

Wrongful birth claims: Theory, law and practice

The principles and the law: Claims for wrongful birth: A practical review

Thursday, 3 February 2022

13:00 - 14:00

- Introduction: categorisation and the potential for overlap
- Numbers
- The 4 key cases
 - McFarlane
 - Parkinson
 - Rees
 - Khan
- Selection of pre-McFarlane cases
- Selection of cases post-Rees
- A resolving status quo?
- Anonymity
- Duration of claim
- Pure economic loss or personal injury?
 - Limitation
 - Discount rate
 - Benefits
 - PPOs



Shaheen Rahman QC has a diverse practice with particular expertise in the areas of Clinical Negligence, Inquests, Public Law, Human Rights and Professional Discipline. She has been recognised by the directories as a leader in multiple practice areas for many years and described as “seamlessly switches from being very calm and reassuring with clients to extremely powerful in court. She is a brilliant and extremely committed advocate” by Chambers & Partners and by Legal 500; “cannot praise her highly enough. She is brilliant and clever, and her skill as an advocate is inspiring to watch.” She is regularly instructed in high value, sensitive and complex clinical negligence cases including catastrophic brain injury, severe obstetric and surgical injury cases as well as cerebral palsy, cancer and secondary victim claims. In addition, she is experienced in claims involving the Human Rights Act. At inquests, Shaheen regularly represents families, particularly in Article 2 and jury inquests concerning detained patients, the elderly and infant deaths as well as those with human rights complexities. Shaheen is on the Editorial Committee of our Quarterly Medical Law Review (QMLR).



Dominic Ruck Keene has a varied practice in all the core areas of Chambers’ work, in particular inquests, clinical negligence, public law and human rights. He also has a growing practice in the specialist areas of child abuse compensation, cyber and data protection, as well as employment and equality. As a member of the Attorney General’s B Panel, he is instructed by a number of different Government departments in cases involving a wide spectrum of different areas of law. Dominic accepts direct instruction from lay clients across a range of practice areas, with a particular interest in representing families at inquests. Within clinical negligence and personal injury, Dominic has considerable experience of acting in clinical negligence claims for both claimants and defendants: drafting the full range of pleadings, advising on merits, quantum and settlement; successfully representing parties at RTMs and at mediation; as well as appearing in case management hearings, application hearings, and at trial in both the County and High Courts. He is currently instructed in a large number of vaginal mesh claims being brought against Ian Lindsey/ Tony Dixon and Nuffield/ Spire Health.

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Wrongful birth claims: Theory, law and practice: *Presenting, defending and valuing the claim*

Thursday, 10 March 2022
13:00 - 14:00

- Summary
- Brief overview of the authorities
- PSLA
- Loss of earnings
- Court of Protection costs
- Recoverable special damages 'cost of upbringing'
 - Care and case management
 - Parent claiming cost of gratuitous care
 - Accommodation
 - Therapies, treatment, aids and equipment
 - Transport
 - Holiday
 - Education
- Interim payments
- Periodical Payment Orders ("PPOs") and/or lump sums
 - Does the court have jurisdiction to make an order for periodical payments in wrongful birth cases?
 - If it does, what does the court have to take into account when making an order?
 - Why would a claimant or a defendant want a PPO?
 - Relationship with interim payments
- Private treatment v NHS treatment?
- Period of recoverability for future losses



Elizabeth-Anne Gumbel QC is a leading practitioner in Clinical Negligence and Personal Injury claims. Lizanne has a distinguished reputation for representing Claimants with highly complex claims for catastrophic injury. In clinical negligence she has particular expertise and experience in birth damage and neo-natal claims but acts in claims arising in a wide range of circumstances. In personal injury she acts for Claimants with head injuries, spinal injuries and other complex multiple injuries. Lizanne's work also involves multi-party actions and she recently acted for over 700 Claimants in the litigation against Mr Ian Paterson, Spire Healthcare and HEFT. Lizanne has also been instructed in a number of multi-party actions arising out of sexual abuse and physical abuse of children and adults in institutions including the Jimmy Savile litigation and the Winterbourne Lodge claims. Lizanne is now acting for woman abused by Mr Harvey Weinstein. Claims against private hospitals, the catholic church and local authorities have involved a number of cases which have resulted in the development of the law in respect of vicarious liability.



Shahram Sharg is a specialist personal injury and clinical negligence barrister with extensive expertise in handling complex and catastrophic claims including brain injury, spinal cord injury and fatal accidents. He regularly represents claimants in the Coroner's Court, the High Court and in the Court of Appeal. In addition to his medical law expertise, Shahram has appeared in several of the leading cases regarding High Court Enforcement.

He is recognised as a leading junior in personal injury and clinical negligence by Legal 500 and is APIL accredited specialist counsel.

*"Shahram is a consummate courtroom advocate, ensuring he achieves the very best possible results for his clients."
Legal 500 2022*

**Wrongful birth claims: Theory, law and practice:
Presenting, defending and valuing the claim**

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