location are paramount as there may be a specialist school or college nearby, which influences the decision to move to a certain area. Parents also want to know that they have good motorway access and good access to an appropriate hospital. Expect this process to take around 12 months, but it can vary. Following that, an adaptation scheme is drawn up, and put out to tender to reputable firms of builders. A builder is then selected and the architect will often project manage the build and will act as a go-between between the family and the builder.

The build can take many months to complete, depending on the scale of the adaptation and whether the funds are available to implement the full scheme in one fell swoop. For children with cerebral palsy for example, there may be a delay in putting in a hydrotherapy pool as this is often a hotly contested item and is often not resolved until the conclusion of the case. Families therefore move in once the main build has been done but on occasion have to face a further phase being carried out some time down the line.
How much input do claimants have in this process?

The child’s interests are often best represented by their parents in these cases; the child and their needs should be at the centre of the process, but it is a team approach on the whole, particularly because the purchase needs to be justified to the Court as representing value for money and the Court of Protection must be satisfied that the purchase is in the child’s best interests.

The case manager - the person putting together the care team - will also want to look at the property to make sure the care team is well catered for and the solicitor and barrister will visit the property that has been selected, especially if there is to be an argument over purchase.

So quite a lot of people are involved in that process, but the Claimant is right at the heart of everything that happens.

Who is responsible for making sure the choice of property is financially viable?

The Deputy and solicitor in the case need to give very careful advice to make sure it’s financially viable.

Even if you’ve established full liability against a defendant, a defendant is not liable to pay the purchase price. They only pay a percentage of it and therefore there is always a shortfall that the claimant has to make up from other pots of money from the claim.

This is because of a case called Roberts vs Johnstone, which dates back to 1988. This case decides how the courts calculate how much compensation should be awarded for buying a home for a claimant with severe disabilities. Because property is an asset with a value, rather than a one-off expense, the courts only award 2.5% per annum of the additional capital required for the purchase. This is complicated and a rather unfair approach in many practitioners’ eyes, and your solicitor and barrister will need to run through the calculation with you carefully.

What happens if we want things which the architect has not costed in?

Whilst the property is the child’s, the parents obviously want the property to reflect their tastes too given that they will be living there, so any stylistic choices which do not relate directly to the child’s reasonable needs form part of what we call “self-funded items”. This may be an expensive tile for the parent’s bathroom, a certain flooring for the lounge, or a top-spec finish for the kitchen. The opponent in the case would not be expected to pay for these high-end choices. The parents can self-fund these items and again, the Deputy will carefully talk the family through the process.
Examples of common disability adaptations in the home

In this guide we are going to talk a lot about the impact of a disability or a serious injury on a family, and consequently the need to adapt the family home to provide the patient with the best possible quality of life.

In the years we have spent working alongside victims of serious injury and disability, we have found that not many people are aware of the kinds of things that need to happen to a home in order to reduce the difficulty of everyday tasks they may have previously taken for granted.

So, what are some of the most common disability adaptations for the home?

Minor and major adaptations

Adaptations of this kind can be broadly split into two categories: minor and major. The types of adaptation you require obviously depend on your injury or disability, as well as the level and kind of assistance that you need on a day-to-day basis.

If you rent a home from an housing association, before major adaptations can be made to a property, it is often a requirement for your needs to be assessed by an occupational therapist.
Some of the common adaptations that can be made to a home include:

**Internal - general**

- Fitting stair rails (minor)
- Lowering locks (minor)
- Installing intercoms and door unlocking systems (minor)
- Installing lever handles on doors (minor)
- Fitting additional lighting (minor)
- Widening doors (minor)
- Automated memory prompts (minor)
- Accessible window openings (minor)
- Medication aids (minor)
- Adapted telephones and communication aids (minor)
- Installing vertical lifts (major)
- Room extensions (major)
- Installing stairlifts (major)
- Ceiling track hoists (major)
- Redevelopment to new open-plan, free-flowing space (major)

**Kitchens**

- Lowering appliances and appliance mains switches (minor)
- Lowering storage space (minor)
- Creating additional storage space (minor)
- A new accessible kitchen (major)

**Bathrooms**

- Overbath showers (minor)
- Special baths (minor)
- Special toilets (minor)
- Step-in showers (minor)
- Fitting lever taps (minor)
- Extending pull-cord switches (minor)
- Provision of non-slip surfaces (minor)
- Accessible wet room (major)

**External**

- Widening paths (minor)
- Handrails near entrances and exits (minor)
- Fitting paved areas (minor)
- Additional outdoor lighting (minor)
- Installing ramps (minor)

**A better quality of life**

An unexpected injury or disability to a loved one could change their life forever. In order to ensure they have the best quality of life possible, anything that could cause them problems in their day-to-day life needs to be taken into account and improved upon where possible, and it’s amazing to see just how much can be done to help them.

However, as you can imagine from the extensive list above, making adaptations of this kind can be very expensive and time consuming. Thankfully compensation can help to make the process easier and ensure they have a family home that is both practical and comfortable.
Victims of a serious injury need somewhere comfortable to live, but most of those who are affected are not qualified property experts who can easily design, project manage and build an accessible house to live in.

That’s why professionals such as architects are so important to make sure the victim of a serious injury is able to have the highest quality of life possible in their home. But how do you choose the right architect for you? How do you know if they can do what you need them to do?

We have put together this handy checklist to help you make sure you appoint the perfect architect to help make the adaptations you need...

**Questions you should ask when choosing an architect**

**What is their experience and track record?**

- Have they carried out disability adaptations before?
- Have they carried out adaptations for a client with similar injuries?
- Do they specialise in the type of work you need carrying out?
- Have you seen their portfolio? Do you like it? Do they create bespoke designs for each client or simply ‘cut and paste’ designs from one client to another?
- Do they have any case studies or testimonials from past clients?
- Are they up to speed with current regulations and legislation?
  - What is the personality of the architect? Do you feel you’ll be able to work together?

**What are their ideas for your home?**

- Do you want an architect with a modern approach to design, or one who is more traditional?
- What are they proposing for your home?
- Why have they made those suggestions?
- How much input do you feel you will have if you work with this architect?
Have they worked with occupational therapists/solicitors before?

• Are they used to working with third-party ‘clients’ like occupational therapists or solicitors?
• Are they aware of the processes involved in adapting a home following a successful compensation claim?

Do they have professional indemnity and liability insurance?

• Will you be covered if you receive poor advice or a poor service from this architect?

Are they a member of professional bodies? Do they hold relevant qualifications?

• What are their credentials?
• Do they hold additional qualifications? What do they represent? What do they mean for your project?
• When did they achieve those qualifications?

Do they have the health and safety knowledge required?

• Are they able to demonstrate that they have the health and safety skills, knowledge and experience to carry out the role?
• Do they have records of continued personal development or membership of relevant professional bodies?
• Are they aware of the CDM Regulations 2015 and the skills and knowledge they are required to have?

What is their code of conduct?

• Do they work to a professional code of conduct? What does it entail?

Adapting a home is an expensive and time-consuming endeavour. Not just that, but a home should be a permanent sanctuary, where the residents can enjoy a sociable, comfortable and happy home life. That being the case, choosing an architect should not be a decision you rush into - make sure you do your due diligence and get the right person for you.
The many aspects of making a compensation claim for a serious injury that are often unseen by those outside of the process - the many different feelings the claimant and victim go through and the hugely disruptive, costly and long process of adapting a family home to cater to the needs of a loved one.

Thankfully, however, there are experts in a range of different industries who can help those who are unfortunately involved in the process reduce the stress they feel at this time.

Architects are one group of such specialists who make a huge difference to claimants’ lives, and we are lucky enough to work very closely with many leaders in the field.

Martin Bell is the owner of Transform Architects, based in Osset, Yorkshire, and he has worked with a significant number of our clients to adapt or create an accommodating, homely property that meets all of their needs.

Martin has 20 years of experience in the industry, having won numerous awards in the process, so we wanted to speak to him and find out more about his work on disability adaptations.

**How did you first get involved with disability adaptations?**

I first got involved when a private residential client wanted an existing bungalow knocking down and an accessible new build bungalow to replace it.

What I really liked about it when I first started out was having the chance to make even more of a difference than we do on normal residential projects. What we do is more than just designing extensions or new houses for disabled clients, we change people’s lives for the better when they have had adversity strike in their lives at one point or another.

Your home is your castle, yet for many disabled people it could also be their prison; we strive to achieve the opposite. We design homes that enhance our clients’ lives in many ways and this is what drives us.

No two clients are the same - everyone has their own needs and wants and this is where we like to think we excel. Creating a one-cap-fits all house plan is wrong, as is copying and pasting a generic house plan. Bespoke design is the correct approach and this can make such a positive outcome to the end user.
We make sure we deliver homes that integrate all the family, are uplifting to all who live there and make the trials they encounter in everyday life a little easier. We also strive to offer a flexible living space, make the best use of all aspects of the site and its surroundings, offer space and light, be sustainable and provide security to residents.

What were your main challenges at first?

The four toughest parts of the job at first were:

• understanding the client’s requirements with regards to wants, needs and must-haves from a medical and aesthetic perspective
• understanding funding requirements, whether in litigation or settled funds
• understanding the site on which we will work - whether it exists already, we need to find one that is suitable for extensions and alterations, or it’s a completely new build dwelling
• understanding the supporting infrastructure, for example the care team, medical team, on-site staffing requirements, and so on.

What made you want to do more of this kind of work?

There is nothing better than making a difference to someone else's life, no matter how small. There is such a massive gulf in quality when you see adaptations, extensions and self-builds that suffer from poor design. I like to make sure my clients don't experience that.

Can any architect carry out disability adaptations?

I would imagine that they can, but they need to understand disability requirements with regard to space, equipment in use and residential standards, as not all architects undertake residential works and a lot may have never even met a person with severe disabilities let alone adapted a space for their use. Generally, though, it is not good practice for a professional to undertake work in an area in which they lack the relevant expertise and experience.

Are there any courses/qualifications for architects looking to get into this line of work?

There are lots of courses and societies that can assist the design process for clients with specialist needs, these are generally also undertaken by occupational therapists as some tend to write accommodation suitability reports like architects and housing experts.

I am also a qualified Part 35 Expert Witness - (Legal Experience Training Advanced Professional Award in Expert Witness Evidence [LETAPAEWE]). Expert witnesses perform a vital role in civil litigation and this qualification allows me to understand certain legal technicalities of a claim that has not been settled. I can also write reports to assist the courts in relation to residential disability architecture regarding the suitability of a property or our own designs.

How long do your projects typically take from inception to completion?

New build projects typically take around 18 months in total, while extensions and alterations typically take around 12 months, subject to the hoops we often need to jump through.

For instance, we must satisfy all parties that the design is fit for purpose, which generally means making sure the client, housing expert and occupational therapists are happy with the initial design prior to planning. Not all parties are quick to respond and we need to allow time for the designs to also be updated.
We then need to obtain planning permission as disability bungalows and extensions tend to be quite large and they require a degree of justification for their size. Sometimes neighbouring properties may raise objections which can slow down the process - which is normally 8 weeks from submission.

The process can also slow down if there are any legal processes that can hold up the purchase of the land, or if there is a lack of intermittent funds to progress to the next stage of the project, if the client is still involved in litigation.

How much input do your clients have in the plans for disability adaptations?

Our clients have total input - my job is to open their mind to the options available to them. It is a bit like buying a car; first they choose the model and then we provide the catalogues of options for the clients to choose from, all catered to their initial car choice, for example a bungalow, two-storey house, extension alteration, and so on.

What are...

...disability feasibility studies?

Assessing someone’s actual needs that must be met for now and the future - often undertaken by medically trained and qualified staff. These studies help the case settlement evidence with regards to future needs.

...accessibility assessments?

Assessing an existing property prior to purchase or already purchased to establish the extent of what can be achieved and how it can be achieved, quite often undertaken by an occupational therapist.

...suitability reports for litigation?

Assessing an end user’s needs against different properties during litigation to find a property that, in principle, can be adapted, or a site big enough and at the correct cost to knock down and start again. These are also required for case settlement evidence.
Case study: What happens when you have to remodel your home?

Claire*, who is a client of ours, called upon Martin and Transform Architects to make the process of adapting her home as simple as possible.

During the delivery of baby Anna, there was a lack of oxygen to her brain and she sustained a brain injury. She was later diagnosed with cerebral palsy. Now aged nine, Anna is wheelchair dependent and will remain dependent on her parents and carers for the rest of her life.

A bungalow was purchased and adapted for Anna through the compensation she received.

Martin Bell was brought in to help with the project and rearrange the existing footprint of the house, which had already been extended in the past.

Anna’s mother Claire said that the changes made by Martin and his team made a huge difference to their family’s life, and often in areas that wouldn’t necessarily be expected by those on the outside. While they have had several extensions to get the space they need, and widened all the doorways in the home, it is the little things that can make the most difference.

For example, because Anna has severe reflux and problems with vomiting, the family has a lot of laundry to do. The utility room was at the opposite end of the house from Anna’s room. But rather than leave the family to carry a lot of laundry through the central areas of the house, Martin designed a laundry space in the boiler room next to Anna’s room with a hatch in the wall. That means they can pass laundry through the hatch and put a wash on immediately. The family still continue to use the original laundry room for the rest of their laundry, but this prevents a backlog of laundry while preserving their daughter’s dignity.

“That saves so much time,” Claire says. “You can imagine how much a home changes and becomes very medicalised when you have a lot of medical equipment - it just keeps things like toileting, tubes and all the ephemera of disability kept to a minimum. It doesn’t take over our whole lives nor hers. It’s not hiding it away, it's just containing things like an excessive amount of laundry. The hatch was a simple, brilliant idea that has really changed our quality of life.”

Claire also explains that one of the biggest worries for a family when something like this happens, is the prospect of losing your social life.

“You have to have friends who understand and aren’t fazed by a screaming or vomiting child and understand that even as guests their needs are going to have to come second. To re-establish a social life and make sure our daughter is included in that, it’s important to have a welcoming space - that was very important to us.”

*Name changed to protect anonymity

This article was originally written for UCAN2 magazine.
Top tips for new carers, from carers

According to Carers UK, 1 in 8 adults - that’s around 6.5 million people - in the UK are carers. However, many of these everyday heroes provide 24-hour care for their loved ones without receiving any training or qualifications to help them.

When a loved one suffers from a devastating injury or illness, you may become a carer without knowing how best to perform the role, adequately look after the person who needs your support, or even look after yourself with so much going on.

So we wanted to share some top tips from experts and peers to help make it that bit easier for new carers and to show that they are not alone.

Take care of yourself

Christina Macdonald is the author of the forthcoming book ‘Dementia Care: A Guide’, and cared for her late mother, Hazel, for nine years. She told us: “My tip as an experienced carer would be to make sure you have a support team of people around you. You can’t care for someone all on your own – it will destroy your mental and physical health and leave you utterly drained and possibly also depressed. Enlist others for support - and make sure it’s reliable people whom you can trust to turn up when they say they will - whether it’s friends, family members, neighbours, professional carers whom you may hire once or twice a week to give yourself a much-needed break – anyone whom you trust to provide additional support to you and the person you are caring for. Taking regular exercise, even if it’s just a quick 15-minute walk at lunchtime, will help your mental and physical wellbeing.”

On Twitter, user @LitDelights told us: “Make sure you make time for you. You can’t effectively care for anyone else if you don’t practise self-care.”

In an interview with ITV, a spokesperson for Marie Curie explains how important it is to put structure into your day to make it feel like it has more purpose and to ensure you have a healthy sleep pattern.

What’s more, they say that you should make sure you tell your doctor, friends or family if you ever feel low - caring is difficult and depression or anxiety are unfortunately not uncommon.
Join a support group

A local carers group can also help you get the support you need, as well as share your experiences and get other useful tips from those in the know.

Carers groups can be a good way to get emotional support from other carers who know what you’re going through.

You can find local groups on the Carers UK website, as well as an online forum for carers.

Check if you are entitled to financial support from your council

Marie Curie says that you can get an initial carer’s assessment “regardless of how much care you provide and what your finances are.” This assessment, arranged via a quick call to your council’s social services department, will help your local council understand whether or not it can provide you with support.

Recognise yourself as a carer...

If you think you may be one, you probably are, and recognising that makes everything that bit easier. That’s according to Carers UK forum user Henrietta.

Henrietta also has these words of wisdom:

“Keep a list of contact names and useful phone numbers”

“Use pharmacy services such as blister packs, prescription ordering and delivery services”

“If you are paying for outside help and it is unacceptable, change it!”

Fellow Carers UK forum user Jon_1605 adds:

Get everything in writing

Jon_1605 advises you to put any correspondence with any government agency, such as the NHS, in writing, keep a copy, and send it via the Post Office’s Signed For service.

He adds: “If you have to deal with someone across a desk, face to face, make sure they (not you) write down the details, or print them out. If they ask why, tell them you need to show it to another relative, or you have a bad memory.”

Are you a carer? Do you have any top tips for new carers? If so feel free to leave them in our comments section below.

Additional resources
Carers UK - Practical Support
NHS - Carer Tips
Useful resources and further information

- Disability Rights UK: Housing grants
- Citizens Advice: Discrimination in housing - adaptations to your home
- Transform Architects: Disability architects
- Carers UK: Practical support
- PotterReesDolan - Medical terms glossary

About PotterReesDolan Solicitors

PotterReesDolan serious injury solicitors is a firm of experienced, committed solicitors based in Manchester. We provide comprehensive and straightforward legal advice covering many different aspects of law, including:

- Serious personal injury
- Clinical negligence
- Welfare benefits
- Court of Protection
- Professional negligence

Our aim is to provide the very best client care and guidance. We are a highly passionate law firm, willing to go the extra mile so you enjoy the best possible service and are given every chance of securing the outcome you are after.

We are not afraid to take on complex cases, even if other law firms have turned them down. We have the skills and the positive attitude needed to get the right result.

We act for many clients in the North West, but also take on cases from across the UK. Our offices in the centre of Manchester are fully wheelchair accessible, and we can easily be reached by road - with free parking for clients and visitors - rail, bus and tram. However, we are happy to travel to see you at home or in hospital should you prefer.

Address: 12 Commercial Street, Manchester, M15 4PZ
Website: www.prd.uk.com
Phone: 0800 027 2557
Fax: 0161 237 5999
Email: info@prd.uk.com
Twitter: https://twitter.com/PotterReesDolan