

FIVE TIPS FROM A QUANTUM EXPERT

For effective personal injury and clinical negligence claims



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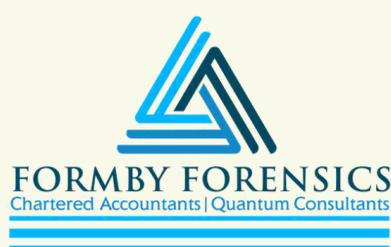
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With over 20 year's membership of the Academy of Experts as a practising expert witness, Richard has developed a wealth of experience as a CPR Expert Witness.



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Typical uses of a quantum expert

Employed / salaried claims:

Career modelling & ranges

Pension losses

Share Options

Employment benefits & perks

Business related claims:

Business Claims – what's different

Business
subject to
change



Sets of
accounts and
trading data

Evidence of
change



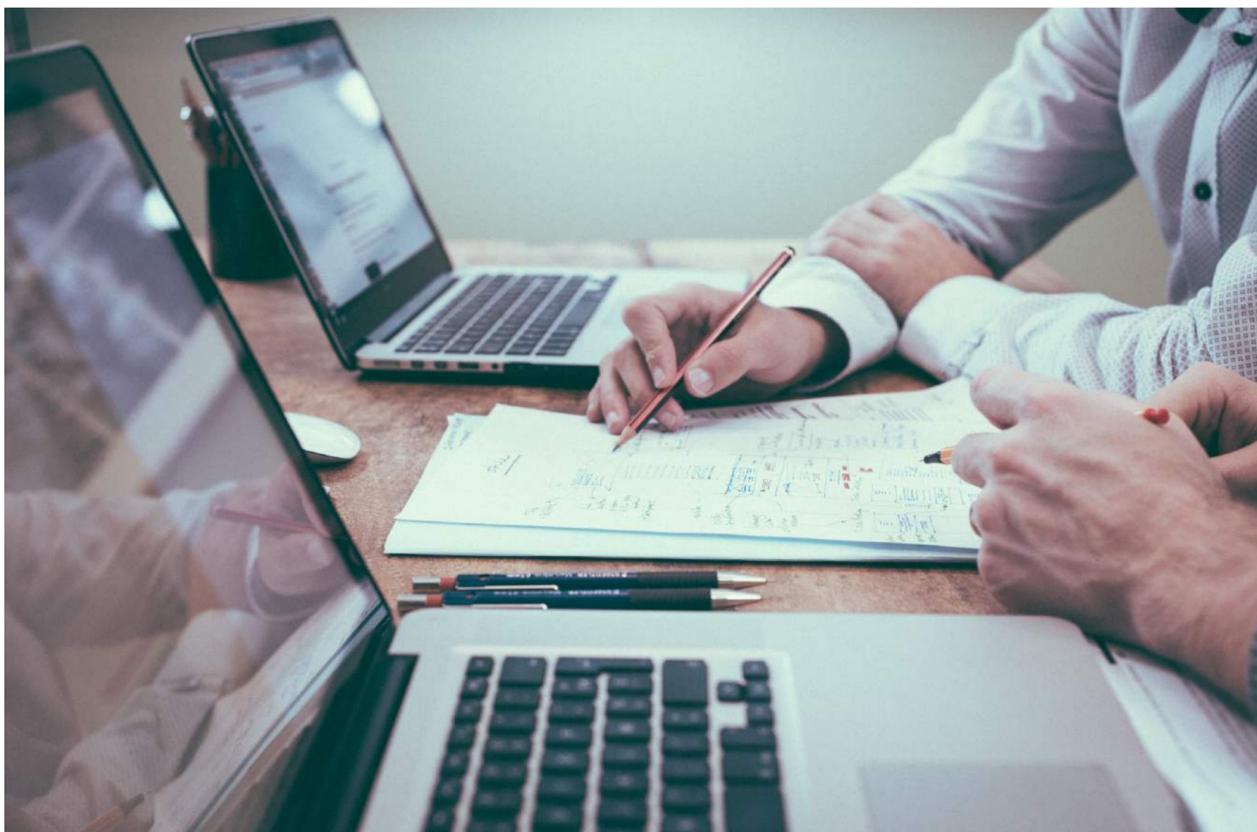
Need to
interrogate the
financial data
& transactions

Typical uses of a quantum expert

Claims involving a ‘business Claimant’ are typically very different to those for an ‘employed Claimant’. The business may be complex, at an important stage of development or have suffered significant change.

Business records are not maintained for the purposes of demonstrating or quantifying damages – but rather for regulatory or commercial purposes.

Annual accounts (and not all businesses have to produce them) may tell part of a story or indeed nothing – so often interrogation, analysis and interpretation of sales and costs data is required (pre vs. post injury).

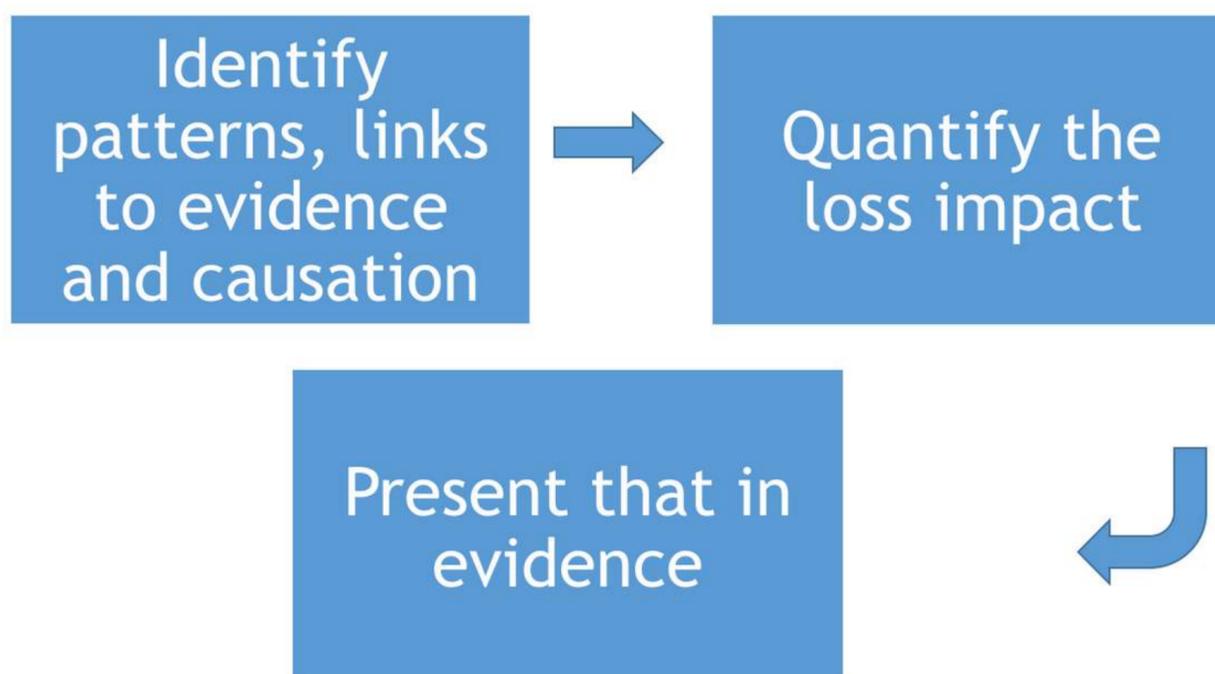


Typical uses of a quantum expert

So, with PI claims involving Claimants ‘in business’ there can be important reasons why the involvement of a Forensic Accountant is required:

- To assist with extraction of relevant financial data.
- For analysis and presentation of that data.
- To interpret that financial evidence (within the context of wider evidence – e.g. witnesses of fact medical evidence etc).
- To access appropriate financial and business expertise.

Business Claims – what’s different





Tip 1



Manage claimant and their expectations



Timely flow of information

Given critical importance now of costs and timetables – very important to ensure financial/business evidence gathering is done promptly.

At each stage, logic test & assess what the Claimant is saying to ensure it seems to make sense and has commercial credibility

Sound assertions

Beware of poor records

If the client keeps poor financial records there may be increased costs in getting necessary financial data and analysis - who pays?



Tip 1



Manage claimant and their expectations



Beware of loss of chance in a PI business claim

These are potential 'costs black holes'! Crucial to tackle a Loss of Chance in an appropriate way. Keep assessing and modify approach as appropriate.

Contribution towards costs

Seek a contribution towards costs? Discuss with client the 'cost vs. benefit' particularly if there is going to be a 'heavy' battle over quantum





Tip 2



Consider using accountant as an Expert Adviser, rather than an Expert Witness



A quantum expert adviser can help with.....

The dynamics of losses / steering a path / evidence gathering / evidence presentation

Complex quantum calculations

Risk management

Tricky client



Tip 2



Consider using accountant as an Expert Adviser, rather than an Expert Witness



An Expert Adviser appointment often works well with Employed Claimants i.e. for earnings, pension and employment benefits loss calculations.

Also, for career modelling and for offering a range of alternative loss scenarios. Further, with 'smaller' claims involving the self-employed. Perhaps it's the only option if Court refuses permission for CPR evidence from an accountant.

Court permission is not an issue, you lose the 'trappings' of CPR Part 35 and you can recover costs as agent's costs.



Tip 3



Consider use of preliminary quantum advice



This is good for 'loss scoping' and has tactical benefits:

- Useful where 'loss of chance' aspect.
- Also useful where problems with causation, liability, contributory negligence etc.
- Basis for getting court permission.
- Present wide range of alternative outcomes.
- Quantum platform for round table and without prejudice meetings.





Tip 4



Manage your CPR Quantum
Expert



Get the most out of your expert by:



Agree on a plan / start with a budget / keep ongoing dialogue on costs / monitor your budget



Meetings – your attendance can be costly. Ask for copies of notes/recordings. All helps with drafting a good quantum witness statement.



Ask expert for shopping lists of evidence.



Limit drafts of the report (if you can) to save costs.



Fewer range alternatives = less costs = lesser negotiating position. An equation you need to balance!



Tip 4

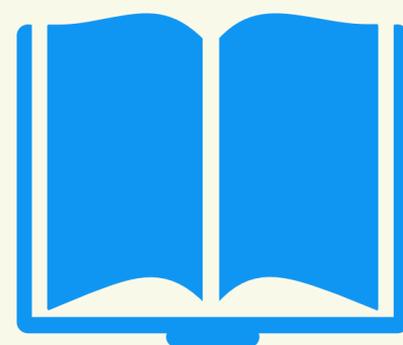


Manage your CPR Quantum
Expert



Useful references, well worth reminding yourself of the implications on the expert evidence process:

- **Para 63 CJC Guidance 2014** – focus areas of material difference
- **Para 58 CJC Guidance 2014** – separate opinions on each hypothesis
- **Para 73 CJC Guidance 2014** – CI's expert's 'right of reply'
- **Para 35.9(3) Practice Direction** – agendas for experts meetings





Tip 5



Consider use of Quantum SJE



This is now the norm in family work and I believe we shall see greater use of the SJE in injury claims. This would in the right circumstances.

Typically....

Salaried clients

Producing alternative
career models

**Earnings, Pensions
and Employment
Benefits**





Tip 5



Consider use of Quantum SJE



**However there are some areas that will require 'work
arounds'**

- Lose privileged access to the expert
- Still need to understand scope of losses
- Claimant needs access to the expert earlier than defendant
- Scope for use in Fixed Costs Environments
- Ask defendant if they wish for an SJE



**Perhaps there will be no choice
but to have an SJE in the fixed
cost environment?**



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Cardiff and Exeter...



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